



Federal Communications Commission
Washington, D.C. 20554

June 17, 2014

Gray Television Licensee, LLC
999 Second Street S.E.
Charlottesville, Virginia 22902

Re: WAHU-CD, Charlottesville, VA, Fac. Id. No. 47705

Dear Licensee:

This is in regard to the pending license renewal application of the above-captioned station. Pursuant to Section 1.88 of the Commission's Rules,¹ we write to update you on our pending investigation of the station and to request additional information regarding the investigation.

Under the Children's Television Act², as implemented by Section 73.671 of the Commission's Rules, broadcast television licensees are required to provide sufficient programming specifically designed to serve the education and informational needs of children ("CORE programming"). In the *1996 Children's Television Order* revising the Commission's rules and policies governing children's programming, the Commission established a processing guideline of three hours of CORE programming a week.³ It also established Commission rules setting forth six criteria for evaluating whether a program qualifies as "CORE programming": (1) serving the educational and informational needs of children ages 16 and under is a significant purpose of the program; (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 educational objective and the target child audience are specified in writing in the licensee's Children's Television Programming Report; and (6) 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.⁴

On June 1, 2012, you filed a license renewal application (FCC Form 303-S) for Station WAHU-CD (the "Application").⁵ In the original application, you admitted that, between the fourth quarter of 2005 and the third quarter of 2007, the station only broadcast one hour of CORE programming per week. You argued that the addition of several hours of CORE programming from the fourth quarter of 2007 through the first quarter of 2009 brought the average number of

¹ 47 C.F.R. § 1.88.

² Pub L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303(a), 303(b), and 394.

³ *Policies and Rules Concerning Children's Television Programming: Revision of Programming Policies for Television Broadcast Stations*, Report and Order, 11 FCC Rcd 10660, 10718 (1996) ("*1996 Children's Television Order*").

⁴ *Id.* at 10696; 47 C.F.R. § 73.671(c).

⁵ File No. BRDTA-20120601AHF. The Licensee filed an amended renewal application on June 19, 2013.

hours up to three per week for the license term.⁶ The staff informed you that this was not an adequate showing to meet the CORE programming requirement for the quarters in dispute.

You then filed an amended renewal application on June 19, 2013. You stated that you had reviewed the programming logs that supported its Children's Television Programming Reports for the eight quarters in question and found that the station had in fact aired over three hours of CORE programming in each quarter except for the fourth quarter of 2006 and the first and second quarters of 2007. Thus, there is no dispute that you failed to offer an average of three hours of CORE programming per week in those three quarters. You submitted amended Children's Television Programming Reports for all eight quarters to reflect that review.

In the amended Children's Television Programming Reports for WAHU-CD, you included the following as examples of CORE programming for the disputed quarters: (1) *Winx Club*; (2) *The Tribe*; (3) *Bratz*; (4) *Mew Mew Power*; (5) *Under the Helmet*; (6) *This Week in Baseball*; (7) *Cool Fuel Roadtrip*; (8) *The American Athlete*; (9) *Rebecca's Garden*; (10) *Friday Night Endzone*; (11) *Planet X*; and (12) *GI Joe Sigma 6*. We have concerns about whether these programs have a significant purpose of serving the educational and informational needs of children ages 16 and under. In order for the Commission to evaluate further the license renewal application, we request that you provide the following information:

- 1) A detailed explanation, with cites to Commission rules, guidance, and case precedent, as to how the programming listed in the Children's Television Programming Reports qualifies as CORE programming; and
- 2) DVD copies or Internet links for a representative episode of each of the following spots or programs: 1) *Winx Club*; (2) *The Tribe*; (3) *Bratz*; (4) *Mew Mew Power*; (5) *Under the Helmet*; (6) *This Week in Baseball*; (7) *Cool Fuel Roadtrip*; (8) *The American Athlete*; (9) *Rebecca's Garden*; (10) *Friday Night Endzone*; (11) *Planet X*; and (12) *GI Joe Sigma 6*.

Your submission must be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Peter Saharko, Attorney Adviser, 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. In the event that you wish to revert WAHU-CD to low power television status, you need only notify us of this election and request a change in status for the station.⁷ Should you elect to revert WAHU-CD to low power status, you would no longer be liable for any violations identified as part of this investigation.

⁶ File No. BRDTA-20120601AHF, Exhibit 23.

⁷ See 47 C.F.R. § 73.6001(d).

Failure to provide the requested information or to request a change in status within 30 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 K', with a long horizontal stroke extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc:

Joan Stewart, Esq.
Wiley Rein LLP
1776 K Street NW
Washington, D.C. 20006