

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

IN REPLY REFER TO:
1800B3-BSH

Skyline Broadcasters, Inc.
c/o P.O. Box 918
Kalispell, MT 59903

And: The attached list (of Informal Objectors)

In re: KGEZ(AM), Kalispell, MT
Transfer of Control
BTC-960201EB

Dear Informal Objectors and Applicants:

This is in response to the informal objections filed against the above-captioned application to transfer control of Skyline Broadcasters, Inc. ("Skyline"), licensee of KGEZ(AM), from C.M. Anzjon and M.A. Himsl to Charles Lee, Dallas I. Herron, Michael S. Stocklin and Stephen Breeze. We have received numerous complaints which contend that grant of the application will leave listeners in the Flathead Valley without popular programming, particularly a program called "Valley Speak." Additionally, many objectors contend that an unauthorized transfer of control of the licensee has occurred. As explained below, we shall deny the objections, and admonish Skyline for an unauthorized transfer of control, in violation of Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3540 of the Commission's rules.

With respect to the concern regarding the proposed transferees' programming plans, please be advised that the Commission does not scrutinize or regulate programming formats, nor does it take programming format into consideration in making its licensing decisions. In 1976, the Commission issued a Policy Statement in which it concluded that review of program formats was not required by the Communications Act, would not benefit the public, and would deter innovation, as well as impose substantial administrative burdens on the Commission. Entertainment Formats, 60 FCC 2d 858 (1976), reconsideration denied, 66 FCC 2d 78 (1977). The Supreme Court of the United States has upheld this policy and the Commission's determination that "the public interest is best served by promoting diversity in entertainment formats through market forces and competition among broadcasters" FCC v. WNCN Listeners Guild, 450 U.S. 582, 585 (1981). See also, Riverside Broadcasting Co., Inc., 53 RR 2d 1154 (1983), reconsideration denied, 56 RR 2d 618 (1984), remanded on other grounds sub. nom., Citizens for Jazz on WRVR, Inc. v. FCC, 775 F.2d 392 (D.C. Cir. 1985).

In regard to the allegation concerning a possible unauthorized transfer of control, on May 15, 1996 the Commission issued a letter of inquiry to Skyline with respect to this matter. We have concluded, based on the documents submitted in response to our inquiry, as well as information contained in the subject application, that an unauthorized transfer of control did, indeed, occur. However, we do not find that Skyline's violation of Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3540 of the Commission's Rules warrants designation of the applications for hearing. The conduct does not raise a substantial and material question as to Skyline's qualifications or to whether the public interest will be served by grant of the above-captioned applications. Skyline appears to have acted with complete candor and voluntarily submitted its application to rectify the situation. However, licensees are required to apprise themselves of the Commission's rules and regulations and to insure that their stations' conduct is in compliance.

Skyline's failure to do so with respect to Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3540 of the Commission's Rules constituted a violation of our rules. Therefore, Skyline Broadcasters, Inc. IS HEREBY ADMONISHED and is cautioned to use care to avoid such violations in the future.

Accordingly, the informal objections to the application for transfer of control of Skyline Broadcasters, Inc., licensee of KGEZ(AM), Kalispell, Montana, ARE HEREBY DENIED and the application to transfer control of KGEZ(AM), Kalispell, Montana, IS HEREBY GRANTED.

Sincerely,

Linda Blair, Chief
Audio Services Division
Mass Media Bureau