

What are FCC guidelines regarding underwriting credits on public television?

The FCC requires that all underwriters must be identified by their name and/or logo. If a logo by itself does not adequately disclose the identity of the funder, then the funder's name must be stated in audio or video. An underwriter MAY NOT be anonymous.

From the FCC's standpoint, the purpose served by underwriting credits is to identify the funder in the interests of full disclosure, not to promote the funder or its products and services. In the late 80s, the FCC relaxed its noncommercial policy to allow public broadcasters to expand or "enhance" the scope of donor and underwriter acknowledgements to include 1) logograms or slogans which identify and do not promote, 2) location information, 3) value neutral descriptions of a product line or service and, 4) brand and trade names and product or service listings.

In the past the FCC has indicated that it will rely on the good faith determinations of public broadcasters in interpreting the FCC's noncommercialization guidelines. However, the FCC's interest in underwriting credit content may change over time with changes in the political environment. The existence of industry guidelines (both national PBS and local station guidelines) helps to establish the reasonableness and good faith of broadcaster judgments with respect to issues that fall in the "gray" areas of the FCC's rules.

For PBS' part, PBS guidelines require that the on-air appearance and overall effect of each credit and credit sequence must be in keeping with the noncommercial nature of public television. PBS refers to this holistic view of credits as "Rule One."

What underwriting copy is acceptable to the FCC?

The following types of identifying information are acceptable according to FCC statements concerning enhanced underwriting announcements:

- Value neutral descriptions of a product line or service
- Brand and trade names and product or service listings
- Visual descriptions of specific products
- Location information, including telephone numbers and Web addresses
- Logograms or slogans which identify and do not promote

While the FCC has determined that underwriting credits on public television may include this identifying information in addition to the underwriter's name, the FCC has indicated that public broadcaster's good faith judgment must be the key element in meeting Congress' determination that the serve should remain free of commercial and commercial-like matter.

What underwriting copy is unacceptable to the FCC?

FCC policy statements, rulings, advisory opinions, and letters applying its rules and policies to specific underwriting announcements (credits) have cautioned against the use of certain types of language, phrases, and visuals, such as the following, which it deems promotional:

- Calls to action ("Come in today and take a test drive")
- Superlative description or qualitative claim about the company, its products, or its services ("The best service in the industry" or "The most intelligent car ever built")
- Direct comparison with other companies, their products or services

- Price or value information (“7.7% interest rate available now” and “affordable,” “discount,” or “free”)
- Inducements to buy, sell, rent, or lease (“Six months free service when you buy” or “lifetime guarantee”)
- Endorsements (“recommended by 4 out of 5 doctors”)
- Demonstrations of consumer satisfaction

Some of the words and phrases that the FCC has found unacceptably promotional include:

Efficient	Economical	Dependable
Dedicated	Prompt	Fair Price
Reliable	Excellent	Leading
Luxury	Quick and clear	Very accommodating
Delightfully honest	Quality	Number One

The FCC has also advised that credits may be considered promotional even if they include statements of fact or longstanding slogans. For example, a business that is the “award-winning” retailer of a product in the area should not include that information in their underwriting credit, even if it is true and serves to identify the retailer, because the statement is promotional in nature.

What are some other factors to consider concerning underwriting credits?

The public broadcasting system has concerns that go beyond matters addressed by the FCC. These include, for example, avoiding clutter, encouraging a consistent on-air “look” for PBS programming, and generally protecting the noncommercial character of public television. How the system chooses to address these issues in underwriting guidelines is a policy issue for the PBS and individual local station Board of Directors, not a legal requirement.

What are the PBS National Underwriting Guidelines?

PBS’ Underwriting Guidelines (officially *The PBS National Program Funding Standards and Practices*), which govern national sponsorship messages, are a form of self-regulation and can be found online at <http://www.pbs.org/producers/guidelines>. These are derived from federal requirements regarding the difference between an acceptable underwriting message and an “advertisement,” which is prohibited. In addition to addressing the content of underwriting messages, they also deal with whether a potential funder is appropriate in a given circumstance, or in any circumstance. A station has the option to use the PBS Underwriting Guidelines for the local underwriting credit approval process or to set a policy for local station use alone.

The PBS Guidelines rest on three fundamental principles:

- Journalistic Integrity: Public television is a major participant in the great tradition of a free and independent American press. Therefore, public television must protect its journalistic integrity and it must reinforce the accurate perception that it is a free and independent institution.
- Noncommercial Nature: Public television’s nonprofit, noncommercial status contributes to its independence and public television also enjoys certain financial and other benefits by virtue of its noncommercial, nonprofit status. Therefore, its noncommercial character must be preserved.

- Diversity of Funding: The diversity of program funding sources is a key element in the preservation of a free and independent public television system. Therefore, these guidelines should encourage national program underwriting from all corners of the public and private sector.

As for assessing the appropriateness of a potential underwriter for a national program, PBS will examine the funder and the program to ensure that the underwriter meets the three-part test:

- Editorial Control Test: Has the funder exercised editorial control? Could it?
- Perception Test: Might the public perceive that the underwriter has exercised editorial control?
- Commercialism Test: Might the public conclude the program is on public television principally because it promotes the underwriter's products, services or other business interests?

These tests, and examples applying their principles, are described in detail in the PBS Underwriting Guidelines: <http://www.pbs.org/producers/guidelines>. Only after a funder has been determined acceptable does PBS evaluate the proposed on-air credit for suitability under the Guidelines and pursuant the legal requirements imposed by the FCC.

What are the distinctions between national & local underwriting guidelines?

PBS national Underwriting Guidelines apply to underwriting credits that are attached to content distributed by PBS – local stations can set their own policy for local underwriting and credits. Accordingly, some stations have stricter guidelines than PBS, while others are more liberal. Many stations choose to model their local underwriting guidelines after the PBS national guidelines because they apply FCC rules and policy and serve to promote continuity between national and local underwriting messages.

We may as well tackle the hardest questions first!

- **Can we use a TV commercial as an underwriting announcement on public television?**
- **Are there clear categories of language or techniques that PBS cannot accept as part of an underwriting message?**
- **Can we use a company slogan or tagline?**
- **How long can an underwriting message be?**
- **How short can an underwriting announcement be?**
- **Can we show products? What about products in use?**
- **Can we show people?**
- **Can phone numbers or Web addresses be included?**
- **Must an underwriting spot include language specifically relating to its sponsorship?**
- **Are there special rules for underwriting children's programming?**
- **What about nonprofit underwriters? Do all the same rules apply?**
- **Can we accept underwriting from beer and wine companies?**
- **Is underwriting considered tax-deductible?**
- **Where Can I Get More Details and Information?**
- **What Federal Statutes Do I Need to Know?**

Can we use a TV commercial as an underwriting announcement on public television?

Noncommercial educational broadcasters are by federal law prohibited from broadcasting advertisements. An advertisement, according to the statute, is a message, broadcast in exchange for remuneration, which promotes "any service, facility, or product offered by any person who is engaged in such offering for profit." In short, public television is required to identify its program underwriters (also sometimes called "sponsors") but cannot promote them.

TV commercials or other sponsorship messages produced for other purposes may sometimes be readily adapted for use on public television. Occasionally they are acceptable as is. This might be the case when the commercial does not overtly promote the products, services, or facilities of the sponsor, but rather identifies the company in what we deem to be "value-neutral" language and visuals.

More often, some changes will be required.

Are there clear categories of language or techniques that PBS cannot accept as part of an underwriting message?

Yes. The FCC (the federal agency charged with enforcing the rules governing noncommercial broadcasters) has highlighted the following as unacceptable:

1. Price information.

Any price information, even the word "free," must be avoided. So, no straight-out mentions of price ("membership fee of \$49.99 a month"), no implied mentions of price ("for less than the cost of a daily cup of coffee"), no sales or price events ("only \$25 today," "grand opening specials," "ladies' night"), no general price claims ("lowest prices this side of the Mississippi"), no incentives based on price or payment

options (“we collect no fee until we win your case”), and no interest rates (“7.7% interest rate available now”).

2. *Calls to action.*

Phrasing which urges the viewer or listener to interact with the underwriter or its products (“call for more information,” “take a test drive to learn more”), or to take further steps in the direction of a purchase (“ask your doctor about Zithromax”), are not allowed. At times, language conveying a sense of urgency or intended to create alarm, has also come under FCC scrutiny in this category (“how will your family survive if you have no life insurance?”) when it seems the unstated message is, “You’d better do something about it, soon!”

3. *Qualitative or comparative claims.*

Superlatives and other such rankings must be avoided. A company may not be described as “one of the largest” or a product as “the most advanced,” even when demonstrably true. Awards which in essence make qualitative, superlative, or comparative statements, are also unacceptable (“voted #1 in customer satisfaction for the third year in a row,” or “Winner of the JD Powers Award”). Comparisons to a competitor’s products or services are clearly off limits (“when a Cadillac just isn’t good enough”), and comparisons to previous versions of a product are risky (“new and improved”). Examples of descriptions the FCC has cited as unacceptable, in context:

“We feature new and used cars and excellent service.”

“A leading provider of credit and other business services.”

“Providing quick long distance telephone connections and clear sound.”

“Number one in sales.”

4. *Inducements to buy, sell, rent or lease.*

This category seems to be the catch-all for when the others don’t quite fit, so it’s a bit tricky to define. Here are the examples the FCC provides: “Six months’ free service,” “a bonus available this week,” “special gift for the first 50 visitors.” Because the first example already contains the word “free,” you would expect that to be a problem under price information. The other two examples seem to urge quick action because of “limited-time only” offers.

5. *Endorsements.*

This may well be a sub-category under “inducement” but hasn’t clearly been singled out by the FCC in any enforcement actions. However, PBS takes the position that this is a category with its own distinct promotional elements and therefore should be avoided. For example, an official-sounding endorsement by a group of professionals (“recommended by 4 out of 5 dentists”), or a vignette featuring satisfied customers who describe their good experience with the underwriter’s products or services, would be promotional. This category would also cover the video technique – which has been the specific subject of enforcement actions – wherein happy, satisfied customers are depicted using the product, usually to a degree seen as excessive within the context of the message.

Can we use a company slogan or tagline?

That depends on what it says, and in some cases, how long it's been in use. Our rule of thumb based on FCC actions is that a slogan that has been "established" as part of a funder's identity over a period of extensive use (for two years or more), can be considered for air even if, literally, it seems promotional. This is no blanket acceptance but it moves us a bit closer, since the FCC Enforcement Bureau's precedents allow more flexibility in such situations.

This does NOT mean that a "new" slogan is automatically unacceptable. If the slogan makes a statement that is otherwise acceptable as value-neutral information to identify the funder, it doesn't matter how long it's been in use. As an example, Nike's slogan, "Just Do It," usually refers to engaging in athletic activities, and does not proclaim that its products are superior to others. Thus, even were it not a slogan of long-time use, in the proper context we find it acceptable for broadcast. Note also that even though this slogan is in grammatical structure a "call to action," it does not urge purchase of a product or anything similarly promotional.

How long can an underwriting message be?

PBS national corporate sponsorship messages are generally fifteen seconds long. (In some cases they are less, depending on the number of sponsors, relative value of sponsorship, and other factors.) National "Premier" sponsorships, acknowledged with thirty-second messages, are available only for the top category of funders. Premier sponsorships are not available for children's programs. The FCC has never set an upper limit on credit length but has warned that the longer it takes to identify an underwriter, the more likely it is to be promotional.

How short can an underwriting announcement be?

Granted, this question isn't frequently asked, but while we're on the subject, you should be aware that the FCC requires that underwriters be disclosed on the air at the time of the broadcast and that the disclosure be of sufficient length to be understood by the average viewer or listener. There are to be no anonymous contributors behind a broadcast. At PBS we usually think the minimum disclosure is three seconds. If there are too many funders to name them all on the air in a reasonable length of time, the on-air announcement will refer viewers to the complete list of funders available from PBS or from the producer.

Can we show products? What about products in use?

PBS guidelines do not prohibit the display of products, unless it's for children's programming. If you show products being used, watch out for depictions or demonstrations that emphasize superiority, or illustrate consumer satisfaction.

Can we show people?

PBS guidelines allow underwriting announcements to show people, but they cannot be shown enjoying the benefits of the underwriter's product or service. (Some call this the "no smiling" rule.) Formerly, PBS did prohibit on-camera speaking in underwriting spots. That prohibition has now been eliminated (along with some other bright-line

rules that we decided had outgrown their usefulness). Rather than focusing on whether the speech is delivered off camera or on camera, we place more importance on what is being said, and what is being done. This is also true for a celebrity or spokesperson appearance on behalf the underwriter, in which case the usual concern for us is whether the person is making a direct product/service endorsement.

Can phone numbers or Web addresses be included?

The FCC has indicated that location information, including phone numbers and Web addresses, are acceptable to identify an underwriter. While it seldom makes sense to use addresses for national air, PBS does allow phone number and/or Web address, typically in fonting only. Stations can use their own judgment on this (with appropriate legal counsel), and in some cases it may be acceptable to voice this information. However, regardless of the way a phone number and Web site is represented, viewers cannot be urged to call or visit, and PBS does not allow these numbers to spell out something that is not acceptable to say otherwise, e.g., 1-800-THEBEST.

Must an underwriting spot include language specifically relating to its sponsorship?

Depending on its placement and how the spot is integrated with the rest of the program's packaging, PBS may require the underwriting message to include some introductory language ("preamble") such as "Funding for this program has been provided by." Sometimes a statement at the end of the spot serves the same purpose, e.g., "Microsoft, proud to support NOVA on PBS," however there may be exceptions, as determined by PBS, should a program have both national and local sponsors secured. We also note that the FCC has commented on the omission of such language as being a factor in some enforcement decisions.

Are there special rules for underwriting children's programming?

PBS is more restrictive when it comes to messages around our children's programs. Please see the PBS Underwriting Guidelines for full details.

In addition, the FCC has articulated several policies intended to protect young children, presumed to be more gullible and less able to distinguish program content from sponsor messages. Therefore, "host selling," broadly defined as using characters from the program within the sponsor message, is prohibited. Also prohibited is the interweaving of program elements into a sponsorship message.

What about nonprofit underwriters? Do all the same rules apply?

PBS guidelines do not distinguish between for-profit and non-profit underwriters. The federal statute governing noncommercial broadcasts, however, does make a distinction, and some stations rely on the legal definition of "advertisement," as noted above, to allow more flexibility for nonprofit underwriting messages -- as long as that message is not in support of an issue or political candidate. (We recommend you look at 47 USC 399b, quoted at the end of this article, for the fuller definition; we're also happy to direct you to specific stations that firmly distinguish between nonprofit and commercial underwriters.)

In addition, FCC policy prohibits public television stations from fundraising on behalf of nonprofits or other entities when it involves the suspension of regular programming. (e.g., charity telethons). The general idea is that, when public broadcasters suspend regular programming to appeal to the public for money, it has to be for the benefit of the station itself, as in the usual pledge or auction programming. The FCC has granted waivers only in limited and extraordinary circumstances.