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WLF PREVAILS OVER NADER GROUP ON REGULATION OF PRODUCT PLACEMENT

The Federal Trade Commission (FTC) issued an opinion letter today rejecting a petition from an activist group urging greater regulation of product placement on television. The pro-regulatory petition has filed by Commercial Alert, an activist group co-founded by Ralph Nader. The FTC's ruling was a victory for the Washington Legal Foundation (WLF), which was the only public interest organization to file comments in opposition to the Commercial Alert proposal.

"Product placement" refers to the entertainment industry practice when a consumer product is either shown or mentioned within a film or television program in return for payment, promotion, services, or other consideration from the maker of the product. Commercial Alert petitioned the FTC and the FCC in September, 2003, to adopt new regulations that would mandate a warning for all instances of product placement on television. Under Commercial Alert's proposal, each product placement would be accompanied as it occurs by an on-screen label of "Advertisement."

WLF's comments in opposition to Commercial Alert noted that television product placement dates to the medium's earliest days, with the hosts of popular shows such as *Texaco Star Theater* and *Mutual of Omaha's Wild Kingdom* promoting the sponsor's products. Indeed, a future United States President promoted General Electric as the host of *General Electric Theater*. Also pointed out that the FTC rejected a similar petition targeting *film* product placement in 1992 on the basis of a lack of consumer injury, and WLF observed that Commercial Alert gave no reason to overturn that determination.

WLF further argued that even if Commercial Alert could show harm from product placements, the current proposed regulations would violate freedom of speech, as defined in U.S. Supreme Court cases.

In a five-page opinion letter, the FTC agreed with WLF's position that paid product placement does not mislead or confuse consumers.

WLF is a non-profit public interest law and policy center with supporters nationwide. Since its founding in 1977, it has advocated for sound government regulations, including in the areas of advertising and other avenues of commercial speech. WLF has participated as a party or as an *amicus curiae* in numerous cases involving commercial free speech. WLF's Legal Studies Division frequently publishes papers by expert practitioners on commercial speech issues.

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For further information, contact WLF Senior Vice President for Legal Affairs David Price, (202) 588-0302. WLF's comments are available on its web site at www.wlf.org.