

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
KM Television of Iowa, L.L.C.	)	Facility ID: 35096
Licensee of Full Power Station KWKB(TV)	)	Acct. No.: 201741420003
Iowa City, Iowa	)	FRN: 0022328595
	)	File No. BRCDT-20131017CEO

**ORDER**

**Adopted: March 2, 2017**

**Released: March 2, 2017**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Media Bureau (Bureau) of the Federal Communications Commission (Commission) and KM Television of Iowa, L.L.C. (KM TV). The Consent Decree resolves issues raised in our review of the above-captioned application for license renewal for full power television station KWKB(TV), Iowa City, Iowa (Station), specifically regarding KM TV’s compliance at the Station with Section 73.3526 of the Commission’s rules (the Rules), which, *inter alia*, requires broadcast stations to prepare and place certain documents in the Station’s online electronic local public inspection file, including but not limited to quarterly TV issues/programs lists.<sup>1</sup> A copy of the Consent Decree is attached hereto and incorporated by reference.

2. After reviewing its terms, we find that the public interest would be served by adopting the Consent Decree. We conclude that there are no substantial or material questions of fact regarding KM TV’s qualifications to remain a Commission licensee. We conclude that the Consent Decree contains appropriate terms and conditions, including a Compliance Plan to ensure the Licensee’s ongoing compliance with Section 73.3526 of the Rules.<sup>2</sup> Accordingly, staff is instructed to grant the renewal application pursuant to Section 309(k)(2) of the Act,<sup>3</sup> provided that KM TV has fully and timely satisfied its obligation to make the Settlement Payment called for by paragraph 12 of the Consent Decree. As a result, we need not determine whether KM TV committed “serious violations” of our rules or violations that constituted a “pattern of abuse” for purposes of Section 309(k)(1).<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 73.3526.

<sup>2</sup> Section 309(k)(1) of the Act states that the Commission shall grant a license renewal application “if it finds, with respect to that station, during the preceding term of its license—(a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the 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.” 47 U.S.C. § 309(k)(1). Section 309(k)(2) of the Act states, however, that if the licensee fails to meet this three-part standard, the Commission may deny the application—after notice and comment, and opportunity for hearing under Section 309(e) of the Act—“or grant the application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.” 47 U.S.C. § 309(k)(2).

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

<sup>4</sup> 47 U.S.C. § 309(k)(1). *See Shareholders of Univision Communications Inc. et al.*, Memorandum Opinion and Order, 22 FCC Rcd 5842, 5859, n.113 (2007) (“Given our finding that the grant of the renewal application is warranted under Section 309(k)(2) of the Act because the consent decree contains appropriate terms and conditions, we need not determine whether Univision committed ‘serious violations’ of our rules or violations that constituted ‘a pattern of abuse’ for purposes of Section 309(k)(1).”)

3. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) of the Act,<sup>5</sup> the Consent Decree attached to this Order IS ADOPTED.

4. IT IS FURTHER ORDERED that the investigation by the Bureau into the matters discussed above and in connection with this station IS TERMINATED.

5. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent by First Class and Certified Mail, Return Receipt Requested, to KM Television of Iowa, L.L.C., 3654 West Jarvis Avenue, Skokie, IL 60076, and to its counsel, Aaron P Shainis, Shainis and Peltzman, Chartered, 1850 M Street, NW, Suite 240, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Michelle Carey  
Acting Chief, Media Bureau

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<sup>5</sup> 47 U.S.C. §§ 154(i).

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Licensee of Station KWKB(TV)	)	Acct. No.: 201741420003
Iowa City, Iowa	)	FRN: 0022328595
	)	File No. BRCDT-20131017CEO

**CONSENT DECREE**

1. The Media Bureau of the Federal Communications Commission (Commission) and KM Television of Iowa, L.L.C., licensee of station KWKB(TV), Iowa City, Iowa, hereby enter into this Consent Decree for the purpose of: (i) resolving the Bureau’s investigation of KM TV’s compliance with Section 73.3526 of the Commission’s rules<sup>1</sup> and (ii) facilitating the grant of KM TV’s above-captioned pending license renewal application.

**I. DEFINITIONS**

2. For the purposes of this Consent Decree and Compliance Plan, the following definitions shall apply:

- a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
- b) “Adopting Order” means the Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- c) “Bureau” means the Media Bureau of the Federal Communication Commission.
- d) “Commercial Limits Certification” means documentation demonstrating compliance with the Commission’s commercial limit rules pursuant to 47 C.F.R. § 73.670, as required by 47 C.F.R. § 73.3526(e)(11)(ii).
- e) “Commission” or “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- f) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission including but not limited to, 47 C.F.R. § 73.3526.
- g) “Division” means the Video Division of the Media Bureau.
- h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- i) “electronic public file” or “e-pif” means the portion of a television stations local public inspection file that is required to be uploaded to a Commission hosted website.
- j) “Investigation” means the Media Bureau’s investigation of KM TV’s violations of 47 C.F.R. §§ 73.3526.
- k) “License Renewal Application” means the license renewal applications of station KWKB(TV), File No. BRCDT-20131017CEO.

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<sup>1</sup> 47 C.F.R. §73.3526.

- l) “KM TV” means KM Television of Iowa, L.L.C. and its subsidiaries, affiliates, successors, assigns, and/or transferees.
- m) “Parties” means KM TV and the Bureau, each of which is a “Party.”
- n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- o) “Staff” means the staff of the Video Division, Media Bureau.
- p) “Station” means the broadcast television station KWKB(TV), Iowa City, Iowa.

## II. BACKGROUND

3. On October 17, 2013, KM TV filed its license renewal application for the Station. In response to Section IV, Question 3 of the license renewal application the licensee certified that it placed in its public file at the appropriate times all required documentation. A staff investigation revealed that with the exception of documents that are automatically ported by the Commission to the Station’s electronic public file (e.g., Children’s Television Programming Reports and applications filed with the Commission), the Licensee failed to place *all* required public file documents into the Station’s e-pif (emphasis added). In March 2014, staff contacted counsel for the Licensee requesting that KM TV upload to the Station’s e-pif all required public file documents. In April 2014 the request by staff was satisfied. Subsequently, KM TV timely prepared and placed into the Station’s e-pif the necessary public file documents for the first, second and third quarters of 2014. In early January 2016 Division staff was in the process of again reviewing the Station’s license renewal application when it was discovered that from fourth quarter of 2014 through third quarter of 2015 the Licensee again failed to place copies of its TV issues/programs lists and Commercial Limit Certifications into the Station’s e-pif in a timely manner. On January 12, 2016, Division contacted counsel for KM TV and requested that it upload all missing public file documents. Again the request was satisfied. Finally, on April 29, 2016, staff conducted another review of the Station’s e-pif and discovered that the Licensee yet again failed to upload copies of its first quarter of 2016 TV issues/programs list and commercial limit certification for first quarter of 2016 to its e-pif. Division staff sent another e-mail to counsel for the Station notifying him that the Station’s license renewal application could not be processed until a copy of the Station’s missing public file documents were uploaded to the Station’s e-pif. The Licensee complied with this request on May 5, 2016.

4. Section 73.3526 of the Rules requires each full power broadcast licensee to maintain a public file containing information related to a station’s operations. In particular, Section 73.3526(e)(11)(i) requires every full power television licensee to place in its public file, on a quarterly basis, a TV issues/programs list which details programs that have provided the station’s most significant treatment of community issues during the preceding three-month period and must include a brief narrative of the issue addressed, as well as the time, date, duration, and title of each program that addressed the issue. Section 73.3526(e)(11)(ii) requires each such licensee to prepare and place in its public inspection file, on a quarterly basis, records sufficient to substantiate the Station’s certification, in its license renewal application, of compliance with the commercial limits on children’s programming. Copies of these documents must be retained until final action on the station’s next license renewal application.

5. In 2012, the Commission adopted Section 73.3526(b) of the Rules, which requires licensees to upload elements of Stations’ physical public file to an on-line Commission hosted website (*i.e.*, a Station’s e-pif or electronic public file).<sup>2</sup> The Commission’s electronic public file requirement was

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<sup>2</sup> See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Extension of the Filing Requirement for Children’s Television Programming Report*, Second Report and Order, 27 FCC Rcd 4535 (2012) (“*Second R&O*”) (requiring broadcast television stations to post their public  
(continued...)

implemented as a means to modernize the way that television broadcasters “inform the public about how they are serving their communities...”<sup>3</sup> Broadcasters’ e-pif requirements were phased in between August 2012 and February 2013. Beginning August 2, 2012, stations were required to post any document that would otherwise be placed in a station’s public file, with limited exception, to their e-pif on a going-forward basis. By February 4, 2013, stations were required with limited exception to upload to their e-pif those documents that were already in their physical public file prior to August 2, 2012.<sup>4</sup> Under Section 73.3526(b)(2) of the Rules, copies of a Station’s Commercial Limit Certifications and TV issues/programs lists, among other items, must be placed in its e-pif. The Bureau and KM TV have negotiated the terms of the Consent Decree that terminates all investigations into the matters raised in this proceeding. As part of the Consent Decree, KM TV has agreed to make a settlement payment of Thirteen Thousand Five Hundred Dollars (\$13,500) to the U.S. Treasury, and to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commission’s public file obligations as set forth in Section 73.3526 of the Rules and all other application requirements.

### III. TERMS OF THE AGREEMENT

6. Adopting Order. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau, which approval shall be evidenced by incorporation of the Consent Decree by reference in the Adopting Order.

7. Jurisdiction. KM TV agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

8. Effective Date. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission.

9. Violations. The Parties agree that any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

10. Termination of Investigation; Grant of Renewal Application. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, KM TV agrees to the terms and conditions contained herein. The Bureau further agrees to grant, absent any other restrictions, in conjunction with the adoption of this Consent Decree, the License Renewal Application, provided that KM TV has fully and timely satisfied its obligation to make the payment of the Settlement Payment referenced in paragraph 12 of this Consent Decree. In exchange, KM TV agrees to implement and maintain the Compliance Plan, outlined below. The Bureau further agrees

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inspection files, with limited exceptions, to an online Commission-hosted database).

<sup>3</sup> *Second R&O*, 27 FCC Rcd at 4536.

<sup>4</sup> See *Effective Date Announced for Online Publication of Broadcast Television Public Inspection Files*, Public Notice, 27 FCC Rcd 7478 (2012) (announcing effective date of electronic public file rule); *Television Broadcast Stations Reminded of Their Online Public Inspection File Obligations*, Public Notice, 27 FCC Rcd 15315 (2012) (reminding station’s to upload copies of existing public file documents to their electronic public file); *Television Broadcast Stations Reminded of the Upcoming Public Inspection Filing Deadline*, Public Notice, 28 FCC Rcd 429 (2013) (providing a final remainder to broadcasters to upload copies of existing public file documents to their electronic public file); see *Second R&O*, 27 FCC Rcd at 4580 (establishing compliance periods for complying with broadcasters new electronic public file requirement).

that in the absence of new material evidence it will not use the facts developed, in whole or in part, from the Investigation through the Effective Date, or the existence of this Consent Decree to institute on its own motion any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against KM TV concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against KM TV with respect to KM TV's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

11. Subsequent Investigations. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by KM TV with the Communications Laws. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against KM TV for alleged violations of the Act or the Commission's rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints or pleadings will be based solely on the record developed in that proceeding.

12. Settlement Payment. KM TV agrees to make a total settlement payment to the United States Treasury in the amount of Thirteen Thousand, Five Hundred Dollars (\$13,500). A total of Six Thousand Dollars shall be due within forty-five (45) calendar days after the Effective Date. The remainder of the settlement payment in the amount of Seven Thousand Five Hundred Dollars (\$7,500) shall be due within ninety calendar days thereafter. KM TV acknowledges and agrees that upon execution of this Consent Decree, the Settlement Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).<sup>5</sup> KM TV shall send electronic notification of payment to Evan Morris at [evan.morris@fcc.gov](mailto:evan.morris@fcc.gov) on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the FRN captioned above.<sup>6</sup> An FCC Form 159 (Remittance Advice) must be submitted with payment unless payment is made online at the Commission's Fee Filer website. When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that KM TV should follow based on the form of payment it selects:<sup>7</sup>

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

<sup>5</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

<sup>6</sup> Payment may be made online at the Commission's Fee Filer website: <https://www.fcc.gov/encyclopedia/fee-filer>. Online payments do not require payors to submit FCC Form 159. Alternatively, payment may be made using FCC Form 159; detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>7</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).



- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

13. Waivers. KM TV waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. KM TV shall retain the right to challenge the Commission's interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither KM TV nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and KM TV shall waive any statutory right to a trial *de novo*. KM TV hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree. Notwithstanding any provision of this Consent Decree or the Adopting Order, this Consent Decree shall be void and of no further force and effect if the condition specified in paragraph 12 is not fully and timely satisfied by KM TV.

14. Admission of Liability. KM TV admits to the facts discussed in paragraphs 3-5 regarding its failure to meet the requirements of Sections 73.3526 of the Rules. By entering into this Consent Decree, KM TV makes no other admission of liability or violation of any law, regulation or policy, and the Bureau makes no finding of any such liability or violation. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 10 hereof, or both, are breached by the Commission or its delegated authority, or are invalidated or modified to the signatories' prejudice by the Commission, its delegated authority, or any court, then and in that event the provisions of the immediately-preceding sentences shall be of no force or effect.

15. Compliance Plan. In recognition that KM TV's policies and practices regarding compliance with Section 73.3526 of the Rules and other requirements related to the filing of applications can be enhanced to ensure compliance in the future, KM TV agrees that it will adopt and implement a compliance plan at the Station, and at any station acquired by KM TV as well as any station licensed to KM TV that becomes newly subject to the jurisdiction of the FCC while the Compliance Plan remains in effect. A copy of the plan is set forth below. KM TV agrees, to the extent that it has not already done so, to implement the Compliance Plan upon issuance of the Adopting Order and to keep such Compliance Plan in effect until Commission action on the Station's next license renewal application is final.

16. Invalidity. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. Subsequent Rule or Order. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which KM TV expressly consents) that provision will not be superseded by such rule or Commission order.

18. Successors and Assigns. KM TV agrees that the provisions of this Consent Decree shall be binding on its subsidiaries, affiliates, successors, assigns, and/or transferees.

19. Final Settlement. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

20. Modifications. This Consent Decree cannot be modified without the advance written consent of all Parties.

21. Paragraph Headings. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

22. Authorized Representative. The individual signing this Consent Decree on behalf of KM TV represents and warrants that he is authorized by KM TV to execute this Consent Decree and to bind KM TV to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

23. Counterparts. This Consent Decree may be signed in any number of counterparts, each of which, when executed and delivered (including by pdf or facsimile), shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Federal Communications Commission

By:

\_\_\_\_\_  
Michelle Carey  
Acting Chief, Media Bureau

\_\_\_\_\_  
Date

By:

\_\_\_\_\_  
Kevin Bae  
Vice President, KM Television of Iowa, LLC

\_\_\_\_\_  
Date



**COMPLIANCE PLAN OF LIFE OF KM TELEVISION OF IOWA, L.L.C**

In order to ensure future compliance with the CTA, Rules, and the Act, KM TV will institute the following procedures for any television or radio station that is licensed, controlled or subsequently acquired by it. This Compliance Plan is meant to cover, but is not limited to, KWKB(TV), Iowa City, Iowa. Unless otherwise provided, all terms defined in paragraph 2 of the Consent Decree apply to this Compliance Plan. The terms of this Compliance Plan shall remain in effect until action on the Station's next license renewal application is final.

1. KM TV will designate a Compliance Officer responsible for responding to employee questions, consulting with FCC Counsel regarding compliance matters, and ensuring all stations operate in compliance with the Rules and the Act, including but not limited to Sections 73.3526 and 73.3540 of the Rules. The name and contact information for the Compliance Officer shall be listed in a document and placed in the Station's electronic public file under the folder entitled "FCC Investigations or Complaints."

2. In order to ensure compliance with the FCC's related rules and policies the Compliance Officer will oversee, as applicable, the preparation and filing of all public file documents, the maintenance of its physical and electronic public files, the preparation and filing of all other required FCC Forms and applications, and the payment of any applicable filing and regulatory fees.

3. The Compliance Officer will conduct training for all station employees and management at least once every twelve (12) months on compliance with FCC Rules applicable to his or her duties at the station. The first training shall occur within thirty (30) days of the Effective Date. A certification that the aforementioned training has occurred shall be placed in the online electronic local public inspection file for the Station within three (3) business days.

4. The Compliance Officer will train any new employee within five (5) business days of commencement of his or her duties at the station.

5. The Compliance Officer will be responsible for remaining up-to-date on developments in communications law applicable to the station and its operations. This may include consultation with an outside third-party, such as legal counsel, in order to obtain guidance on FCC compliance issues and to review all applications, documents, and reports prior to filing with the FCC. In regards to the last matter, KM TV recognizes and acknowledges that any and all information provided to the FCC must completely and candidly set forth all relevant facts and circumstances, regardless of whether such submission may disclose a violation of the Rules or the Act.