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August 6, 2012

BY HAND

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

ATTN: Hossein Hashemzadeh  
Deputy Division Chief  
Video Division

**Re: WMYS-LP, South Bend, Indiana (Facility ID No. 71426)**  
**WBND-LD, South Bend, Indiana (Facility ID No. 168647)**  
**Petition for Waiver of 47 C.F.R. § 73.682(d)**

Dear Ms. Dortch:

Weigel Broadcasting Company, licensee of WMYS-LP, South Bend, Indiana (“WMYS”) and WBND-TV Limited Partnership, licensee of WBND-LD, South Bend, Indiana (“WBND,” and, together with WMYS, the “Stations”),<sup>1</sup> by their attorneys, hereby jointly request a waiver of Section 73.682(d) of the Rules pertaining to virtual channel assignments under ATSC A/65C, “ATSC Program and System Information Protocol for Terrestrial Broadcast and Cable, Revision C With Amendment No. 1 dated May 9, 2006” (“PSIP Standard”).

Pursuant to *Report and Order*, “Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television,” the Commission has discretion to “grant exceptions [to the PSIP Standard] on a case-by-case basis” in order to accommodate “a unique situation that is not provided for in PSIP.” 19 FCC Rcd 18279 ¶ 153

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<sup>1</sup> Weigel Broadcasting Company is the sole limited partner of WBND-TV Limited Partnership, the general partner of which is Madison Halsted LLC (“Madison Halsted”). Weigel Broadcasting Company and Madison Halsted are, in turn, under common control. Accordingly, WMYS and WBND are likewise under common control. For convenience, Weigel Broadcasting Company and WBND-TV Limited Partnership are referred to herein collectively as “Weigel.”

(2004) (the “*Report and Order*”). Weigel desires to exchange the virtual channels associated with WMYS and WBND under the PSIP Standard in order to improve the delivery of ABC Network service to viewers in the South Bend community. The proposal will not result in a conflict with any other broadcaster’s channel assignment and, because the Stations are under common control, no third-party consents are necessary. Accordingly, Weigel believes its proposal presents the sort of “unique situation” contemplated by the Commission in the *Report and Order* and that grant of a waiver would serve the public interest.

WBND and WMYS are low power stations serving the South Bend market: WBND is the ABC Network affiliate serving South Bend; and WMYS is the MyNetwork affiliate serving South Bend. WBND broadcasts on digital RF Channel 49 and is assigned virtual channel 57 under the PSIP Standard.<sup>2</sup> WMYS broadcasts on analog RF Channel 34;<sup>3</sup> pursuant to the PSIP Standard, WMYS will be associated with virtual channel 34 once it has completed its flash cut to digital channel 34.

Effective on or about August 17, 2012, in furtherance of the pending authorizations noted above, Weigel intends to make the following facilities modifications:

- Activate WBND’s approved displacement facilities on digital RF Channel 39.
- Activate WMYS’s approved flash cut to facilities on digital RF Channel 34.

Meanwhile, Weigel has determined that digital RF channel 34 will provide superior signal strength and coverage of the South Bend market as compared to digital RF Channel 39. Accordingly, in order to enhance its delivery of ABC Network content to the South Bend community and to provide WBND viewers with an improved over-the-air experience, Weigel also intends to swap the content broadcast on RF Channel 34 and RF Channel 39, respectively, so that WBND’s ABC Network programming will be broadcast on digital RF Channel 34 and WMYS’s MyNetwork content will be broadcast on digital RF Channel 39.

Grant of the instant waiver request would allow the proposed programming swap to be completely transparent to viewers of both stations, because they will be able to continue to tune to the virtual channel number they already associate with the underlying content. (Separately and concurrently, Weigel will swap the Stations’ call signs.) In contrast, absent a

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<sup>2</sup> WBND has been granted a construction permit to modify its facilities to operate on digital RF Channel 39 in place of digital RF Channel 49. See FCC File No. BDISDTL-20120224AAY.

<sup>3</sup> WMYS has been granted a construction permit to “flash cut” its analog facilities to digital operation on RF Channel 34. See FCC File No. BDFCDTL-20120223ADZ.

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waiver of the PSIP Standard, the programming change would result in substantial viewer confusion and require a significant diversion of station financial and human resources to design and carry out viewer education campaigns. Even then, the change would almost certainly result in erosion of over the air viewing of both stations.

Therefore, Weigel respectfully requests that the Commission waive Section 73.682(d) of the Rules and authorize the following virtual channel reassignments, to occur concurrently with the facilities modifications described above:

1. Reassign virtual channel 34 from digital RF Channel 34 to digital RF Channel 39.
2. Reassign virtual channel 57 from digital RF Channel 39 to digital RF Channel 34.

Grant of this request would enable Weigel to improve its ABC Network service to viewers in the South Bend market. Because the Stations are under common control the proposed swap would neither require the consent of any other licensee, nor create a conflict with the virtual channel number associated with any other station in the South Bend market.

Therefore, for all the reasons stated herein, Weigel respectfully requests that the Commission grant its request for waiver of Section 73.682(d) to authorize the virtual channel reassignments described above. Weigel also respectfully seeks expeditious consideration of its request in order to facilitate the upgrade of ABC Network service concurrently with the activation of Weigel's proposed improvements to the facilities of WBND and WMYS.

Please direct any questions regarding this request to the undersigned.

Respectfully submitted,



Mace Rosenstein  
Kristin Shaffer\*

*Counsel for Weigel  
Broadcasting Company*

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\* Member of the Bar of Maryland, but not admitted in the District of Columbia; supervised by principals of the Firm.