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To: All Broadcast Clients

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Broadcasts and Promotions Related to Super Bowl XLIII

Super Bowl XLIII will be held in Tampa Bay on February 1, 2009.

The NFL is extremely diligent in protecting its valuable copyright and trademark rights, including marks connected with the Super Bowl. If your station plans to conduct Super Bowl-related promotions or contests, you must be extremely careful not to infringe upon the NFL's rights. In addition, Super Bowl-related third party-sponsored or produced advertisements, promotions or contests can have legal consequences for your station, even if you have no role in producing the advertisement or promotion in question. Even stations that have broadcast rights to air the Super Bowl may not have acquired other advertising or promotional rights that allow the station to use the Super Bowl logo or other trademarks on the station's website or to refer to the Super Bowl in station produced promotions or contests.

Use of NFL Trademarks

The NFL controls all of the marketing rights to the Super Bowl and its associated trademarks. The NFL generates substantial revenue by licensing its trademarks, and reserves

the use of these marks to official sponsors and licensees who have paid fees for their use.

Without specific NFL approval, it is risky to imply in station-produced promotions or advertisements that there is an association between the station and the NFL or the Super Bowl. In such instances, the NFL and its official sponsors might claim trademark infringement, unfair competition, false advertising, or misappropriation of goodwill against all parties, including your station, that infringe the NFL's sponsorship rights. The unlicensed use of the NFL's trademarks for the sale or promotion of any products or services is unlawful, and the use of a disclaimer, such as "not an official sponsor of the Super Bowl," will not adequately protect your station in the case of ensuing litigation.

Use of NFL Terminology in Marketing

Under federal law, the NFL has the exclusive right to control the marketing of the Super Bowl and associated trademarks.

Without express permission from the NFL or the teams, you may not use the following, or related protected words or logos in marketing or promotions:

- *“Super Bowl”*
- *“Super Sunday”*
- *The Super Bowl logo*
- *“NFL”, “AFC”, or “NFC”*
- *“National Football League”*
- *“American Football Conference”*
- *“National Football Conference”*
- *Any team name (e.g., “Patriots”) or nickname (“Pats”)*

But you may say or print:

- *“The Big Game in Tampa Bay”*
- *“The Professional Football Championship Game in Tampa Bay”*
- *The date of the game*
- *The names of the cities of the competing teams in the Super Bowl (e.g., Washington vs. Buffalo), but not the team names*
- *You can make fun of the fact that you cannot say the phrase “Super Bowl” (e.g., by beeping it out)*

Advertisements Produced By Third Parties Claiming To Have Rights To Use NFL Trademarks

The NFL’s copyrights and trademarks, including Super Bowl-related marks, are often licensed separately for numerous different categories of products and services. For example, the NFL might grant a license to one particular brewing company to be the “official” Super Bowl

beer sponsor, to one particular automobile manufacturer to be the “official” Super Bowl automobile sponsor, and so forth. Such sponsors have traditionally been, for the most part, large corporations or entities that can otherwise afford to pay the high licensing fees associated with “official” Super Bowl sponsorship. Before accepting pre-produced Super Bowl-related advertisements from any third party, you should make a reasonable inquiry to determine that the advertiser has contractual rights to use NFL copyrights and trademarks in its advertisements. For pre-produced Super Bowl-related advertisements that come from small local advertisers, you should exercise even greater caution in determining whether the advertiser has secured the legal rights to use NFL copyrights and trademarks in its advertisements. Remember -- your station could ultimately be held responsible for infringement claims related to airing any Super Bowl-related advertisement. If you have any questions about the rights of third party advertisers to use specific NFL or Super Bowl trademarks in advertising placed on your station, we urge you to contact our office.

Unauthorized Distribution of Super Bowl Tickets

The NFL and its authorized agents and licensees are the only legal sources for the distribution of Super Bowl tickets. In purchasing Super Bowl tickets, the buyer agrees to all the terms and conditions printed on the ticket request form or on the ticket itself, which generally includes a prohibition on the use of the ticket for advertising or promotional purposes.

As a result, your station should not conduct a promotion giving away tickets to the Super Bowl even if your station validly purchased the tickets. The only exception to this general rule is if your station conducts a promotion with an official sponsor that has written permission from the NFL to conduct such a promotion. You should always check to make certain that the sponsor has a license to permit ticket giveaways.

News Reporting on Super Bowl Events

The NFL also holds property rights in the accounts and descriptions of the Super Bowl and controls the licensing of television and radio rights to broadcast the game. The NFL can control the use of information relating to the Super Bowl for a reasonable period of time following the conclusion of the game. Tickets to the Super Bowl often include a printed restriction that prohibits anyone inside the stadium from giving accounts of the event to the media without press credentials. Unless your station has obtained official press credentials, you may not report on the Super Bowl from the venue while the event is on-going. When the event has concluded, however, you may report the "news" of the event, such as the winner and score of the game.

The copyright owner of a telecast -- in this case the NFL and its licensees -- has a right to charge a fee for the use of highlights. Your station needs to obtain consent from the NFL or the local rights holder prior to the use of any highlights of the game and the half-time show in your station's newscasts. Although the First Amendment may allow the media to report to some extent news about an athletic event, the First Amendment might not protect your station if it broadcasts footage or accounts of the game in violation of licensed rights, especially prior to the conclusion of the game.

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If you have any questions regarding the legality of broadcasts or marketing promotions relating to the Super Bowl, please contact an attorney in our office.

Leventhal Senter & Lerman PLLC