

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Application for Renewal of Licenses of
Nexstar Broadcasting, Inc. and Compliance with
the Children’s Television Act of 1990, as
implemented by Section 73.671, and Section
73.3526(e)(11)(iii) of the Commission’s Rules
KARK-TV, Little Rock, Arkansas
KFDX-TV, Wichita, Texas
NAL/Account No. 201941420002
FRN: 0009961889
File Nos. BRCT-20050131BJU,
BRCDT-20130201BAG
Facility ID No. 33440
File Nos. BRCT-20060403AOR,
BRCDT-20140401ARL
Facility ID No. 65370

ORDER

Adopted: September 3, 2019

Released: September 4, 2019

By the Commission:

1. In this Order, we adopt the attached Consent Decree entered into between the Commission and Nexstar Broadcasting, Inc. (Nexstar) and grant the above-captioned license renewal applications on the condition that Nexstar execute the Consent Decree. The Consent Decree resolves the Commission’s investigation into whether the above-captioned stations (Stations) have served the educational and informational needs of children as required by the Children’s Television Act of 1990 (CTA),1 and satisfied the related filing requirements. Specifically, the Consent Decree resolves issues concerning Nexstar’s compliance with: (1) the children’s television programming obligations set forth under the CTA, as implemented by section 73.671 of the Commission’s rules (Rules);2 (2) section 73.3526(e)(11)(iii) of the Rules, which requires each commercial broadcast licensee to prepare and place in its local public inspection file on a quarterly basis Children’s Television Programming Reports containing certain substantive information regarding, among other things, the efforts it made during that quarter to serve the educational and informational needs of children; and (3) section 73.673 of the Rules, which requires a commercial broadcast television licensee to identify and provide the publishers of program guides with certain information related to its children’s programming.3

2. As required by the CTA, we have considered whether Nexstar has served the educational and informational needs of children through the licensee’s overall programming, including by evaluating the programming aired by the Stations that was specifically designed to serve such needs as well as other non-broadcast efforts. While we find that Nexstar has failed to satisfy the requirements of our processing guidelines, we find that the public interest is served by adopting the Consent Decree and the terms of the

1 Pub. L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303a, 303b, and 394.

2 47 CFR § 73.671.

3 47 CFR § 73.3526(e)(11)(iii).

Compliance Plan included within the Consent Decree.⁴ Further, after reviewing the record before us, we find that the Consent Decree contains appropriate terms and conditions that will facilitate Nexstar's compliance with the CTA, as implemented by section 73.671 of the Rules, and section 73.3526(e)(11)(iii) of the Rules.⁵ Accordingly, pursuant to section 309(k)(2) of the Communications Act of 1934, as amended (Act),⁶ we direct the Media Bureau to grant the above-captioned license renewal applications and renew the Stations' licenses for a full term conditioned on execution of the Consent Decree, provided that there are no other impediments to granting the applications and conditioned upon Nexstar's timely satisfaction of its obligations to pay to the U.S. Treasury One Hundred and Nine Thousand and Seventy-Six Dollars (\$109,076), as specified in paragraph 17 of the Consent Decree. Nexstar also agrees, as specified in paragraph 20 of the Consent Decree, to implement a Compliance Plan to help ensure future compliance with the CTA and the related programming and filing rules. In light of the foregoing and our finding that grant of the renewal applications is warranted under section 309(k)(2) because the Consent Decree contains appropriate terms and conditions, we need not determine whether Nexstar has committed "serious violations" of our rules or violations that constituted a pattern of abuse for the purposes of section 309(k)(1) of the Act.⁷ We also find that there are no substantial or material questions of fact as to Nexstar's qualifications to remain a Commission licensee.

3. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 309(k)(2) of the Communications Act of 1934, as amended,⁸ the attached Consent Decree **IS ADOPTED**, and its terms incorporated by reference.

4. **IT IS FURTHER ORDERED** that the Commission's investigation into the matters discussed above **IS TERMINATED**.

⁴ The investigation included a review of the Stations' Children's Television Programming Reports, including their accuracy, timeliness, and total core programming reported.

⁵ See *Policies and Rules Concerning Children's Television Programming; Revision of Programming Policies for Television Broadcast Stations*, Report and Order, 11 FCC Rcd 10660, 10724-25, para. 136 (1996) (considering use of a "promise versus performance" approach in the event a licensee fails to meet the requirements of the CTA or section 73.671 of the Rules. Under such a prospective remedy, a licensee would detail its plan for coming into full compliance with its children's programming obligations and if the plan meets with Commission approval, the station's license would be renewed on the condition that the licensee adheres to the plan, absent special circumstances).

⁶ Section 309(k)(1) of the Act states that the Commission shall grant a license renewal application "if it finds, with respect to that station, during the preceding term of its license – (A) the station has served the public interest, convenience, and necessity; (B) there have been no serious violations by the licensee of this chapter or the rules and regulations of the Commission; and (C) there have been no other violations by the licensee of this chapter or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse." 47 U.S.C. § 309(k)(1). Section 309(k)(2) of the Act states, however, that if the licensee fails to meet this three-part standard, the Commission may deny the application ". . . or grant the application on terms and conditions as are appropriate..." 47 U.S.C. § 309(k)(2).

⁷ See *Shareholders of Univision Communications Inc. et al.*, Memorandum Opinion and Order, 22 FCC Rcd 5842, 5859, n.113 (2007) ("Given our finding that the grant of the renewal application is warranted under section 309(k)(2) of the Act because the consent decree contains appropriate terms and conditions, we need not determine whether Univision committed 'serious violations' of our rules or violations that constituted 'a pattern of abuse' for purposes of section 309(k)(1)"); See also *Citadel Broad. Co. WWWZ(FM), Summerville, S. Carolina, et al.*, Memorandum Order and Opinion and Notice of Apparent Liability, 22 FCC Rcd. 7083, 7094 & n.60 (2007)

(continued....)

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(2) of the Act,⁹ the Media Bureau is directed to grant the above-captioned license renewal applications conditioned on execution of the Consent Decree, provided that there are no other impediments to granting the applications, and as conditioned herein.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First-Class mail and Certified Mail, Return Receipt Requested to Elizabeth Ryder, Nexstar Broadcasting, Inc., 545 E. Carpenter Freeway, Ste. 700, Irving, TX 75602.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

(Continued from previous page) _____
(concluding that there is no need to determine whether licensee committed any serious violations or violations amounting to a pattern of abuse because the consent decree contained appropriate terms and conditions).

⁸ 47 U.S.C. §§ 154(i) and 309(k)(2).

⁹ 47 U.S.C. § 309(k)(2).

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Application for Renewal of Licenses of)	NAL/Account No. 201941420002
Nexstar Broadcasting, Inc. and Compliance with)	FRN: 0009961889
the Children’s Television Act of 1990, as)	
implemented by Section 73.671, and Section)	
73.3526(e)(11)(iii) of the Commission’s Rules)	
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KARK-TV, Little Rock, Arkansas)	File Nos. BRCT-20050131BJU,
)	BRC DT-20130201BAG
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KFDX-TV, Wichita, Texas)	File Nos. BRCT-20060403AOR,
)	BRC DT-20140401ARL
)	Facility ID No. 65370

CONSENT DECREE

1. The Federal Communications Commission (Commission) and Nexstar Broadcasting, Inc. (Nexstar), licensee of the above-captioned stations, hereby enter into this Consent Decree resolving the Commission’s investigation into Nexstar’s compliance with the Children’s Television Act of 1990,¹ as implemented by section 73.671 of the Commission’s rules (Rules),² related filing requirements under section 73.3526(e)(11)(iii) of the Rules,³ and section 73.673 as it pertains to the identification of children’s programing to publishers of programming guides.⁴ The Consent Decree also facilitates the grant of the above-captioned pending license renewal applications.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - b) “Adopting Order” means the Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - c) “Bureau” or “Media Bureau” means the Media Bureau of the Federal Communications Commission.
 - d) “Children’s Television Programming Reports” or “Reports” means the report (FCC Form 398) required to be filed with the Commission under 47 CFR § 73.3526(e)(11)(iii) of the Rules.
 - e) “Children’s Television Programming Rules” means the provisions of 47 CFR §§ 73.671, 73.673, and 73.3526(e)(11)(iii) and the Commission’s published orders, policies, guidelines, and associated filing requirements.

¹ Pub. L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303a, 303b, and 394.

² 47 CFR § 73.671.

³ 47 CFR § 73.3526(e)(11)(iii).

⁴ 47 CFR § 73.673.

- f) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
- g) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission including but not limited to the Children’s Television Programming Rules.
- h) “Core Programming” or “Core Program(s)” means programming specifically designed to serve the educational and informational needs of children, as defined by the CTA and 47 CFR § 73.671 of the Rules.
- i) “Core Processing Guidelines” means the standard by which Bureau staff, pursuant to 47 CFR § 73.671, evaluates whether a broadcast television station has met its children’s television programming obligation under the CTA.
- j) “CTA” means the Children’s Television Act of 1990, Pub L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. § 303b, *provided, however, that* subsection (a)(1) of 47 U.S.C. § 303b is excluded from the definition of “CTA” for purposes of this Consent Decree.
- k) “Effective Date” means the date on which the Commission releases the Adopting Order.
- l) “Investigation” means the investigation of the Stations’ compliance with the CTA and Children’s Television Programming Rules.
- m) “License Renewal Applications” means the license renewal applications of the Stations filed by Nexstar for the 2004-2007 and 2012-2015 license renewal cycles that remain pending before the Commission.
- n) “Nexstar” or “Licensee” means Nexstar Broadcasting, Inc, and all of its subsidiaries, affiliates, successors, assigns, and/or transferees, collectively, and/or any entity under common control, *provided, however, that* “Nexstar” or “Licensees” shall not include assignees or transferees that become unrelated to or unaffiliated with Nexstar as a result of an assignment or transfer following the release of this Consent Decree and associated Order.
- o) “Parties” means Nexstar and the Commission each of which is a “Party.”
- p) “Public File” refers to the documents that a Class A and commercial broadcast station is required to maintain as part of its local public inspection file, as required by 47 CFR § 73.3526.
- q) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- r) “Stations” means broadcast television station KARK-TV, Little Rock, Arkansas (or individually, KARK-TV) and KFDX-TV, Wichita, Texas (or individually, KFDX-TV).

II. BACKGROUND

3. The issues raised in the Investigation stem from the Bureau’s review of the License Renewal Applications for the Stations filed during the 2012-2015 license renewal cycle, as well as the 2004-2007 license renewal cycle.⁵ In reviewing the License Renewal Applications for the Stations, staff discovered that numerous Children’s Television Programming Reports either disclosed, or the

⁵ For KFDX-TV, the period subject to the Investigation covers the time period from grant of its last license renewal application on September 2, 1998, until present. *See* File No. BRCT-19990401KR. For KARK-TV, the period subject to the Investigation covers the time period since the Station was acquired by Nexstar on November 28, 2003 until present. *See* File No. BALCT-20030912ACT.

information in the Reports reflected, that the Stations had failed to air the requisite amount of Core Programming pursuant to the Core Processing Guideline. The Bureau also discovered that numerous Reports either omitted or incorrectly reported substantive information, thus preventing staff from being able to verify the Stations' compliance with the Commission's Core Processing Guideline. KARK-TV also failed to file a number of Children's Television Programming Reports in a timely manner and both Stations failed to report their Core shortfalls in their license renewal applications as required. Finally, in its 2014 license renewal application for KFDX-TV, Nexstar admitted to failing to notify and provide the publishers of programming guides with the necessary information concerning the station's Core Programming. As a result of its investigation, Bureau staff has obtained corrected and missing Core Programming information.

4. As discussed in greater detail below, the Commission has established processing guidelines by which Bureau staff must evaluate compliance with the CTA (*i.e.*, Core Processing Guidelines). Bureau staff is required to refer to the Commission any license renewal application that it finds does not meet the Core Processing Guidelines. Bureau staff has determined that the Stations have not satisfied the Core Processing Guidelines and, as such, the Bureau has referred the matter to the Commission. The Consent Decree will also address the issue pertaining to both Nexstar's reporting deficiencies and failure to provide necessary information to the publishers of programming guides, as identified in the Investigation and the pending License Renewal Applications for the Stations.

5. Core Programming Shortfalls. The CTA, as implemented by section 73.671 of the Rules, requires – during its review of any license renewal application – that the Commission consider the extent to which a licensee has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs, as well as other special efforts.⁶ Programming specifically designed to serve the educational and informational needs of children is defined by the Rules as “Core Programming.”⁷ The Commission's Core Processing Guidelines require that a licensee air at least three hours of Core Programming per week, as averaged over a six-month period, for a station's main program stream.⁸ Broadcasters that choose to provide supplemental digital streams of free video programming have an increased Core Programming benchmark that is proportional to the additional amount of free video programming they choose to provide via such multicast streams.⁹ Bureau staff shall approve the CTA portion of any license renewal application where

⁶ See 47 CFR § 73.671(a)(1).

⁷ To qualify as Core Programming, a program must satisfy the following seven criteria: (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 program is identified as being specifically designed to educate and inform children through the on-screen display of the E/I symbol throughout the program; (6) the educational and informational objective and the target child audience are specified in writing in the licensee's Children's Television Programming Report; and (7) 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. 47 CFR § 73.671(c).

⁸ 47 CFR § 73.671(e)(1).

⁹ Specifically, digital broadcasters must provide one-half hour per week of additional Core Programming for every increment of one to 28 hours of free video programming provided in addition to that provided on the main program stream. 47 CFR § 73.671(e)(2). Broadcasters are permitted to air all of their additional digital Core Programming on either one free digital video channel or distribute it across multiple free digital video channels, at their discretion, as long as the stream on which the Core Programming is aired has comparable carriage on MVPDs as the stream triggering the additional Core Programming obligation. 47 CFR § 73.671(e)(2)(i). At least 50 percent of Core Programming on multicast streams cannot consist of program episodes that had already aired within the previous seven days on either the station's main program stream or on another of the station's free digital program streams. 47 CFR § 73.671(e)(2)(ii).

the licensee demonstrates that it has met these processing guidelines.¹⁰ Bureau staff may also deem a licensee to have satisfied its children's television programming obligation and be eligible for staff approval if it demonstrates that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of Core Programming, demonstrates a level of commitment to educating and informing children at least equivalent to airing three hours per week of Core Programming.¹¹ To ensure that a licensee has aired a sufficient amount of Core Programming during a license term, Bureau staff looks not only at the certifications made in a station's license renewal application, but also at the information in the station's Children's Television Programming Reports. Under section 73.671 of the Rules, Bureau staff is required to refer license renewal applications of licensees that do not meet the Core Processing Guidelines to the Commission, where the licensees have a full opportunity to demonstrate compliance with the CTA.¹²

6. After an extensive review of the record, the Bureau staff has concluded that the Stations failed to meet the Core Processing Guidelines for various quarters. According to Nexstar, this failure was a result of preemptions of certain children's television programming caused by coverage of NBC network sporting events.¹³ While the Commission does provide network-affiliated stations flexibility to reschedule preempted children's television programming and still have it counted as Core Programming, such Programming must be rescheduled in order for it to be so counted, and Bureau staff has determined here that Programming was not rescheduled in certain instances.

7. Children's Television Programming Reporting Deficiencies. Pursuant to section 73.3526(e)(11)(iii) of the Rules, each Class A and commercial broadcast licensee must prepare and place in its Public File a Children's Television Programming Report for each calendar quarter reflecting, *inter alia*, the efforts that it made during that quarter to serve the educational and informational needs of children. Licensees must file these Reports with the Commission and must also place them in their Public File by the tenth day of the succeeding calendar quarter.¹⁴ Copies of these Reports must be retained until final action has been taken on the station's next license renewal application.¹⁵ As part of the Report, stations must provide specific substantive information including, but not limited to: (1) the average number of hours of Core Programming aired; (2) information identifying each Core Program aired, including the days and times the station regularly schedules the program; (3) the program length (in minutes); (4) the total number of times the program aired at its regularly scheduled time during the

¹⁰ 47 CFR §§ 73.671(e)(1). The Commission permits network-affiliated licensees to reschedule children's programs – and still have those programs count towards that licensee's Core Programming requirements – if the program is aired in a fixed substitute time slot of the station's choice (known as a "second home") and the station provides an on-air notification of the schedule change at the time of preemption. All networks requesting preemption flexibility must file a request with the Bureau by August 1 of each year stating the number of preemptions the network expects, when the program will be rescheduled, whether the rescheduled time is the program's second home, and the network's plan to notify viewers of the schedule change. Non-network stations are presumed to be complying with the Core Processing Guidelines and do not need broad preemption relief. *Children's Television Obligations of Digital Television Broadcasters*, Second Report and Order on Reconsideration and Second Report and Order, 21 FCC Rcd 11065, 1076-77, para. 28 (2006).

¹¹ 47 CFR §§ 73.671(e)(1).

¹² 47 CFR § 73.671(d). As part of this showing before the full Commission, stations may rely, in part, on sponsorships of Core Programs on other stations in the same market, as well as special non-broadcast efforts which enhance the value of children's educational and informational programming. *See id.*; 47 U.S.C. § 303b(b).

¹³ KARK-TV and KFDX-TV are both NBC Network affiliates.

¹⁴ We note that broadcast television licensees are now required to file all Children's Television Programming Reports in the Commission's Licensing and Management System. The Commission automatically links all Reports to the Station's Public File. 47 CFR § 73.3526(b)(4)(i).

¹⁵ 47 CFR § 73.3526(e)(11)(iii).

quarter; and (5) the number of times the program was not aired at its regularly scheduled time.¹⁶ If the program was not aired at its regularly scheduled time, then the station must provide information concerning the rescheduling of that program.¹⁷ Stations are also given the opportunity to identify non-core educational and informational children's programming, sponsorship of Core Programming on other in-market stations, and special non-broadcast efforts intended to enhance the value of Core Programming.¹⁸ All of this information is necessary for Bureau staff, and if necessary, the Commission, to determine whether stations have met their obligations under the CTA.

8. After reviewing the record, Bureau staff concluded that the Stations had significant numbers of Children's Television Programming Reports that either omitted or incorrectly reported substantive information. Nexstar has since provided Bureau staff with the correct information. Bureau staff has reviewed this additional information to determine whether the Stations complied with the Core Processing Guidelines or if there were additional Core Programming shortfalls. Furthermore, Bureau staff has determined that KARK-TV failed to timely file some Children's Television Programming Reports.

9. Failure to Provide Required Information to Publishers of Programming Guides. Section 73.673 of the Rules requires a commercial broadcast television licensee to provide the publishers of program guides with "information identifying programming specifically designated to educate and inform children," including information indicating the age group of children for whom the program is intended.¹⁹ Providing such information is required in order for a program to qualify as Core Programming.²⁰ KFDX-TV in its 2014 License Renewal Application admits to failing to provide required information to the publisher of programming guides. Instead of the licensee providing the information, the application states that KFDX-TV "relies on the networks and syndicated programmers to provide [][such] information."²¹ The obligation to comply with this rule is on the licensee, not a station's network or syndicator from which a station obtains its programming.²²

10. Conclusion. The Commission and Nexstar have negotiated the terms of the Consent Decree which resolves the Investigation. As part of the Consent Decree, Nexstar has agreed to pay on behalf of its Station an aggregate Civil Penalty in the amount of One Hundred and Nine Thousand Dollars (\$109,076) to the U.S. Treasury and to implement and maintain a Compliance Plan designed to ensure its future compliance with the CTA and the Children's Television Programming Rules.

III. TERMS OF THE AGREEMENT

11. Adopting Order. The provisions of this Consent Decree shall be incorporated in an Adopting Order without change, addition, deletion, or modification.

12. Jurisdiction. Nexstar agrees that the Commission has jurisdiction over it and the matters

¹⁶ FCC Form 398, available at <https://transition.fcc.gov/Forms/Form398/398.pdf>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 47 CFR § 73.673.

²⁰ See 47 CFR § 73.671(c)(7).

²¹ See File No. BRC DT-20140401ARL, FCC Form 303, Exh. 26.

²² See *KTVU, LLC*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 11693, 11694, para. 5 (Vid. Div. 2014) ("[T]he Commission has consistently held that a licensee's reliance on a program's source or producer for compliance with our children's television rules and policies will not excuse or mitigate violations which do occur."); *Rocky Mountain Broadcasting Company*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 8238, 8240, para. 6 (Vid. Div. 2007) (finding a violation of obligation to provide required information to publishers of programming guides where the licensee claimed that the personnel responsible for submitting that information believed that its network affiliate was providing the information to program guide publishers).

contained in this Consent Decree, and that the Commission has the authority to enter into and adopt this Consent Decree.

13. Effective Date. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other Commission order.

14. Violations. The Parties agree that any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission or its delegated authority to exercise any rights and remedies attendant to the enforcement of a Commission order.

15. Termination of Investigation; Grant of Renewal Applications. In express reliance on the covenants and representations in this Consent Decree, and to avoid further expenditure of public resources, the Commission agrees to terminate the Investigation. In consideration for the termination of the Investigation and for purposes of settling the matters set forth herein, Nexstar agrees to the terms and conditions contained herein. The Commission further agrees to direct the Bureau to grant, absent any other restrictions, in conjunction with the adoption of this Consent Decree, the License Renewal Applications provided that Nexstar has fully and timely satisfied its obligation to pay the Civil Penalty specified in Paragraph 17. The Commission also agrees, in the absence of new material evidence, that it will not use the facts developed, in whole or in part, from the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take action in response to any petition to deny, complaint, or objection against Nexstar with respect to its basic qualifications, including its character qualifications, to be a Commission licensee or to hold a Commission license or authorization.

16. Subsequent Investigations. Except as expressly provided herein, this Consent Decree shall not prevent the Commission or its delegated authority from investigating new evidence of noncompliance by Nexstar with the various Communications Laws. Except as expressly provided herein, nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against Nexstar for alleged violations of the Act or the Commission's rules or for any alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints or pleadings will be based solely on the record developed in subsequent proceedings.

17. Civil Penalty. Within thirty (30) calendar days of the Effective Date, Nexstar will pay a civil penalty to the U.S. Treasury in the amount of One Hundred and Nine Thousand and Seventy-Six Dollars (\$109,076). Nexstar agrees that, upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" owed to the United States as defined in 31 U.S.C. § 3701(b)(1).²³ Nexstar also agrees that it will not treat any portion of the Civil Penalty as tax deductible for purposes of federal, state, or local law.²⁴ Nexstar shall send electronic notification of payment to Jeremy Miller, at jeremy.miller@fcc.gov, on the date said payment is made. Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),²⁵ or by wire transfer. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:²⁶

²³ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

²⁴ See 26 U.S.C. § 162(f).

²⁵ Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

²⁶ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e mail at ARINQUIRIES@fcc.gov.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).²⁷ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the NAL Account – the bill number is the NAL Account number with the first two digits excluded. – and then choose the “Pay by Credit Card” option. Please note that there is a dollar limitation on credit card transactions, which cannot exceed \$24,999.99.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated to the NAL Account – the bill number is the NAL Account number with the first two digits excluded -- and choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

18. Waivers. As of the Effective Date, Nexstar waives any and all rights it may have to seek administrative or judicial review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Nexstar shall retain the right to challenge the Commission’s interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Nexstar nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Nexstar shall waive any statutory right to a trial *de novo*. Nexstar hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 CFR § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree. Notwithstanding any provision of this Consent Decree or the Adopting Order, the Commission may consider this Consent Decree void and of no further force if the payment condition specified in Paragraph 17 is not fully and timely satisfied by Nexstar.

19. Admission. Nexstar admits for the purpose of the Consent Decree and for Commission civil enforcement purposes related thereto, and in express reliance on the provisions of paragraph 15, to the facts discussed in Paragraphs 3 through 9. By entering into this Consent Decree, Nexstar makes no other admission or admission to violating any law, regulation, or policy, and the Commission makes no finding of any such liability or violation of the Act or the Rules.

20. Compliance Plan. Nexstar agrees to implement the Compliance Plan, appended hereto, for the Stations and any other currently licensed stations, future acquired stations, or any station currently or subsequently licensed to Nexstar that becomes newly subject to the requirements of the CTA or Children’s Television Programming Rules while the Compliance Plan remains in effect. Nexstar agrees, to the extent that it has not already done so, to implement the Compliance Plan within thirty (30) calendar

²⁷ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

days following the Effective Date and to keep such Compliance Plan in effect for a period of three (3) years.

21. Severability. The Parties agree that, if any court of competent jurisdiction rules that a provision of the Consent Decree is unenforceable, then that provision alone will become unenforceable and the entire Consent Decree shall be construed as if that unenforceable provision did not exist and the rights and obligations of the Parties shall be construed and enforced accordingly.

22. Invalidity. The Parties agree that, in the event a court of competent jurisdiction renders the Consent Decree invalid in its entirety, then the Consent Decree shall become null and void and may not be used in any manner for any legal proceeding.

23. Subsequent Rule or Order. The Parties agree that, if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Nexstar does not expressly consent) then that provision will be superseded by such rule or Commission order once such rule modifications become effective. In this regard, the Parties agree that upon the effective date of the Commission's recently adopted Report and Order modifying the Children's Television Programming Rules,²⁸ or if in the future the Commission adopts an order changing the Children's Television Programming Rules or other children's television programming obligations of broadcasters, Nexstar's obligations under the Compliance Plan are hereby amended consistent with the revised Rules/obligations.

24. Successors and Assigns. Nexstar agrees that the provisions of this Consent Decree shall be binding on its subsidiaries, affiliates, successors, assigns, and/or transferees, except as otherwise provided in the Compliance Plan.

25. Final Settlement. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

26. Modifications. This Consent Decree cannot be modified without the advance written consent of all Parties.

27. Paragraph Headings. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

28. Authorized Representative. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

29. Counterparts. This Consent Decree may be signed in any number of counterparts, each of which, when executed and delivered (including by pdf or facsimile), shall be an original, and all counterparts together shall constitute one and the same fully executed instrument.

²⁸ See *Children's Television Programming Rules; Modernization of Media Regulation Initiative*, MB Docket Nos. 18-202 and 17-105, Report and Order and Further Notice of Proposed Rulemaking, FCC 19-67 (2019).

By:

Marlene H. Dortch
Secretary
Federal Communications Commission

Date

By:

Perry Sook
Chief Executive Officer
Nexstar Broadcasting, Inc.

Date

COMPLIANCE PLAN OF NEXSTAR

To help ensure future compliance with the CTA and the Children's Television Programming Rules, Nexstar will institute the following procedures for any Station that, as of the Effective Date, is licensed to Nexstar. For purposes of this Compliance Plan, "Station" includes any broadcast television station that is currently licensed to, or subsequently acquired by, Nexstar and is subject to the CTA and the Children's Television Programming Rules. Unless otherwise provided, all terms defined in Paragraph 2 of the Consent Decree shall apply to this Compliance Plan. The terms of this Compliance Plan shall remain in effect for three years after the Effective Date.

1. Nexstar will designate a person as a "Compliance Officer," whose duties shall include overseeing the following obligations:
 - (a) Responding to employee or viewer inquiries concerning compliance with the Children's Television Programming Rules;
 - (b) Reviewing the Children's Television Programming Reports for KARK-TV and KFDX-TV each quarter prior to filing with the Commission;
 - (c) Reviewing all other Nexstar Children's Television Programming Reports at least once per year prior to filing with the Commission;
 - (d) Possessing the requisite knowledge to ensure compliance with all Children's Television Programming Rules and obligations and remaining current on developments in the Communications Laws related to the CTA and Children's Television Programming Rules; and
 - (e) Any other duties that Nexstar believes will help ensure that all Stations operate in compliance with the Children's Television Programming Rules and the terms of this Compliance Plan.
2. Within twenty (20) business days of the Effective Date, Nexstar shall publish the name and contact information (mailing address, and e-mail and/or phone number) of the Compliance Officer by placing a document containing such information in each Station's Public File under the folder entitled "FCC Investigations or Complaints," and shall send a letter containing such information to the Chief of the Video Division, Media Bureau. Nexstar must update each Station's Public File and notify the Video Division in writing within ten (10) business days of any changes to the Compliance Officer or the Compliance Officer's contact information.
3. At least once every twelve (12) months, Nexstar shall conduct training on compliance with the CTA and Children's Television Programming Rules for any Station employee (including management) whose duties relate to a Station's compliance with the Children's Television Programming rules and CTA (hereinafter, annual compliance training). The first annual compliance training shall occur within sixty (60) calendar days of the Effective Date. Any new employees (including management) who were unable to take part in the annual compliance training must receive such training within thirty (30) calendar days of starting their duties at any Station. A certification that Nexstar has conducted the requisite compliance training must be placed in each Station's online Public File under the folder entitled "FCC Investigations or Complaints" within twenty (20) business days following completion of the annual compliance training.
4. Nexstar agrees to disclose any violations of the Commission's Children's Television Programming Rules to the Chief of the Video Division, Media Bureau. Nexstar also acknowledges that all information provided to the Commission concerning compliance with the CTA and Children's Television Programming Rules must completely set forth all relevant material facts and circumstances regardless of whether such submission may disclose a violation of the Rules or the Act. Disclosure of a

violation does not excuse the occurrence of a violation and may subject Nexstar to sanction in accordance with the Act, as well as Commission rules and policies.

5. Stations acquired by Nexstar after the Effective Date will become subject to the terms of this Compliance Plan thirty (30) calendar days after notice has been provided to the Commission of the consummation of any such Station acquisition pursuant to prior Commission consent.