

# Stations Must Promptly Award Contest Prizes

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On December 5, 2011, the Federal Communications Commission (FCC or Commission) upheld a \$4,000 fine against a Springfield, Massachusetts radio broadcaster for failing to conduct a contest substantially as announced or advertised where it did not award the contest prize to the winning contestant within 30 days, clarifying that “prompt” delivery of prizes is a material term of a contest.

The fine at issue dates back to 2005, when the FCC's Enforcement Bureau received a complaint alleging that the station did not pay the monetary portion of a contest prize until more than 30 days after the complainant won and that the station still had not delivered the memorabilia portion of the prize at the time of filing. The Bureau issued a \$4,000 fine against the broadcaster for violation of the FCC's contest rule (§ 73.1216). In subsequent challenges to the fine, the broadcaster argued that its failure to promptly award the contest prizes was not a violation because “promptness” is not expressly required by the rule and because its failure was inadvertent and not willful, as demonstrated by the station's ultimate award of all prizes, including bonus prizes to compensate the complainant for the delay. The Enforcement Bureau rejected these arguments in a 2010 Memorandum Opinion & Order and affirmed the monetary forfeiture.

In its recent decision, the Commission upheld the Bureau's decision, noting that the agency has consistently maintained that contest prizes must be awarded promptly. The FCC also observed that the station's own contest rules created a reasonable expectation that prizes would be awarded within 30 days. Further, the Commission explained that, although the list of material terms in the notes accompanying the contest rule does not reference the time frame for awarding prizes, this list is not exhaustive and, as the rule states, “material terms may vary widely depending upon the exact nature of the contest.”

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