

Federal Communications Commission
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Barrington Broadcasting LLC
c/o John Griffith Johnson, Jr., Esq.
Paul, Hastings, Janofsky & Walker LLP
875 15th Street, N.W.
Washington, DC 20005

Re: *Application for Assignment of Licenses*
WPBN-TV, Traverse City, Michigan; Fac. ID No. 21253
WTOM-TV, Cheboygan, Michigan; Fac. ID No. 21254
File No. BALCT-20060407ABU-ABV

Request for Continuing Satellite Authorization
WTOM-TV, Cheboygan, Michigan

Dear Counsel:

This is in reference to the above-captioned application for assignment of licenses from WPBN/WTOM License Subsidiary, LLC, a wholly owned subsidiary of Raycom Media, Inc. ("Raycom"), to Barrington Broadcasting LLC ("Barrington").¹ As part of this transaction, Barrington requests continuing satellite authority for WTOM-TV, Cheboygan, Michigan, which operates as a satellite of WPBN-TV, Traverse City, Michigan, pursuant to the satellite exemption to the duopoly rule.² Both stations are located within the Traverse City-Cadillac, Michigan DMA.

In *Television Satellite Stations*,³ the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station.⁴ If an applicant does not

¹ The above-captioned applications are part of a larger transaction to assign ten television stations from Raycom to Barrington. The other eight stations to be assigned to Barrington include: WFXL(TV), Albany, GA (File No. BALCT-20060407ACB); WACH(TV), Columbia, SC (File No. BALCT-20060407ACC); WNWO-TV, Toledo, OH (File No. BALCT-20060407ACD); WSTM-TV, Syracuse, NY (File No. BALCT-20060407ACE); KGBT-TV, Harlingen, TX (File No. BALCT-20060407ACG); KTVO(TV), Kirksville, MO (File No. BALCT-20060407ABO); KXRM-TV, Colorado Springs, CO (File No. BALCT-20060407ABR); WLUC-TV, Marquette, MI (File No. BALCT-20060407ABW).

² See 47 C.F.R. § 73.3555, Note 5.

³ 6 FCC Rcd 4212, 4215 (1991) (subsequent citations omitted).

⁴ *Id.* at 4213-14.

qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis, and grant the application if there are compelling circumstances that warrant approval.⁵

As to the first criterion, Barrington has submitted an engineering study, which demonstrates that there is no City Grade contour overlap between WPBN-TV and WTOM-TV. Thus, the proposed satellite operation meets the first component of the presumption. With respect to the second criterion, applicants can use two different tests to demonstrate that an area is underserved. Under the “transmission test” a proposed satellite community of license is considered underserved if there are two or fewer television stations already licensed to it.⁶ Barrington asserts that WTOM-TV is the only full service station licensed to Cheboygan. Accordingly, Cheboygan qualifies as an underserved area, thereby satisfying the second component of the presumption.

Regarding the third criterion, an applicant must show that no alternative operator is ready and able to construct, or to purchase and operate, the proposed satellite as a full-service station.⁷ Initially, we note that Barrington does not base its satisfaction of the third criteria on efforts to sell station WTOM-TV. In support of the continuing waiver request, Barrington submits a letter from Mr. Brian E. Cobb, President of CobbCorp, LLC, a media brokerage firm specializing in television station transactions. Mr. Cobb states that he has over 35 years of experience in the broadcast industry as an owner, manager and broker of broadcast properties. In addition, he was a founding partner of Media Venture Partners, a nationally recognized media brokerage firm, and has served as the past president of the National Association of Media Brokers. Mr. Cobb asserts that he has been involved in the brokerage of more television stations than any other broker. Moreover, Mr. Cobb has rendered opinions in two prior transactions before the Commission regarding the viability of WTOM-TV as a stand alone station. Mr. Cobb asserts that since he submitted his last opinion to the Commission in 1997 regarding this matter, he has not discerned any material changes in the market or the station that would warrant changing the satellite status of WTOM-TV.

Specifically, Mr. Cobb states that the Traverse City-Cadillac DMA is a small television market, ranked 113th in size but only 124th in revenues. He explains that there are only four commercial television stations in the DMA, and all of them operate satellite facilities in order to cover the geographically extended market. He further states that the major population of the DMA is in the major cities in the market, Traverse City and Cadillac, neither of which is covered by the signal of WTOM-TV. According to Mr. Cobb, if the owner of WTOM-TV were to try to operate the station as an independently-programmed “stand alone” station, rather than as a satellite of WPBN-TV, it would not be able to affiliate with one of the four major television networks and most likely would not survive. If requested to do so, Mr. Cobb states that his firm would decline to market WTOM-TV as a stand alone station, due to his negative view of the opportunities for success of such an undertaking.

Based on our review of the materials submitted, we find that Barrington has set forth information sufficient to warrant continued satellite operation for WTOM-TV under our *ad hoc* analysis. Station WTOM-TV has been a satellite of station WPDE-TV for many years, and the Commission

⁵ *Id.* at 4212.

⁶ *Id.* at 4215.

⁷ *Id.*

approved its continued operation as a satellite in 1996⁸ and in 1998.⁹ In making these determinations, the Commission relied, in part, on statements from Mr. Cobb, demonstrating that it would not be feasible to find a purchaser willing to operate the station on a stand alone basis due to its small viewer and advertising base. Barrington has submitted further evidence demonstrating the unfeasibility of finding a purchaser willing to operate the station on a stand alone basis. We, therefore, find that the continued operation of WTOM-TV as a satellite of WPBN-TV would be in the public interest. In view of the foregoing, and having determined that Barrington is qualified in all respects, we find that a grant of the above-referenced application would serve the public interest, convenience and necessity.

ACCORDINGLY, the request of Barrington Broadcasting LLC for the continued operation of WTOM-TV, Cheboygan, Michigan, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission's rules, **IS GRANTED**. **FURTHERMORE**, the above-referenced applications for consent to assign the licenses for WPBN-TV, Traverse City, Michigan and WTOM-TV, Cheboygan, Michigan to Barrington Broadcasting LLC **ARE GRANTED**.

Sincerely,

James J. Brown
Deputy Chief, Video Division
Media Bureau

⁸ *Letter from Chief, Video Division, Media Bureau, to Federal Enterprises, Inc. and Raycom Media, Inc.* (September 24, 1996).

⁹ *See John E. Hayes and William C. Zortman*, 13 FCC Rcd 9407 (1998).