



Federal Communications Commission  
Washington, D.C. 20554

October 15, 2014

Kenneth Morgan  
510 Grant Street  
Marion, OH 43302

Studio 51 Multi Media Productions, Ltd.  
1995 Marion-Bucyrus Road  
Marion, OH 43302

Re: WMNO-CA, Bucyrus, Ohio  
File No. BRTTA-20131204AID  
Facility ID No. 1104

Dear Petitioner/Licensee:

This is with respect to an Informal Objection filed by Mr. Kenneth Morgan on January 6, 2014, in reference to the above captioned license renewal application. On February 5, 2014, Studio 51 Multi Media Productions LTD (the "Licensee"), the licensee of station WMNO-CA(TV), Bucyrus, Ohio (the "Station"), filed an opposition. Based on the record before us, we deny the Informal Objection with regards to certain allegations and dismiss the Informal Objection as moot with regards to the remaining allegations.

In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications Act of 1934 (the "Act").<sup>1</sup> When an informal objection is filed against a license renewal application the Commission applies a two-step analysis under the public interest standard.<sup>2</sup> Under the public interest standard the Commission must first determine whether the petition contains specific allegations of fact sufficient to show that granting the application would be *prima facie* inconsistent with the public interest.<sup>3</sup> Once a petition meets this first step, the Commission must determine "whether the totality of the evidence raises a substantial and material question of fact justifying further inquiry."<sup>4</sup> If no such question is raised, the Commission will deny the petition and grant the application if it concludes that the grant otherwise serves the public interest, convenience, and necessity.<sup>5</sup> Mr. Morgan objects to the license renewal because the Station: (1) aired deceptive and false advertising; (2) aired defamatory programming; (3) failed to present multiple viewpoints of view after airing controversial issues; (4) failed to comply with state electioneering laws; (5) is not a vital source of local news and produces very little local news and programming; (6) failed to timely file a renewal application;

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<sup>1</sup> 47 U.S.C. § 309(k).

<sup>2</sup> 47 U.S.C. §309(d)(1), (2); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988)

<sup>3</sup> 47 U.S.C. §§309(d)(1) and 309(k)(1).

<sup>4</sup> *Citizens for Jazz on WRVR v. FCC*, 775 F.2d 392, 395 (D.C. Cir. 1985); 47 U.S.C. §309(e); 47 U.S.C. §309(k)(2).

<sup>5</sup> 47 U.S.C. §§ 309(d)(2) and 309(k)(1).

(7) failed to file its Biennial ownership report; and (8) did not comply with the rules relating to its public file.

As an initial matter we note that both Section 326 of the Act and the First Amendment to the U.S. Constitution prohibit any Commission actions that would improperly interfere with the programming decisions of licensees.<sup>6</sup> Because of this statutory prohibition, and because journalistic or editorial discretion in the presentation of news and public information is the core concept of the First Amendment's Free Press guarantee, the Commission has very little authority to interfere with a licensee's selection and presentation of news and editorial programming.<sup>7</sup> With respect to the accuracy of a news report, the Commission has stated that it possesses "neither the expertise nor the desire to look over the shoulder of broadcast journalists and inquire why a particular piece of information was reported or not reported."<sup>8</sup> To do otherwise "would involve the Commission deeply and improperly in the journalistic functions of broadcasters."<sup>9</sup> Furthermore, there is no federal law that requires broadcasters to present contrasting viewpoints.<sup>10</sup>

With respect to the first five allegations, we find that Mr. Morgan fails to make the *prima facie* showing that grant of the license renewal application would be inconsistent with the public interest. Therefore, this aspect of the Informal Objection is denied. We agree with the Licensee that in general the Informal Objection "contains only unsupported conclusory statements."<sup>11</sup> Moreover, the Commission does not analyze or interpret compliance with state law. Therefore, the Commission is not the appropriate entity to be determining whether a violation of Ohio electioneering law has occurred, a point raised in allegation 4.<sup>12</sup> If Mr. Morgan believes a violation of Ohio electioneering law has occurred, he may bring that to the attention of the appropriate state entity.

With regards to the remaining three allegations, we conclude that the Informal Objection has accurately identified several violations of Commission rules committed by the Licensee. The Commission has issued a Notice of Apparent Liability for Forfeiture ("NAL")<sup>13</sup> proposing a forfeiture in the amount of \$16,000 for the Licensee's willful and repeated violations of: (1) Section 73.3539(a) the Commission's Rules (the "Rules") by failing to timely file with the Commission its license renewal application (Form 303-S);<sup>14</sup> (2) Section 301 of the Act by engaging in unauthorized operation of WMNO-

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<sup>6</sup> 47 U.S.C. §326; U.S. CONST., amend. I.

<sup>7</sup> See, e.g., *National Broadcasting Company v. FCC*, 515 F.2d 1101, 1112-1113, 1119-1120, 1172 (1974), *vacated as moot, id.* at 1180, *cert. denied*, 424 U.S. 910 (1976); *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 124 (1973); *Hunger in America*, 20 FCC 2d 143, 150-51 (1969).

<sup>8</sup> *In Re CIA*, 58 Rad.Reg2d (P & F) 1544, 1549 (1985).

<sup>9</sup> *Hon. Harley O. Staggers ("Selling of the Pentagon")*, 21 Rad.Reg.2d (P & F) 912, 916 (1971).

<sup>10</sup> See, e.g., *In the Matter of Amendment of Parts 1, 73 & 76 of the Commission's Rules*, 26 FCC Rcd 11422, 11422-11423 (2011) (deleting as obsolete from the Code of Federal Regulations the Commission's so-called "Fairness Doctrine" and corollaries of the rule which no longer have any legal effect).

<sup>11</sup> Opposition to Informal Objection at 1.

<sup>12</sup> See *Aspen FM, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 17852, 17855 (1997), citing *North American Broadcasting Co., Inc.*, 15 FCC 2d 979 (1969) (determining that the Commission will not deny an application based on a licensee or permittee's non-compliance with state law "where no challenge has been made in the State courts and the determination is one that is more appropriately a matter of State resolution").

<sup>13</sup> *Studio 51 Multi Media Productions*, Notice of Apparent Liability for Forfeiture, DA-14-1456 (rel. Oct. 17, 2014).

<sup>14</sup> 47 C.F.R. § 73.3539(a).

CA after its authorization had expired;<sup>15</sup> (3) Section 73.3526(e)(11)(iii) of the Rules by failing to file with the Commission in a timely manner Children's Television Programming Reports (FCC Form 398) for eight quarters;<sup>16</sup> (4) Section 73.3514(a) of the Rules for failing to report the late filings of its Children's Television Programming Reports in its license renewal application;<sup>17</sup> and (5) Section 73.3615(a) of the Rules for failing to file in a timely manner its 2011 biennial ownership report.<sup>18</sup> Upon review of the Station's public file we find no other violations that warrant Commission action. Given the nature of the violations we believe a NAL is the appropriate course of action and this aspect of the Informal Objection is dismissed as moot. As a courtesy, a copy of the NAL has been included with this letter.

**ACCORDINGLY, IT IS ORDERED**, that the Informal Objection filed by Mr. Kenneth Morgan **IS DENIED IN PART AND DISMISSED IN PART AS MOOT**.

**IT IS FURTHER ORDERED**, that the license renewal application filed by Studio 51 Multi Media Productions, Ltd., for television station WMNO-CA, Mario, Ohio, File No. BRTTA-20121204AID, **IS GRANTED**.

Sincerely,



Barbara Kreisman  
Chief, Video Division  
Media Bureau

cc:

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<sup>15</sup> 47 U.S.C. § 301.

<sup>16</sup> 47 C.F.R. § 73.3526(e)(11)(iii).

<sup>17</sup> 47 C.F.R. § 73.3514(a)

<sup>18</sup> 47 C.F.R. § 73.3615(a).