

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

In the Matter of
Reclassification of License of
Class A Television Station KVTF-CA
Brownsville, Texas
Facility ID No. 32179

ORDER TO SHOW CAUSE

Adopted: April 2, 2012

Released: April 3, 2012

By the Chief, Video Division, Media Bureau:

1. This is with respect to station KVTF-CA, Brownsville, Texas, licensed to Entravision Holdings, LLC (Entravision). This station is currently licensed as a Class A television station, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").

2. In order 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. 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 also be "in compliance with the Commission's operating rules for full-power television stations." 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 Commission's main studio requirements; rules governing informational and educational children's programming and the limits on commercialization during children's programming; the requirement to identify a children's programming liaison at the station and to provide information regarding "core" educational and informational programming aired by the station to publishers of television program guides; 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

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 In the Matter of Establishment of a Class A Television Service, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000)("R & O"), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001)("MO & O on Recon").

Television Programming Report; the political programming rules; station identification requirements; and the Emergency Alert System (EAS) rules.⁶

4. 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.⁷ In addition, as the Commission explained in the *Class A Memorandum Opinion and Order on Reconsideration*:

Although Class A licensees will not be subject to loss of license for failure to continue to comply with the eligibility requirements in section (f)(2)(A) of the CPBA [including that they be in compliance with the Commission's rules for full-power stations after they file for a Class A license], they are subject to loss of Class A status if they fail to meet these ongoing obligations. . . . We [have] also adopted a rule stating that "Licensees unable to continue to meet the minimum operating requirements for Class A television stations . . . shall promptly notify the Commission in writing, and request a change in status [to low power]."⁸

5. Section 316(a) of the Communications Act, as amended, permits the Commission to modify an authorization if such action is in the public interest.⁹ Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.¹⁰

6. Commission records show that station KVTF-CA went silent on June 22, 2010. In its request for special temporary authority (STA), Entravision represented that "[t]he analog signal of KVTF-CA is causing interference to the co-channel digital signal of KSFE-LP, McAllen, Texas" and needed to be taken silent "in order to resolve this interference," but that "[a]s soon as the interference problem can be resolved, KVTF-CA will be restored to broadcast service."¹¹ Entravision failed to mention in the STA that it was also the licensee of KSFE-LP, and that when it filed a displacement application for station KSFE-LP, it acknowledged that the proposed displacement operation did not comply with the Commission's interference requirements with respect to co-channel KVTF-CA, which as a Class A station is entitled to interference protection from KSFE-LP. Instead, Entravision requested a waiver of the interference requirements since "KSFE-LP and KVTF-CA are co-owned, and the licensee consents to the predicted received interference."¹² Even though it had not filed an application to modify its facilities to resolve the interference issue caused by station KSFE-LP, Entravision notified the Commission that KVTF-CA resumed operations on May 23, 2011, presumably to avoid automatic expiration of its license pursuant to Section 312(g) of the Communications Act of 1934.¹³ Entravision filed a second STA request

⁶ *R & O*, 15 FCC Rcd at 6366.

⁷ *MO & O on Recon*, 16 FCC Rcd at 8257.

⁸ *Id.*

⁹ 47 U.S.C. § 316(a).

¹⁰ 47 C.F.R. § 1.87.

¹¹ File No. BLSTA-20100623AFW. KSFE-LP (now KFXV-LD) filed a license to cover the construction of its digital channel 20 facility in May 2010. File No. BLDLTL-20100505AIY.

¹² File No. BDISDTL-20090513ACS.

¹³ 47 U.S.C. § 312(g). This section of the Act provides, in pertinent part, that "If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of the period, notwithstanding any provision, term, or condition of the license to the contrary . . ."

on January 27, 2012, stating that the station had gone silent on June 15, 2011, repeating the justification set forth in its previous STA request.¹⁴ Station KVTF-CA remains silent.

7. Class A television stations are required to broadcast a minimum of 18 hours per day and an average of at least three hours per week of programming produced within the market area served by the station. Station KVTF-CA has met this requirement for, at most, three weeks out of the last 22 months. We conclude that under these circumstances, Entravision should have notified the Commission of its inability to meet the ongoing Class A eligibility requirements and requested a change in station status from Class A to low power television station pursuant to Section 73.6001 of the Commission's Rules.¹⁵ While the Commission has acknowledged that "in appropriately compelling circumstances involving a temporary inability to comply," a licensee can apply for an STA to operate at variance with the CBPA's operational and programming requirements without affecting its Class A status,¹⁶ the record now before us does not present such a case. Instead, it appears that Entravision made a business decision to cease operation of KVTF-CA, and the station has been off-the-air almost continuously since June 22, 2010.

8. IT IS THEREFORE ORDERED, That, Entravision Holdings LLC show cause why its authorization for Class A television station KVTF-CA, Brownsville, Texas should not be modified to specify the station as a low power television station.

9. Pursuant to Section 1.87 of the Commission's Rules, Entravision Holdings LLC may, no later than May 7, 2012, file a written statement why the above-captioned license should not be modified as proposed herein. The written statement, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, Attention: Barbara A. Kreisman, Chief, Video Division, Media Bureau. An electronic copy should also be sent to David Brown, Associate Chief, Video Division at the e-mail address listed below. Upon review of the statement and/or additional information, the Commission may grant the modification, deny the modification, or set the matter for hearing. If no written statement is filed by May 7, 2012, the licensee will be deemed to have consented to the modification of its license from Class A television status to low power television status, and the modification proposed in this *Order to Show Cause* will be deemed to serve the public interest.

10. IT IS FURTHER ORDERED, That a copy of this *Order to Show Cause* shall be sent by Certified Mail, Return Receipt Requested, to Entravision Holdings, LLC and to its counsel, as indicated below:

Entravision Holdings, LLC
Suite 6000 West
2425 Olympic Boulevard
Santa Monica, California 90404

Barry A. Friedman, Esq.
Thompson Hine LLP
Suite 800
1920 N Street, N.W.
Washington, D.C. 20036

¹⁴ File No. BLSTA-20120127AEZ.

¹⁵ 47 C.F.R. § 73.6001(d).

¹⁶ *M O & O on Recon*, 16 FCC Rcd at 8257, n.76.

11. For further information concerning the proceeding, contact David J. Brown, Associate Chief, Video Division, Media Bureau, at David.Brown@fcc.gov or (202) 418-1645.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau