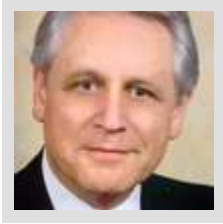


Dude! You Can't Advertise Smokes, Right?



[Gregg Skall](#)
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Well, no, not exactly. You cannot advertise or plug cigarettes or little cigars, but the other stuff? Well, not snuff, either, but what about the other stuff? Here's an illustration of this conundrum:

I got this exciting call from a radio station executive. A man wanted to advertise on the entire station cluster. That's normally very exciting; someone actually called that has money and wants to advertise.

Here's the issue ... the product. The guy is licensed to sell medicinal cannabis -- in a state where it's legal under state law. "Medicinal Cannabis," that was his exact term. He has all the necessary legal paperwork in place to open this new business venture.

So, it's legal under state law. Can the station take the ad? If the air staff reads the copy, are they protected? By the way, the most popular and highest rated station in the cluster is a Top 40 with a high teen content. The question was this: What's wrong with it? Is there a difference between this and, say, any legal drug advertising?

The spot was already in his head. A couple of old guys listening to Pink Floyd trying to remember why they are making a commercial. It may be controversial, but what's wrong with controversy? It always helps a station to be in the news. Just get the calls right ... right?

Wrong!

True, medicinal cannabis has been made legal in California and in seven other states: Alaska, Colorado, Hawaii, Maine, Nevada, Oregon and Washington. However, federal drug policy continues to ban its use. In 2001, the Supreme Court ruled unanimously that the federal drug law that classifies marijuana as an illegal drug still stands. The Supreme Court ruled in 2005 in *Raich v. Gonzales* that the federal government can prosecute medical marijuana patients, even in states with compassionate use laws, and several medical marijuana dispensaries in California have since been subject to Drug Enforcement Administration raids. Look it up at http://en.wikipedia.org/wiki/Gonzales_v._Raich

So, it may be acceptable advertising for a legal substance under state law, but it is still illegal under federal law.

FLASH!!! -- Anti-Drug Abuse Act Certification - FLASH!!!

Oh, and, by the way, it is under federal law that broadcasters are licensed to operate their stations. A conviction of violation of federal drug laws, or the advertising of an illegal substance, might even be considered the type of conviction that requires an adverse answer on the Anti-Drug Abuse Act and adverse finding certifications found on nearly every FCC form affecting your license.

All things taken into consideration, this is not advertising you want to take, or voice.

More interesting examples next week...

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