



Federal Communications Commission
Washington, D.C. 20554

January 7, 2015

Paul Streitberger
746 Southgate Ave.
Fullerton, CA 92832

KOCE-TV Foundation
3080 Bristol Street #400
Costa Mesa, CA 92626

Re: KOCE-DT, Huntington Beach, CA
File No. BREDT-20140731AKL
Facility ID No. 4328

Dear Petitioner/Licensee:

This is with respect to an informal objection filed by Mr. Paul Streitberger on November 3, 2014, in reference to the above captioned license renewal application. On November 14, 2014, KOCE-TV Foundation (the "Licensee"), the licensee of station KOCE-DT (TV), Huntington Beach, California (the "Station"), filed a Motion to Dismiss. Pursuant to delegated authority, we have considered the informal objection and for the reasons set forth below we dismiss it.

In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications Act of 1934 (the "Act").¹ When an informal objection is filed against a license renewal application the Commission applies a two-step analysis under the public interest standard.² Under the public interest standard the Commission must first determine whether the petition contains specific allegations of fact sufficient to show that granting the application would be *prima facie* inconsistent with the public interest.³ Once a petition meets this first step, the Commission must determine "whether the totality of the evidence raises a substantial and material question of fact justifying further inquiry."⁴ If no such question is raised, the Commission will deny the petition and grant the application if it concludes that the grant otherwise serves the public interest, convenience, and necessity.⁵ Mr. Streitberger objects to the license renewal because the Station: (1) cancelled a local news program; (2) consistently aired a weekly news show the Tuesday after the Friday the show is recorded; (3) failed to air specific episodes of a news discussion program covering certain controversial issues; (4) added two hours of children's programming daily and regularly aired shows "glorifying wealth;" and (5) did not issue a retraction when a scientific conclusion reached in a program aired by the station was later contradicted by news reports.

¹ 47 U.S.C. § 309(k).

² 47 U.S.C. §309(d)(1), (2); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988)

³ 47 U.S.C. §§309(d)(1) and 309(k)(1).

⁴ *Citizens for Jazz on WRVR v. FCC*, 775 F.2d 392, 395 (D.C. Cir. 1985); 47 U.S.C. §309(e); 47 U.S.C. §309(k)(2).

⁵ 47 U.S.C. §§ 309(d)(2) and 309(k)(1).

As an initial matter we note that both Section 326 of the Act and the First Amendment to the U.S. Constitution prohibit any Commission actions that would improperly interfere with the programming decisions of licensees.⁶ Because of this statutory prohibition, and because journalistic or editorial discretion in the presentation of news and public information is the core concept of the First Amendment's Free Press guarantee, the Commission has very little authority to interfere with a licensee's selection and presentation of news and editorial programming.⁷ With respect to the accuracy of a news report, the Commission has stated that it possesses "neither the expertise nor the desire to look over the shoulder of broadcast journalists and inquire why a particular piece of information was reported or not reported."⁸ To do otherwise "would involve the Commission deeply and improperly in the journalistic functions of broadcasters."⁹ Furthermore, there is no federal law that requires broadcasters to present contrasting viewpoints.¹⁰

With respect to the allegations, we find that Mr. Streitberger fails to make the *prima facie* showing that grant of the license renewal application would be inconsistent with the public interest. Therefore, the informal objection is dismissed. We agree with the Licensee that the informal objection does not allege any violation of the Communications Act or the Commission's rules.¹¹ While viewers may disagree with a broadcaster's choice in programming, broadcasters are afforded wide discretion in choosing their programming.¹²

ACCORDINGLY, IT IS ORDERED, that the informal objection filed by Mr. Paul Streitberger **IS DISMISSED**.

IT IS FURTHER ORDERED, that the license renewal application filed by KOCE-TV Foundation for television station KOCE-TV, Huntington Beach, California File No. BREDT-20140731AKL, **IS GRANTED**.

Sincerely,



Barbara Kreisman
Chief, Video Division
Media Bureau

cc:

Brad C. Deutsch, Esq.
John Crigler, Esq.

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

⁷ See, e.g., *National Broadcasting Company v. FCC*, 515 F.2d 1101, 1112-1113, 1119-1120, 1172 (1974), *vacated as moot, id.* at 1180, *cert. denied*, 424 U.S. 910 (1976); *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 124 (1973); *Hunger in America*, 20 FCC 2d 143, 150-51 (1969).

⁸ *In Re CIA*, 58 Rad.Reg2d (P & F) 1544, 1549 (1985).

⁹ *Hon. Harley O. Staggers ("Selling of the Pentagon")*, 21 Rad.Reg.2d (P & F) 912, 916 (1971).

¹⁰ See, e.g., *In the Matter of Amendment of Parts 1, 73 & 76 of the Commission's Rules*, 26 FCC Rcd 11422, 11422-11423 (2011) (deleting as obsolete from the Code of Federal Regulations the Commission's so-called "Fairness Doctrine" and corollaries of the rule which no longer have any legal effect).

¹¹ Motion to Dismiss Comment at 1.

¹² See, e.g., *National Broadcasting Co., Inc.*, 14 FCC Rcd 9026, 9031 (1999).

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