



Federal Communications Commission
Washington, D.C. 20554

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In Reply Refer to:
1800B3-SS

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Ms. Ashley Wright
17300 E.49th St. Court
South Independence, MO 64055

In re: **KCMO-FM, Shawnee, KS**
CMP Houston-KC, LLC
File No. BRH-20130201ATA
Facility ID No. 6385

License Renewal Application

Informal Objection

Dear Counsel and Ms. Wright:

The Media Bureau ("Bureau") has before it: (1) the application ("Application") of CMP Houston-KC, LLC ("Licensee") to renew the license of radio station KCMO-FM, Shawnee, Kansas ("Station"); and (2) the Informal Objection ("Objection") to that application filed by Ashley Wright ("Wright") on April 12, 2013. For the reasons set forth below, we deny the Objection and grant the Application.

Background. Licensee timely filed the Application on February 1, 2013. Wright subsequently filed the Objection on April 12, 2013. In the Objection, Wright argues that the Application should be denied because the Station's disk jockeys Dick Wilson and Mike O'Brien have been "hateful and rude" to her on the phone, that they deleted her Facebook messages to the Station and that the Station plays "horrible" music.¹

Discussion. Informal objections to license renewal applications 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 Communications Act of 1934, as amended ("Act").² Specifically, Section 309(k) provides that we are to grant the renewal application if,

¹ Objection at 1.

² 47 U.S.C. § 309(e). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n. 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 (1989) ("*Area Christian*") (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.³

The Commission is prohibited from exercising any power of censorship over broadcast stations with respect to content-based programming decisions.⁴ A licensee has broad discretion – based on its right to free speech – to choose the programming that it believes serves the needs and interests of the members of its audience.⁵ We will intervene in programming matters only if a licensee abuses that discretion.⁶ The Commission may, however, regulate broadcast content where federal statutes direct it to do so, but the Commission will not take adverse action on a license renewal application based solely on the subjective determination of a single listener or group of listeners as to what constitutes appropriate programming.⁷

After full review, we have determined that further Commission action is not warranted in this case for several reasons. Wright primarily seeks the denial of the Station's license renewal because she disagrees with its programming choices regarding the music it airs. However, the Objection contains only unsupported conclusory statements and does not provide a single example of the alleged "horrible" musical content.⁸ Furthermore, even if Wright provided specific examples of the alleged "horrible" music in her Objection, she has not shown that Licensee committed violations of the Act, the Commission's rules, or otherwise abused its discretion in determining the programming it believes serves the needs of its audience.⁹

³ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 10 Stat. 56 (1996). See *Implementation of Section 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

⁴ U.S. Const. amend. 1; 47 U.S.C. § 326 ("Nothing in [the] Act shall be understood or construed to give the Commission the power of censorship over radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated . . . by the Commission which shall interfere with the right of free speech by means of radio communication.").

⁵ 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)).

⁶ *Philadelphia Station License Renewals*, 8 FCC Rcd at 6401 (abuse of discretion occurs if a licensee is unreasonable or discriminatory in its selection of issues that it believes are of concern to the local community or if it offers such nominal levels of issue-responsive programming so as to as effectively defaulted on its obligation).

⁷ The Commission does, however, enforce the statutory prohibition on the broadcast of obscene, indecent and profane material. 18 U.S.C. § 1464.

⁸ Objection at 1. See *Area Christian*, 60 RR 2d at 864.

⁹ See *Philadelphia Station License Renewals*, 8 FCC Red at 6401.


Finally, with respect to Wright's allegation that the Station's disk jockeys were hateful and rude to her on the phone, Wright fails to present any specific facts or evidence supporting this contention. Regarding her allegation that the Station's disk jockeys deleted her Facebook messages, not only does Wright fail to present any evidence to support this claim, but she has not demonstrated that such alleged failure is violative of any Commission rule or policy.¹⁰

Conclusions/Actions. 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 granting the Application would contravene the public interest, convenience, and necessity. Additionally, we have evaluated the KCMO-FM license renewal 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.

Accordingly, IT IS ORDERED, that the Informal Objection filed on April 12, 2013, by Ashley Wright IS DENIED.

IT IS FURTHER ORDERED that pursuant to Section 309(k) of the Communications Act of 1934, as amended, that the license renewal application of CMP Houston-KC, LLC, for KCMO-FM, Shawnee, Kansas (File No. BRH-20130201ATA) IS GRANTED.

Sincerely,


Peter H. Doyle
Chief, Audio Division
Media Bureau

¹⁰ See, e.g., *Dennis J. Kelly, Esq., John E. Fiorini III, Esq.*, Letter, 24 FCC Rcd 369, 370 (MB 2009) (reiterating that the Commission does not regulate the non-broadcast activities of station personnel or announcers).