



Federal Communications Commission
Washington, D.C. 20554

August 21, 2014

The Tri-State "Like It Is" Support Coalition
Lisa V. Davis, Chair
c/o Weequahic Park Association
P.O. Box 2248
Newark, New Jersey 07114

United African Movement
Alton H. Maddox, Jr., Chairman
16 Court Street, Suite 1901
Brooklyn, New York 11241

American Broadcasting Companies, Inc.
Attention: John Zucker
77 West 66th Street, 16th Floor
New York, New York 10023-6298

Re: Application for Renewal of License of:
WABC-TV, Fac. Id. No. 1328,
File No. BRCT-20070201BHD

Dear Parties:

This is in regards to the above-captioned application for renewal of license for television station WABC-TV, licensed to American Broadcasting Companies, Inc. ("WABC" or "Station"). The Tri-State "Like It Is" Support Coalition ("Like It Is")¹ filed a petition to deny against the application, WABC filed an opposition and Like It Is filed a reply brief. In addition, the United African Movement ("UAM") filed an informal objection to the renewal application of WABC.

Like It Is asserts generally that the WABC's local news coverage and public affairs programming have failed to meet the needs and interests of the community.² Specifically, Like It Is argues that the Station does not air sufficient public affairs programming to serve the interests and concerns of the tri-state area African-American community.³ Like It Is also asserts that the Station's local news focuses on crime in the African-American community, to the exclusion of the positive contributions of the African-American community.⁴ Like It Is further contends that the Station fails to show a sufficient commitment

¹ Like It Is describes itself as "a broad based coalition of grass roots community organization and individuals organized throughout the African -- American community in the tri-state area to protect the media interest" of the African-American community. Petition at 1.

² Petition at 2.

³ *Id.* at 5.

⁴ *Id.* at 7-11.

to the public affairs program “Like It Is.”⁵ Finally, Like It Is states that the Station’s local news coverage serves to increase racial bias and is a detriment to the African-American community.⁶

UAM contends that the African-American community “must depend on the biased decisions of white executives for news, entertainment programming, and information” and that WABC fails to address issues of interest and concern to the African-American community through its programming.⁷

In opposition, WABC contends that the Commission has very little authority to interfere with a licensee’s selection and presentation of news and editorial programming.⁸ Moreover, the Station contends that the Commission gives licensees broad discretion to choose what issues are of concern to the community.⁹ The Station argues that a petition to deny regarding a station’s editorial discretion can establish a *prima facie* case only if it includes specific allegations of fact which, if true, would establish that the licensee’s overall past programming could not reasonably have met the needs and interests of the people within its service area, and that Like It Is has not met this heavy burden.¹⁰ Additionally, the Station provides a brief overview of its record of public service to its viewers and alleges that Like It Is’ procedural and jurisdictional deficiencies independently compel rejection of the petition.

Section 309(k)(1) of the Communications Act of 1934, as amended (the “Act”), states that the Commission shall grant a license renewal application if it finds, with respect to that station, that (a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Communications Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of the Act or Commission rules or regulations which, taken together, would constitute a pattern of abuse.¹¹ The Commission analyzes any public interest allegation according to a two-step process. The petition must first contain specific allegations of fact sufficient to show that such a grant would be *prima facie* inconsistent with the public interest.¹² If so, the Commission will designate the application for hearing when the allegations, together with any opposing evidence before the Commission, raise a substantial and material question of fact as to whether grant would serve the public interest, or if the Commission is otherwise unable to conclude that granting the application would serve the public interest.¹³ We find that the petition and informal objection have failed to establish a *prima facie* case that grant of the renewal application would disserve the public interest.¹⁴

With respect to the allegations of Like It Is and UAM that the Station’s local news coverage has failed to meet the needs and interests of the tri-state area African-American community, Section 326 of the Act and the First Amendment to the Constitution prohibit any Commission actions that would

⁵ *Id.* at 4-7.

⁶ *Id.* at 10-11.

⁷ UAM Informal Objection at 1-2.

⁸ WABC Opposition at 5-6.

⁹ *Id.* at 6.

¹⁰ *Id.* at 9.

¹¹ 47 U.S.C. §309(k)(1).

¹² 47 U.S.C. §309(d)(1); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) (“Astroline”).

¹³ *Astroline*, 857 F.2d at 1561; 47 U.S.C. §309(e).

¹⁴ *Tri-State Like It Is Coalition*, Letter Decision, 26 FCC Rcd 362, 364 (Vid. Div. 2011).

improperly interfere with the programming decisions of licensees.¹⁵ Because journalistic discretion in the presentation of news and public information is the core concept of the First Amendment's Free Press guarantee, licensees are entitled to the broadest discretion in the scheduling, selection, and presentation of news programming.¹⁶ Thus, the Commission has repeatedly held that "[t]he choice of what is or is not to be covered in the presentation of broadcast news is a matter to the licensee's good faith discretion," and that "the Commission will not review the licensee's news judgments."¹⁷

Further, the allegation by Like It Is and UAM regarding WABC's airing and/or commitment to adequate public affairs programming for the African-American community does not raise an issue with respect to the Licensee's compliance with the Commission's rules and regulations.¹⁸ In this regard, stations are not required to present specific public affairs programming in order to meet community needs.¹⁹ In its *Localism Notice of Inquiry*, the Commission specifically noted that programming not specifically produced in or targeted at a local community may nonetheless serve the needs and interests of the community.²⁰ Thus, although Like It Is' and UAM's concerns may be legitimate matters for discussion within the tri-state area African-American community, we do not find that the matters raised justify intervention by the Commission in the pending renewal application, nor do we find that Like It Is or UAM have established a *prima facie* case that grant of the renewal application would disserve the public interest.²¹

Accordingly, the petition to deny filed by The Tri-State Support Coalition and the Informal Objection filed by the United African Movement **ARE DENIED**.

Sincerely,



Barbara Kreisman
Chief, Video Division
Media Bureau

¹⁵ 47 U.S.C. §326; U.S. CONST., amend. I.

¹⁶ *Tri-State Like It Is Coalition*, 26 FCC Rcd at 364 (citing *National Broadcasting Company v. FCC*, 515 F.2d 1101, 1112-1113, 1119-1120, 1172 (1974) (subsequent history omitted) et al).

¹⁷ *Tri-State Like It Is Coalition*, 26 FCC Rcd at 364 (quoting *American Broadcasting Companies, Inc.*, Memorandum Opinion and Order, 83 F.C.C.2d 302, 305 (1980)).

¹⁸ *Tri-State Like It Is Coalition*, 26 FCC Rcd at 364

¹⁹ *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Memorandum Opinion and Order, 104 FCC 2d 358 (10986).

²⁰ *In the Matter of Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd 12425, 12431 (2004) (subsequent history omitted) ("*Localism Notice of Inquiry*").

²¹ *Tri-State Like It Is Coalition*, 26 FCC Rcd at 365.