

Will You Be The Fool On April First?

By John Wells King

Editor's Preface: We're down to the wire on this one, but it just crossed our desk this week and we felt it was important to pass it along.

April Fool's Day is the tempting stimulant for the creativity of the program director and air personnel. Beware of the potential for April Fool's promotions to get out of hand—the FCC may be listening.

Legendary examples of jokes gone wild are the faked takeover of a station by a belligerent group; the kidnaping of a disk jockey; a broadcast warning about the eruption of a nearby (non-existent) volcano; and the granddaddy of them all, the 1938 dramatization of a Martian invasion based on H.G. Wells's *War of the Worlds*.

Such pranks led the FCC to adopt a rule on "hoaxes." The Commission adopted the rule for one principal purpose: to deter hoaxes by threatening a monetary fine. The moral of the story is that unless you're willing to pay a fine starting at \$7,000, do not broadcast a hoax.

The rule is simple: it prohibits stations from broadcasting false information concerning a crime or a catastrophe if:

1. The licensee knows this information is false;
2. It is foreseeable that broadcast of the information will cause substantial public harm; and
3. Broadcast of the information does in fact directly cause substantial public harm.

The rule makes an exception for dramatizations of crime or catastrophes, such as the War of the Worlds broadcast, if there is a disclaimer. Programming accompanied by a disclaimer will be presumed not to pose foreseeable harm if the disclaimer clearly characterizes the program as fiction and is presented in a way that is reasonable under the circumstances.

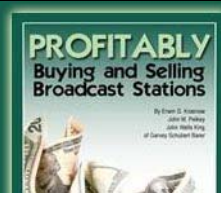
"Public harm" means direct and actual damage to property or the health and safety of the public, or diversion of law enforcement or other public health and safety authorities from their duties.

Public harm will be deemed to be foreseeable if the station could expect with a significant degree of certainty that public harm would occur.

Hoaxes may generate much publicity. Some say bad publicity is better than no publicity at all. But even pranks that may seem harmless have the potential to backfire. Remember, it takes only one distressed listener to complain to the FCC.

Avoid the prospect of a hefty fine (and the legal fees in defending a complaint). Discourage the April Fool's Day promotion that involves a hoax.

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