



Federal Communications Commission  
Washington, D.C. 20554

October 9, 2014

*In Reply Refer to:*  
1800B3-ATS

Mr. Milo Vannucci  
2101 Ponce de Leon Avenue  
West Palm Beach, FL 33407

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In re: **Clear Channel Broadcasting Licenses, Inc.**  
WJNO(AM), West Palm Beach, FL  
File No. BR-20110930AEG  
Facility ID No. 1917

**Petition to Deny**

Dear Mr. Vannucci and Counsel:

The Media Bureau ("Bureau") has before it: (1) the application ("Application") of Clear Channel Broadcasting Licenses, Inc. ("Licensee"), to renew its license for Station WJNO(AM), West Palm Beach, Florida ("Station"); and (2) the Petition to Deny ("Petition") that application filed by Milo Vannucci ("Vannucci").<sup>1</sup> For the reasons set forth below, we deny the Petition and grant the Application.

**Background.** Licensee timely filed the Application on September 30, 2011. Vannucci subsequently filed the Petition on January 3, 2012. In the Petition, Vannucci argues that the Application should be denied because: (1) the Station's programming is predominantly conservative talk radio; and (2) the Station "does not clearly delineate between news and talk . . . thereby confusing the public as to what constitutes fact versus opinion."<sup>2</sup>

**Discussion.** A petition to deny a license renewal application must, pursuant to Section 309(d) of the Communications Act of 1934, as amended ("Act"),<sup>3</sup> 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>4</sup> which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, 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

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<sup>1</sup> Licensee filed an Opposition on January 18, 2012.

<sup>2</sup> Petition at 4.

<sup>3</sup> 47 U.S.C. § 309(d).

<sup>4</sup> *Id.*, § 309(k). 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), *reh'g denied* (D.C. Cir. Sept. 10, 1993).

Rules; and (3) there have been no other violations that, taken together, constitute a pattern of abuse.<sup>5</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application, after notice and opportunity for a hearing under Section 309(d) of the Act, or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”<sup>6</sup>

Vannucci seeks the denial of the Station’s license renewal because he believes the Station’s programming has a political bias and fails to distinguish news and opinion-based programming. The First Amendment to the United States Constitution<sup>7</sup> and Section 326 of the Act<sup>8</sup> prohibit the Commission from censoring program material or interfering with broadcasters’ free speech rights. 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.<sup>9</sup> Furthermore, the Commission will not take adverse action on a license renewal application based upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming.<sup>10</sup> The Commission will intervene in programming matters only if a licensee abuses that discretion.<sup>11</sup> Moreover, we have consistently held that a perceived political bias is not grounds for denying the renewal of a station’s license.<sup>12</sup> Finally, there is no requirement in the Act or the Commission’s Rules that requires licensees to “clearly delineate between news and talk” as Vannucci requests. Accordingly, we find Vannucci’s arguments meritless and will deny the Petition.

We have examined the Petition and find that it does not raise substantial and material questions of fact calling for further inquiry into whether granting the Application would be *prima facie* inconsistent with Section 309(k) of the Act.<sup>13</sup> Additionally, we have evaluated the Application pursuant to Section

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<sup>5</sup> *Id.*, § 309(k)(1). The renewal standard was amended to read as described in the text by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

<sup>6</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>7</sup> U.S. CONST. amend. I.

<sup>8</sup> 47 U.S.C. § 326.

<sup>9</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>10</sup> See *WGBH Educational Foundation*, Memorandum Opinion and Order, 69 FCC 2d 1250, 1251 (1978).

<sup>11</sup> *Philadelphia Station License Renewals*, 8 FCC Rcd at 6401.

<sup>12</sup> See, e.g., *Radio License Holding VII, LLC*, Letter, 28 FCC Rcd 14907, 14908-09 (MB 2013) (subjective belief of the listener that licensee’s programming was politically biased did not indicate that licensee had abused its discretion in choosing programming); *AMFM Broadcasting Licenses, LLC*, Letter, 22 FCC Rcd 4804, 4805 (MB 2007) (informal objections against license renewals arguing that the stations aired “‘heavily-biased . . . programming amount[ing] to the use of the airwaves as a relentless political pulpit, presenting only one-sided, predictable opinion on most issues, and even blatantly endorsing one political party’” denied as outside the scope of Commission authority); *The Hopi Foundation*, Letter, 22 FCC Rcd 17305, 17308 (MB 2007) (denying programming objections that the station broadcasted “biased political public service programming”); *SCA License Corporation*, Letter, 22 FCC Rcd 5579, 5580 (MB 2007) (denying an informal objection based on perceived political bias due to limits on Commission authority and objector’s failure to provide any specific examples of objectionable programming).

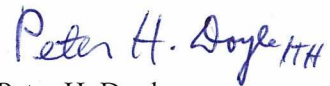
<sup>13</sup> 47 U.S.C. § 309(k).

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.<sup>14</sup>

**Conclusions/Actions.** Accordingly, IT IS ORDERED that the Petition to Deny filed on January 3, 2012, by Milo Vannucci 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 Clear Channel Broadcasting Licenses, Inc., for Station WJNO(AM), West Palm Beach, Florida (File No. BR-20110930AEG), IS GRANTED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" followed by the initials "HH".

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>14</sup> *Id.*