



Federal Communications Commission  
Washington, D.C. 20554

February 4, 2016

Alton H. Maddox, Jr.  
P.O. Box 35  
Bronx, New York 10471

American Broadcasting Companies, Inc.  
Attention: John W. Zucker, Esq.  
77 West 66<sup>th</sup> Street, 16<sup>th</sup> Floor  
New York, NY 10023-6298

Re: Application for Renewal of License of  
WABC-TV, Fac. Id. No. 1328,  
File No. BRC DT-20150202ACW

Dear Parties:

This is in regard to the above-captioned application for renewal of license for television station WABC-TV, licensed to American Broadcasting Companies, Inc. ("WABC" or "Station"). Alton H. Maddox, Jr. filed a petition to deny the renewal application and WABC filed an opposition.

Mr. Maddox is troubled about the cancellation of the public affairs program "Like It Is," which addressed issues of concern to the African-American community. He asserts that the Station has "retreated in its public interest obligations from "Like It Is" to a new program "Here and Now," which he likens to an arts and entertainment program. Mr. Maddox contends that the needs of African-Americans are consistently not being addressed by the show "Here and Now" and WABC must work to preserve the legacy of "Like It Is" for the benefit of viewers because there is a dearth of public affairs programming in the New York, New Jersey, and Connecticut tri-state area specifically aimed at African American viewers.<sup>1</sup>

In opposition, WABC contends that the petition largely repeats the same allegations that were raised in a prior Petition to Deny brought in 2007 by the Tri-State "Like It Is" Support Coalition and Mr. Maddox, on behalf of the United African Movement, against WABC and other New York City television stations.<sup>2</sup> The Station argues that the instant petition makes no specific allegations that, if true, would demonstrate violations of the law or prove inconsistent with the public interest.<sup>3</sup> The Station also provides a sworn declaration from the Operations Manager of WABC demonstrating the Station's consideration of the interests of African-American viewers in the community throughout its license term via its coverage of all of ABC News' popular and critically acclaimed news programming, as well as a long list of matters of specific interest to African-American viewers.<sup>4</sup>

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<sup>1</sup> Petition to Deny at 3-4, 17.

<sup>2</sup> WABC Opposition at 1.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> WABC Declaration.

Section 309(k)(1) of the Communications Act of 1934, as amended (the “Act”), states that the Commission shall grant a license renewal application if it finds, with respect to that station, that (a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Communications Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of the Act or Commission rules or regulations which, taken together, would constitute a pattern of abuse.<sup>5</sup> The Commission analyzes any public interest allegation according to a two-step process. The petition must first contain specific allegations of fact sufficient to show that such a grant would be *prima facie* inconsistent with the public interest.<sup>6</sup> If so, the Commission will designate the application for hearing when the allegations, together with any opposing evidence before the Commission, raise a substantial and material question of fact as to whether grant would serve the public interest, or if the Commission is otherwise unable to conclude that granting the application would serve the public interest.<sup>7</sup> We find that the petition here has failed to establish a *prima facie* case that grant of the renewal application would disserve the public interest.<sup>8</sup>

With respect to the allegations of Mr. Maddox that WABC is not meeting its public interest obligations and failing to address the problems of the African-American community,<sup>9</sup> as we have said before, Section 326 of the Act and the First Amendment to the Constitution prohibit any Commission actions that would improperly interfere with the programming decisions of licensees.<sup>10</sup> Because journalistic discretion in the presentation of news and public information is the core concept of the First Amendment’s Free Press guarantee, licensees are entitled to the broadest discretion in the scheduling, selection, and presentation of news programming.<sup>11</sup> Thus, the Commission has repeatedly held that “[t]he choice of what is or is not to be covered in the presentation of broadcast news is a matter to the licensee’s good faith discretion,” and that “the Commission will not review the licensee’s news judgments.”<sup>12</sup>

Further, Mr. Maddox’s allegation regarding WABC’s airing and/or commitment to adequate public affairs programming for the African-American community does not raise an issue with respect to the Licensee’s compliance with the Commission’s rules and regulations.<sup>13</sup> In this regard, stations are not required to present specific public affairs programming in order to meet community needs.<sup>14</sup> In its *Localism Notice of Inquiry*, the Commission noted that programming not specifically produced in or

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<sup>5</sup> 47 U.S.C. § 309(k)(1).

<sup>6</sup> 47 U.S.C. § 309(d)(1); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) (“Astroline”).

<sup>7</sup> *Astroline*, 857 F.2d at 1561; 47 U.S.C. § 309(e).

<sup>8</sup> *Tri-State “Like It Is” Support Coalition*, Letter Decision, 26 FCC Rcd 362, 364 (Vid. Div. 2011).

<sup>9</sup> Petition to Deny at 6.

<sup>10</sup> 47 U.S.C. § 326; U.S. CONST., amend. I.

<sup>11</sup> *Tri-State “Like It Is” Support Coalition*, 26 FCC Rcd at 364 (citing *National Broadcasting Company v. FCC*, 515 F.2d 1101, 1112-1113, 1119-1120, 1172 (1974) (subsequent history omitted) et al).

<sup>12</sup> *Id.* (quoting *American Broadcasting Companies, Inc.*, Memorandum Opinion and Order, 83 F.C.C.2d 302, 305 (1980)).

<sup>13</sup> *Id.*

<sup>14</sup> *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Memorandum Opinion and Order, 104 FCC 2d 358 (1986).

targeted at a local community may nonetheless serve the needs and interests of the community.<sup>15</sup> Thus, although Mr. Maddox' concerns may be legitimate matters for discussion within the tri-state African-American community, we do not find that the matters raised justify intervention by the Commission in the pending renewal application, nor do we find that Mr. Maddox has established a *prima facie* case that grant of the renewal application would disserve the public interest.<sup>16</sup>

Accordingly, the petition to deny filed by Alton H. Maddox, Jr. **IS DENIED.**

Sincerely,

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

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>15</sup> *In the Matter of Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd 12425, 12431 (2004) (subsequent history omitted) (“*Localism Notice of Inquiry*”).

<sup>16</sup> *Tri-State “Like It Is” Support Coalition*, 26 FCC Rcd at 365.