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CHILDREN NOW



February 2, 2015

Chairman Wheeler  
Commissioner Clyburn  
Commissioner Rosenworcel  
Commissioner Pai  
Commissioner O'Rielly  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Petition to Deny the Applications for Broadcast Station Licenses for Paxson Washington License, Inc. WPXW, Manassas VA: File No. BRCT-20040527AGS;  
Fox Television Stations, Inc. WDCA, Washington, D.C.: File No. BRCT-20040527AKL;  
Raycom National, Inc. WUAB, Lorain, OH: File No. BRCT-20050527BIO

Dear Chairman Wheeler, Commissioners Clyburn, Rosenworcel, Pai and O'Rielly:

As organizations that have spent considerable time and effort seeking to improve the quality of programming for children, Office of Communication, Inc. of the United Church of Christ, (UCC OC Inc.), Children Now, and the Center for Digital Democracy (CDD) would like to highlight three license renewal challenges that have been pending for more than the length of a license term and which should be promptly resolved. It appears that the Commission and the Media Bureau are finally beginning to issue decisions in some of the long-pending license renewal proceeding.<sup>1, 2</sup> We want to be sure that an important opportunity to protect children will not be missed.

Specifically, UCC OC Inc. and CDD filed petitions to deny license renewals against two Washington, DC television stations in 2004 and UCC filed against two Cleveland television stations in 2005. Each petition alleged that the stations had failed to meet the three hour processing guideline for airing three hours of children's educational programming per week because the broadcast stations relied on programs that did not fall within the Commission's rules defining core "educational and informational" programming for children.<sup>3</sup> For example, in one case, UCC's expert described the show in question as "among the most

<sup>1</sup> Federal Communications Commission Memorandum Opinion and Order, In the Matter of Gray Television Licensee, LLC Licensee of Station WAHU-CD Charlottesville, Virginia, released December 12, 2014.

<sup>2</sup> Federal Communications Commission Notice of Apparent Liability For Forfeiture, In the Matter of Lincoln Broadcasting Company Licensee of Station KTSF, San Francisco, California, released January 7, 2015.

<sup>3</sup> The Commission established rules setting forth six criteria for evaluating whether a program qualifies as CORE programming: (1) the program has serving the educational and informational needs of children ages 16 and under as a significant purpose; (2) the program is aired between the hours of 7:00 a.m. and 10:00 p.m.; (3) the program is a regularly-scheduled weekly program; (4) the program is at least 30 minutes in length; (5) the educational objective and the target child audience are specified in

violent children's shows I have seen in my 20 years of studying children's television."<sup>4</sup> It included violence labeled "high-risk" by the National Television Violence Study.<sup>5</sup> Two of the other programs were clearly oriented toward adults, thus clearly falling outside the Commission's definition.

In 2006, in the course of approving a transfer of control of one of the Cleveland television stations challenged by UCC, the Commission found that the station impermissibly relied on the Spanish-language telenovela "*Complices al Rescate*" to meet its obligation to provide programming responsive to children's educational and informational needs. However, because this case involved a consent order, the opinion provided no guidance for other stations in determining whether a program is educational for children.

In 2008, a Children Now study made clear that this problem has not dissipated but is on-going and widespread. Children Now's report, *Educationally/Insufficient? An Analysis of the Availability & Educational Quality of Children's E/I Programming*, found many deficiencies with E/I programming. Besides programming that fails to meet the definition, for example, most stations focus almost exclusively on socio-emotional learning, which means that education in STEM fields, such as math, are given little attention in E/I programming, while other areas are overlooked entirely.<sup>6</sup>

Thus, if the Commission finally rules on these pending petitions, we urge it to find that the programming in question did not meet the Commission's definition of core educational programming for children. Such an action would affirm that the Commission will not ignore rule violators, provide useful guidance to licensees, and bring educational opportunities to children who need them.

As you know, almost 100 million households in the U.S. do not subscribe to broadband at home, and thus are likely to rely on television for educational video. A National Association of Broadcasters survey found that minorities currently make up 41% of all broadcast-only homes, up from 38% in 2010. In the most recent study, 23% of Asian (down from 30% in 2010), 22% of African-American (up from 12% in 2010) and 25% of Latino households (up from 23% in 2010) are reliant on over-the-television.<sup>7</sup> For these families, broadcast television remains an important part of the marketplace of ideas. Moreover, while the rules themselves do not extend to programming transmitted via other platforms, the broadcast TV rules provide an important benchmark for all children's programmers as parents, regulators and educators determine the best ways to provide informational content to children using new technologies.<sup>8</sup>

On the other hand, were the Commission to take no action against stations that violated the FCC rules because the violations occurred so long ago, it would in effect declare "open season" on educational

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writing in the licensee's Children's Television Programming Report; and (6) instructions for listing the program as educational/informational, including an indication of the age group for which the program is intended, are provided by the licensee to publishers of program guides.

<sup>4</sup> Petition to Deny the Applications for Broadcast Station Licenses for Paxson Washington License, Inc. WPXW, Manassas VA and WDCA, Washington DC: File Nos. BRCT-20040527AGS and BRCT-20040527AKL, Declaration of Dale Kunkel at para 23.

<sup>5</sup> *Id.*

<sup>6</sup> Barbara J. Wilson, et.al. *Educationally/Insufficient? An Analysis of the Availability & Educational Quality of Children's E/I Programming*. Children Now (Nov. 2008).

<sup>7</sup> National Association of Broadcasters, "Over-the-Air TV Renaissance Continues as Pay TV Cord-Cutting Rises," Retrieved from <http://www.nab.org/documents/newsroom/pressRelease.asp?id=3168>.

<sup>8</sup> Barnes, Brooks. (2014, June 1). Amazon and a Mattel Unit Plan a 'Content Hub' Focusing on Children. *The New York Times*. Retrieved from <http://www.nytimes.com>.

programming. It is not fair to broadcasters or concerned advocates for licensee renewal challenges take more than an eight year license term to be resolved.

For these reasons, we expect the Commission to quickly determine that violent and adult-oriented programming does not meet the Commission's definition of educational and informational children's programming.

Sincerely,



Jeff Chester  
Executive Director  
Center for Digital Democracy



Cheryl A. Leanza  
Policy Director  
United Church of Christ,  
Office of Communication, Inc.



Eileen Espejo  
Director, Media and Health Policy  
Children Now

CERTIFICATE OF SERVICE

I, Cheryl Leanza, hereby certify that on this date I caused the foregoing "Petitions to Deny the Applications for Broadcast Licenses" to be served by first class mail, postage prepaid on the following:

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Cheryl Leanza

Dated: February 2, 2015