

## **But We Didn't Really Mean To Say That...**

Radio and television station employees should understand that the station is ultimately responsible for every statement broadcast over the air. While radio and television announcers tend to be bright, they often also tend to be opinionated and like being "on the edge". This is fine up to a point, but announcers need to know that the station and he or she individually may be responsible if a line is crossed.

While the station may be able to defend itself on the basis that a telephone caller or guest made comments that it did not agree with and that could not have been anticipated, station employees should make reasonable efforts to prevent problematical comments from being broadcast in the first place. Some stations, especially in radio, choose to utilize tape delay or kill buttons to assist in this regard. Other stations rely on pre-screening of callers or guests by other station employees. In any event, station employees, particularly announcers, need to be sensitive to this issue and problematical types of comments.

One particularly problematical area on talk shows which occurs repeatedly is any news or discussion concerning businesses with financial problems and matters pertaining thereto. For example, announcers and news personnel need to make sure that comments concerning lost profits, whether a company is going out of business or not, lawsuits involving the business in question, and so forth, are accurate since such comments can have a detrimental effect on a business and how it is perceived in the community. A company undergoing a merger, in litigation, or under investigation by a government agency will be very sensitive to whether or not such an event is portrayed to the public accurately and fairly. Especially when using financial figures, broadcast personnel need to be absolutely sure that they are correct and are properly distinguishing between, for example, types of profits, since it is easy to become confused.

A company may also be itself, or have key employees, who are undergoing criminal investigations. In all criminal investigations whether or not dealing with a particular company or with a member of the general public, station employees need to be absolutely sure to distinguish between many technical terms that may have vastly different meanings. For example, an investigation may or may not lead to an arrest. An arrest may or may not result in a charge being filed against a particular individual. A charge or indictment is not the same as a conviction. Additionally, employees of television and radio stations need to be especially sensitive to plea bargains and pleadings to lesser offenses. An admission or plea of a lesser offense does not mean a person is admitting he or she is guilty of the more serious offense or charge. Broadcast employees should make sure in serious cases that reports rely on court records and the terminology used therein.

Technical terminology can also be an issue in stories concerning the medical and legal professions and in dealing with complex scientific issues or findings, since these areas may be difficult for the average lay person to understand.

Another way to avoid lawsuits is to be aware of some of the common sources of lawsuits or complaints. As stated previously, be wary of criminal defendants and professionals including doctors, lawyers, ministers and teachers. If a business is financially unstable be especially sensitive to corroborate with public records any statement you make about them. These individuals and businesses are quick to point out that they suffered from the story and it was the cause of financial instability which otherwise didn't exist. If a large business in trouble affects the community, a jury could be led to believe that the story caused the problems and caused the community to lose jobs and other benefits of the business.

Broadcast employees also need to be very careful with advertising. While generally speaking broadcast advertising does not deal with personal ads and there is some time element in reviewing them which is not present for a daily newspaper for example, other perils loom for radio and television stations. Often times broadcast advertising goes to great lengths to be funny and this may lead to something in the advertisement that is not appropriate. Additionally, a radio or television announcer with a microphone left on may inadvertently give his or her opinion about the

advertisement or the business in question, perhaps questioning the claim in the advertisement, or worse yet, disparaging the advertiser itself. Also remember that advertisements which use music are still required to have copyright permission or licenses, even if used for a relatively small period of time.

Finally, broadcast personnel also need to be sensitive to certain red flag words which may be too sensational. Some of these pertain to diseases such as AIDS or alcoholism, or to illegal conduct concerning the use of drugs. Other problematic words are slang used to refer to criminal conduct by the use of words such as "mobster", "fraud", "bankrupt", "gang" or "criminal". Broadcast employees need to understand that the use of the word "opinion", the omission of a name or an individual who was otherwise identified, reading things printed in the morning's newspaper and use of the word "allegedly" will not completely protect the station and speaker from a lawsuit in every case. And although the fact that a person is a public figure may indeed lessen the scope of liability for a station or speaker somewhat in that it may require a higher burden of proof for the plaintiff, even as to public figures, careless use of language can still get radio and television stations and their employees in trouble

While all of these risks are ever present, constant vigilance by broadcast station employees both on and off the air and attention to these specific issues can help stations and their employees avoid liability for comments which might otherwise be made carelessly or without thinking.

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