

## News stories about bingo, raffles are OK



### Feds, state regulate ads for games of chance

By JEAN MANEKE  
MPA Legal Consultant



*(Jean Maneke, MPA's Legal Hotline attorney, can be reached at (816) 753-9000; [jmaneke@manekelaw.com](mailto:jmaneke@manekelaw.com).)*

In mid-April I'll be speaking at the Ad Managers' meeting at Lake of the Ozarks. One of the topics I want to touch on is advertising and bingo/games-of-chance issues.

I regularly get calls from newspapers asking about running advertisements for groups sponsoring local bingo games or holding a raffle for a benefit. If you run those, are you getting the paper in trouble? (Because you know that if you refuse them, you look like you are not supporting community projects.)

Such promotions raise a sticky issue for papers. First, know that what we are talking about here applies SOLELY to advertising. On the news side, you can write a news story about any such activity and you are not in any danger that you will draw the wrath of any federal or state agency. This is because the First Amendment protects you from liability for the news stories you might write. The risks apply only to advertising such matters.

To begin this, consider that federal law (19 U.S.C. 1302) says anyone who "deposits in the mail any newspaper containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance... shall be fined or imprisoned not more than two years or both..."

This law goes on to exempt from this provision ads for "endeavors which are authorized or not otherwise prohibited by the state and which is conducted by a not-for-profit organization." Also exempted are such schemes "conducted as a promotional activity by a commercial organization...clearly occasional and ancillary to the primary business of that organization."

This law, plus a 1998 decision by a federal judge in Kansas City, supports the principal that a newspaper can publish ads for local charitable groups, such as the local Rotary Club or other not-for-profit organizations that wish to hold bingo games. Missouri allows charitable organizations to engage in bingo operations, under the state constitution.

It is less clear whether other games of chance are ever permitted under Missouri state law, and so to be safe, it is advisable that a newspaper not advertise give-aways where participants must pay to play. (Indeed, the constitutional section that permits bingo games also says advertising of the game is not permitted except "through ordinary communications between the organization and its members." There has been discussion as to whether newspaper ads constitute the "ordinary communication" method between the organization and its members, and generally it is thought that this is permitted, due to the above-cited federal court ruling in Kansas City.)

And certainly, if the local grocery store wants to advertise a promotion whereby it gives a prize to a shopper in the store, that is fine for them to advertise, so long as the store is providing a mechanism for all those who want to enter to participate.

The third part of this issue I want to address is related to your own operations. Frequently I get calls from newspapers wanting to run drawings to bolster subscriptions, or wanting to encourage advertising.

Giving away prizes for such promotional games is fine, but there can be NO requirement that participants pay in order to be part of the promotion. If you want to offer a prize to those purchasing subscriptions to your paper, you MUST provide a way for persons to register to play without having to buy a subscription. The key is that you cannot limit those who seek the prize to persons who have paid a fee to participate.

On another subject, I can't let this month pass without talking about all the wonderful Sunshine Law stories

that were done this month.

So many of you worked hard to localize the national program through local stories, and that benefits your readers greatly in helping the public understand why this law is important to them. I doubt many of us will ever again have to struggle with secret, closed settlements after the events of earlier this year in the state Department of Agriculture.

And it is quite exciting to see how the shield law bill did in the Missouri House this year, where it is passed by a wide margin.

Please keep those articles and editorials coming. They are the reason this bill is moving. I cannot say thank you enough to all of you for your support.