

**§ 73.1211**

**47 CFR Ch. I (10–1–13 Edition)**

noncommercial basis and otherwise in accordance with § 73.621 of this part.

[40 FR 17259, Apr. 18, 1975, as amended at 49 FR 33663, Aug. 24, 1984; 50 FR 40016, Oct. 1, 1985; 65 FR 30003, May 10, 2000]

**§ 73.1211 Broadcast of lottery information.**

(a) No licensee of an AM, FM, television, or Class A television broadcast station, except as in paragraph (c) of this section, shall broadcast any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise or scheme, whether said list contains any part or all of such prizes. (18 U.S.C. 1304, 62 Stat. 763).

(b) The determination whether a particular program comes within the provisions of paragraph (a) of this section depends on the facts of each case. However, the Commission will in any event consider that a program comes within the provisions of paragraph (a) of this section if in connection with such program a prize consisting of money or other thing of value is awarded to any person whose selection is dependent in whole or in part upon lot or chance, if as a condition of winning or competing for such prize, such winner or winners are required to furnish any money or other thing of value or are required to have in their possession any product sold, manufactured, furnished or distributed by a sponsor of a program broadcast on the station in question. (See 21 FCC 2d 846).

(c) The provisions of paragraphs (a) and (b) of this section shall not apply to an advertisement, list of prizes or other information concerning:

(1) A lottery conducted by a State acting under the authority of State law which is broadcast by a radio or television station licensed to a location in that State or any other State which conducts such a lottery. (18 U.S.C. 1307(a); 102 Stat. 3205).

(2) Fishing contests exempted under 18 U.S. Code 1305 (not conducted for profit, *i.e.*, all receipts fully consumed in defraying the actual costs of operation).

(3) Any gaming conducted by an Indian Tribe pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*)

(4) A lottery, gift enterprise or similar scheme, other than one described in paragraph (c)(1) of this section, that is authorized or not otherwise prohibited by the State in which it is conducted and which is:

(i) Conducted by a not-for-profit organization or a governmental organization (18 U.S.C. 1307(a); 102 Stat. 3205); or

(ii) Conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization. (18 U.S.C. 1307(a); 102 Stat. 3205).

(d)(1) For purposes of paragraph (c) of this section, “lottery” means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. It does not include the placing or accepting of bets or wagers on sporting events or contests.

(2) For purposes of paragraph (c)(4)(i) of this section, the term “not-for-profit organization” means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

[40 FR 6210, Feb. 10, 1975, as amended at 45 FR 6401, Jan. 28, 1980; 54 FR 20856, May 15, 1989; 55 FR 18888, May 7, 1990; 65 FR 30003, May 10, 2000]

**§ 73.1212 Sponsorship identification; list retention; related requirements.**

(a) When a broadcast station transmits any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce:

(1) That such matter is sponsored, paid for, or furnished, either in whole or in part, and

(2) By whom or on whose behalf such consideration was supplied: *Provided, however,* That “service or other valuable consideration” shall not include any service or property furnished either without or at a nominal charge for