



Federal Communications Commission  
Washington, D.C. 20554

February 2, 2015

Mr. Pavel Goberman  
P.O. Box 1664  
Beaverton, Oregon 97075

Re: KOPB-TV, Portland, Oregon  
File No. BREDT-20141001ABB  
Facility ID No. 50589

Dear Mr. Goberman,

This is with respect to the Petition received by the Federal Communications Commission ("Commission") from you (the "Petitioner"), in reference to the above captioned license renewal application. Based on the record before us and for the reasons set forth below, we deny your Petition.

In the Petition, you complained that your request for coverage of your 2004 primary election senatorial bid was ignored on air and that you were not permitted to address Oregon Public Broadcasting's board meetings.

As an initial matter we note that both Section 326 of the Communications Act of 1934 (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.<sup>1</sup> 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.<sup>2</sup> While viewers may disagree with a broadcaster's choice in programming, broadcasters are afforded wide discretion in choosing their programming.<sup>3</sup> There is also no federal law that requires broadcasters to present contrasting viewpoints.<sup>4</sup>

When evaluating a Petition, the Commission applies a two-step analysis under the public interest standard.<sup>5</sup> The Commission must first determine whether the petition contains specific allegations of fact

<sup>1</sup> 47 U.S.C. § 326; U.S. CONST., amend. I.

<sup>2</sup> 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).

<sup>3</sup> See, e.g., *National Broadcasting Co., Inc.*, 14 FCC Rcd 9026, 9031 (1999).

<sup>4</sup> 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).

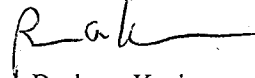
<sup>5</sup> 47 U.S.C. § 309(d)(1), (2); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988).

sufficient to show that granting the application would be *prima facie* inconsistent with the public interest.<sup>6</sup> 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.”<sup>7</sup> If no such question is raised, the Commission will deny the petition and grant the application if it concludes that such grant otherwise serves the public interest, convenience, and necessity.<sup>8</sup>

We find that you, the Petitioner, have failed to raise a substantial and material question of fact as to any rule violations on the part of KOPB-TV. The Petition fails to demonstrate any violation of Commission rules or regulations. Even if your assertions as to KOPB-TV are viewed as being true, the Commission has no basis in law for granting your Petition and designating KOPB-TV’s license renewal application for hearing.

ACCORDINGLY, IT IS ORDERED, that the Petition filed by you is DENIED.

Sincerely,



Barbara Kreisman  
Chief, Video Division  
Media Bureau

cc:

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<sup>6</sup> 47 U.S.C. §§ 309(d)(1) and 309(k).

<sup>7</sup> *Citizens for Jazz on WRVR v. FCC*, 775 F.2d 392, 395 (D.C. Cir. 1985); 47 U.S.C. §309(e).

<sup>8</sup> 47 U.S.C. §§ 309(d)(2) and 309(k).