



Federal Communications Commission
Washington, D.C. 20554

July 2, 2013

JBS, Inc.
739 Thimble Shoals Boulevard
Suite 704
Newport News, Virginia, 23606

Re: WYSJ-CA, Yorktown, Virginia
Facility ID No. 35134
File No. BRTTA-20120601AGM

Dear Licensee:

This is in regard to the pending license renewal application of JBS, Inc., the licensee of Class A television station WYSJ-CA, Yorktown, Virginia.

Class A television stations are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").¹ To qualify for Class A status, the CBPA provides that, during the 90 days preceding enactment of the statute, a low power television station must have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station; and (3) been in compliance with the Commission's rules for low power television stations.² Class A licensees must continue to meet these eligibility criteria in order to retain Class A status.³

In addition, beginning on the date of its application for a Class A license and thereafter, the CBPA requires that a station must be "in compliance with the Commission's operating rules for full-power television stations."⁴ In implementing the CBPA and establishing the Class A television service, the Commission applied to Class A licensees all Part 73 regulations except for those that could not apply for technical or other reasons. Among the Part 73 requirements that apply to Class A licensees are the rules governing informational and educational children's programming and the limits on commercialization during children's programming and the public inspection file rule, including preparing and placing in the public inspection file on a quarterly basis an issues/programs list and the station's quarterly-filed FCC Form 398 (Children's Television Programming Report).⁵ Class A television licensees are also subject to the regulations regarding fines and penalties applicable to full power television stations, and are subject to loss of Class A status if they fail to meet these ongoing program service and operating requirements.⁶

Based on our investigation and the admissions contained in the amended renewal application, we are aware of the following potential violations of Commission rules by JBS, Inc.:

¹ Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 -1501A-598 (1999), *codified at* 47 U.S.C. § 336.

² 47 U.S.C. § 336(f)(2)(A)(i).

³ 47 U.S.C. § 336(f)(1)(A)(ii); 47 C.F.R. § 73.6001(b).

⁴ 47 U.S.C. § 336(f)(2)(A)(ii).

⁵ *R & O*, 15 FCC Rcd at 6366

⁶ *MO & O on Recon*, 16 FCC Rcd at 8257.

1. Issues/Programs Lists

Class A broadcast stations are required to provide every three months a “list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period.”⁷ The issues/programs list must “include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment.”⁸ The narrative description of the programs must include, but not be limited to, “the time, date, duration, and title of each program in which the issue was treated.”⁹ The issues/programs list is critical in the renewal process to “give the Commission sufficient assurance that the station has met its issue-responsive programming responsibility during the past license term to grant license renewal on that issue.”¹⁰

The Licensee did not timely prepare and place in its public file Issues/Programs lists for the following quarters: the fourth quarter of 2004, the third and fourth quarters of 2005, the first through third quarters of 2006, the first through fourth quarters of 2007, the first through fourth quarters of 2008, the first through fourth quarters of 2009, the first through fourth quarters of 2010, the first through third quarters of 2011, the first through fourth quarters of 2012, and the first quarter of 2013. The Station has now placed in its public file “statements” intended to replicate the missing reports for each of those quarters (with the exception of the first quarter of 2013, for which a standard report was filed). The re-created lists are insufficient to demonstrate that the Station has fulfilled the issues/programs list requirement or met the programming requirements of Class A licensure. The “statements” in question either (i) affirm that the station was off the air for the quarter in question or (ii) state that the information provided is “based on the Station’s practices at that time.” The “statements” do not claim to be based on a review of program logs or other program records.

2. Children’s Television Programming Reports

The Licensee admits that it did not prepare, place in its public file, or file with the Commission in a timely manner its Children’s Television Programming Reports for the first two quarters of 2007, all of 2011, and the first two quarters of 2012. In addition, the Station also filed 27 reports late during the license term, including 17 that were filed over a year late.

The Station still has not filed reports for the third and fourth quarters of 2011 and the first and second quarters of 2012, despite the fact that reports must be filed even in quarters when a Station is off the air. In addition, the quarters for which the Station did not file reports do not align with the quarters when it was reportedly off the air. For example, the Station claims it was off the air starting in September 2011 but did not file a report for the third quarter of 2011 (June-August 2011).

The Station also admits that it did not timely provide documentation to confirm the Station’s compliance with the commercial limits in children’s programming as required under Section 73.670 of the Commission’s Rules.

⁷ 47 C.F.R. § 73.3526(e)(11)(i).

⁸ *Id.*

⁹ *Id.*

¹⁰ *The Revision of Programming and Commercialization Policies*, Report and Order, 98 FCC 2d 1075, 1109 (1984).

3. Unauthorized Failure to Broadcast

The Licensee reports that it was off the air from September 16, 2011 through September 10, 2012 apparently due to JBS's failure to pay the rent for use of a tower in conjunction with station operations. The Licensee did not file a request for special temporary authority to remain silent until May 1, 2012. The Station was therefore off the air without requesting authorization for seven and a half months. The Licensee's failure to disclose that it went off the air also potentially represents an omission of material information in violation of Commission rules.

4. Class A Certification of Continuing Eligibility

The Licensee did not submit a signed declaration stating compliance with the Class A eligibility requirements throughout the license term. Instead, at the time that it submitted its amended renewal application, the Station provided an unsigned, re-created statement of compliance for each quarter. At that same time, the Station did file original certifications for limited quarters throughout the license period but these also were not signed.

5. Biennial Ownership Report

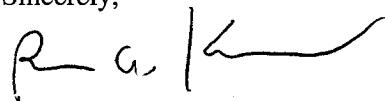
JBS also should have filed its first Biennial Ownership Report by November 2011 but did not file until May 31, 2012.

In order for the Commission to evaluate further the license renewal application, JBS must do the following:

- 1) Revise the "statements" provided in lieu of Issues/Programs lists to comply with the requirements outlined in Section 1 above;
- 2) Provide programming logs from the month of February (or another representative month) for each year during the license period to confirm that the representations in the re-created Issues/Programs lists are correct; if the Station cannot provide programming logs, it must state that it does not have such programming logs and provide the reason why the programming logs are not available;
- 3) Prepare and file Children's Television Programming Reports for the third and fourth quarters of 2011 and the first and second quarters of 2012;
- 4) Submit a signed declaration from a Station representative clarifying the inconsistency in its representations of when the Station was off the air, as described in Section 2 above; and
- 5) Submit a signed declaration from a Station representative regarding the Station's compliance with the requirements of continued Class A eligibility, including a specific statement that the Station was not off the air for more than twelve consecutive months.

Your submission must be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, within 30 days of the date of this letter. An electronic copy should also be sent to peter.saharko@fcc.gov. **Failure to provide the requested information or to request a change in status within 14 days from the date of the letter will result in further action, including potential loss of Class A television status.**

Sincerely,

A handwritten signature in black ink, appearing to read 'B. A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc:

Lewis J. Paper, Esq.
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