



Federal Communications Commission  
Washington, D.C. 20554

December 4, 2012

In Reply Refer To:  
1800B3-MM

Mr. George Moss  
4284 E. Broad Street, Apt. 19  
Columbus, OH 43213

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1200 New Hampshire Ave., N.W.  
Washington, DC 20036

**In re: The Ohio State University**  
WOSU-FM, Columbus, Ohio  
Facility ID No. 66191  
File No. BRED-20120601ADH

**Application for Renewal**

**Informal Objection**

Dear Mr. Moss and Mr. Gray:

We have before us the captioned application for license renewal ("Application") of The Ohio State University ("Licensee"), licensee of noncommercial educational radio station WOSU-FM, Columbus, Ohio ("Station"). Also before us are an informal objection filed August 6, 2012, by George Moss ("Objection") against the Station's renewal application and a responsive pleading filed by OSU on September 4, 2012 ("Opposition"). For the reasons set forth below, we deny the Objection and grant the Application.

**Background.** On June 1, 2012, Licensee timely filed the Application. Moss filed the Objection on August 6, 2012, stating that Licensee has not operated in the public interest during the renewal cycle.<sup>1</sup> Specifically, it claims that Licensee failed to answer Moss' written requests to view the public file on June 5, 2012, and June 19, 2012. He alleges that Licensee denied access to the public file on June 26, 2012, when he personally visited the Station.<sup>2</sup> He also claims that the Station airs "little" local programming and should use more of its resources to help local charities serving the poor and homeless.<sup>3</sup>

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<sup>1</sup> Objection at 1.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

In response, Licensee alleges that Moss' statements are either "factually incorrect or irrelevant to Ohio State's obligations as a noncommercial educational radio station licensee."<sup>4</sup> Regarding the two written requests to view the public file, Licensee states that its records reflect electronic correspondence from Moss (on days different than those listed in the Objection) requesting information not required to be maintained in the public file, to which Licensee responded within one day.<sup>5</sup> Licensee admits that a third email, relating to the Station's public file, among other things, went unanswered by Licensee due to "internal miscommunications."<sup>6</sup> Although Licensee states that it intended to answer this request, it points out that Commission's Rules ("Rules") only require stations with main studios within their community of license to address in-person public file requests.<sup>7</sup> Licensee provides a sworn statement by the Station's General Manager that the Licensee has "no record or recollection" of an in-person visit by Moss to the Station.<sup>8</sup> As for the claim that Licensee airs limited local programming, it cites to the Station's award-winning local news coverage and a two-hour local talk program aired each weekday.<sup>9</sup> The Objection dismisses the allegation regarding local charities as "irrelevant" to the Commission's review of the Application and "beyond [the Commission's] jurisdiction."<sup>10</sup>

**Discussion.** Pursuant to Section 309 (e) of the Communications Act of 1934, as amended ("Act"), informal objectors must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,<sup>11</sup> which governs our evaluation of an application for license renewal.

We have examined the Objection and find that it does not raise a substantial and material question of fact calling for further inquiry or otherwise persuade us that grant of the Application would contravene the public interest, convenience, and necessity. Regarding the alleged public file violations, Licensee correctly states, per Section 73.3527(c)(1) of the Rules, that it is not required to respond to written requests because its main studio is located within the community of license.<sup>12</sup> As for the factual dispute regarding Moss' visit to the Station, we credit Licensee's account because the Station's General Manager swears that the Opposition's statements are true.<sup>13</sup> The Objection contains no such affidavit. With

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<sup>4</sup> Opposition at 1.

<sup>5</sup> Specifically, Licensee's records show an electronic mail from Moss dated June 29, 2012, asking to view IRS Form 990 and the Commission's address for comments on the Application. Licensee received a second electronic mail from Moss on August 16, 2012 requesting information on how to file a Freedom of Information request regarding Licensee. Opposition at 2.

<sup>6</sup> *Id.* at 2-3.

<sup>7</sup> 47 C.F.R. § 73.3527(b), (c)(1).

<sup>8</sup> Opposition at 4 and Declaration of Tom Rieland, General Manager.

<sup>9</sup> *Id.* at 5-6.

<sup>10</sup> *Id.* at 6.

<sup>11</sup> See, e.g. *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 note 10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

<sup>12</sup> 47 C.F.R. § 73.3527(c)(1).

<sup>13</sup> Opposition, Declaration of Tom Rieland, General Manager.

respect to the programming allegations, a licensee has broad discretion – based on its right to free speech -- to choose, in good faith, programming that it believes serves the needs and interests of the members of its audience.<sup>14</sup> We will intervene in programming matters only if a licensee abuses that discretion.<sup>15</sup> Moss has not demonstrated that the Station has done so here.

Lastly, Moss claims that Licensee failed to “help” local charities, particularly those catering to the poor and homeless, arguing that Licensee’s professional fundraising operation draws resources away from local groups.<sup>16</sup> The standard of review for license renewal applications is whether the station has served “the public interest, convenience and necessity.”<sup>17</sup> The Courts have held that this “public interest” standard primarily involves an obligation to provide programming responsive to community issues.<sup>18</sup> Licensees have broad discretion in this area,<sup>19</sup> and there is no specific duty imposed upon licensees to engage in charitable activity or support third-party charitable endeavors as part of their public interest obligations. Accordingly, we will not consider this claim further.

**Conclusion.** We have evaluated the Application pursuant to Section 309(k) of the Act, and we find that the Station has served the public interest, convenience, and necessity during the subject license term; there have been no serious violations of the Act or the Rules; and there have been no other violations which, taken together, constitute a pattern of abuse.

In light of the above discussion, and pursuant to Section 309(k) of the Act,<sup>20</sup> and Sections 0.61 and 0.283 of the Rules,<sup>21</sup> the Informal Objection filed on August 6, 2012, by George Moss, Is DENIED, and the license renewal application (File No. BRED-20120601ADH) of The Ohio State University, for WOSU-FM, Columbus, Ohio, IS GRANTED.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Peter H. Doyle', with a stylized flourish at the end.

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>14</sup> See, e.g., *License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401 (1993) (“*Philadelphia Station License Renewals*”) citing *Time-Life Broadcast, Inc.*, Memorandum Opinion and Order, 33 FCC 2d 1081, 1082 (1972), and *Office of Communications of United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983) (subsequent history omitted).

<sup>15</sup> *Philadelphia Station License Renewals*, 8 FCC Rcd at 6401.

<sup>16</sup> Objection at 1.

<sup>17</sup> See 47 U.S.C. § 307(c)(1).

<sup>18</sup> *Office of Communication of United Church of Christ v. FCC*, 707 F.2d 1413, 1427 (D.C. Cir. May 10, 1983).

<sup>19</sup> *Id.* at 1431.

<sup>20</sup> U.S.C. § 309(k).

<sup>21</sup> 47 C.F.R. §§ 0.61, 0.283.