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Re:WDCA(TV) BRCT-20040527AKL, Washington, D.C.
WPXW(TV) BRCT-20040527AGS , Manassas, VA
WUAB(TV) BRCT-20050527BIO, Lorain, OH

Dear Petitioners/Licensees:

This is with reference to the Petitions to Deny filed by the Office of Communication of the United Church of Christ, Inc. and the Center for Digital Democracy against the applications for renewal of license of Station WDCA(TV), Washington, DC, licensed to Fox Television

Stations, Inc., and Station WPXW-TV Manassas, Virginia, licensed to Ion Media Washington License, Inc.;¹ and also by the Office of Communication of the United Church of Christ, Inc. against WUAB(TV), Lorain, Ohio, licensed to WOIO, a subsidiary of Raycom Media.²

The essence of the petitions is that the stations failed to meet the three-hour core informational and educational children's programming guideline because the content of several of the programs relied on as core do not have education as a significant purpose of the program. In response, all of the licensees rely on various affidavits from educators and programmers who maintain that the programming qualifies as informational or educational. In addition, DIC Entertainment Corp. filed a separate opposition, explaining the comprehensive process for the development of its informational and educational programs.

In *Policies and Rules Concerning Children's Television Programming*, Report and Order, 11 FCC Rcd 10660 (1996), the Commission established a core informational and educational programming processing guideline of three hours a week.³ The Commission explained that core programming encompasses programming directed to children 16 years of age and under that further children's positive development in any way, including serving their cognitive/intellectual or social/emotional needs.⁴ It also established Commission rules setting forth six criteria for evaluating whether a program qualifies as informational and educational: (1) the program has serving the educational and informational needs of children ages 16 and under as a significant purpose; (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 show; (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.⁵

The area of disagreement among the parties here relates to the most sensitive and subjective of the criteria, namely whether the programs include as a significant purpose the furtherance of children's positive development in any way, including serving their cognitive/intellectual or social/emotional needs. To this end, the petitioners and their programming consultants and those of the licensees have submitted contrasting and opposing positions directly relating to the content of the subject programs. Specifically, petitioners argue that the programs are not distinguishable from purely entertainment programs; do not clearly present educational content; and that a single moral message does not transform an episode into a core program specifically designed for children. In contrast, the licensees and the program producers state that the programs were developed with the assistance of educational

¹ WPXP-TV was formerly licensed to Paxson Washington License, Inc.

² Recently, a request was filed on behalf of all the petitioners that we address the matters raised herein and clarify the definition of educational and informational children's programming. *Letter to Chairman Wheeler and Commissioners from the Center for Digital Democracy, United Church of Christ, and Children Now*, dated February 2, 2015.

³ 11 FCC Rcd at 10696.

⁴ *Id.*

⁵ *Id.*

professionals, that education is a significant purpose of the programs; that although they present an action/adventure format that contains scenes of conflict, resolution of this conflict provides important pro-social educational and informational elements.⁶

As to program content, the Commission has stated that it will ordinarily rely on the good faith judgments of a licensee in evaluating whether a program has as a significant purpose furthering the educational/informational needs of children.⁷ In view of the deliberate processes engaged in by the licensees here in establishing their programming line-ups we are reluctant to substitute our views on the programs for that of the stations. In this content-sensitive area where each side has relied on panels of experts who have differing views, our focus will continue to be on the reasonableness of the broadcaster's actions in making their own determinations, and with respect to the programming at issue here, relying upon the advice received as to the qualifications of the core programs as informational or educational. See *National Association for Better Broadcasting v. Federal Communications Commission*, 591 F. 2d 812 (D.C. Cir. 1978).

Nevertheless stations should take cognizance of objections leveled against core children's programming especially since the processing guideline of three hours a week of informational and educational programming is minimal when compared against a station's many weekly broadcast hours. Core programming should be such that there can be no reasonable question raised as to whether a significant purpose of the broadcast is informational or educational, addressing the cognitive/intellectual or social/emotional needs of children. It is noteworthy that it appears that the objections by the petitioners were successful in precipitating a review by all of the stations of the programs at issue. Despite the licensees' defense of their programming lineups, all of the station's Children's Programming Reports (Form 398) disclose that each core programming lineup was promptly modified to replace the programs that were the subject of the petitions.

Based on the foregoing, the Petitions to Deny filed by the Office of Communication of the United Church of Christ, Inc. and the Center for Digital Democracy against the applications for renewal of license of Station WDCA(TV), Washington, DC, licensed to Fox Television

⁶ In a recent letter, WPXW-TV again addressed and defended the development of its informational and educational programs. *Letter to Chairman Wheeler and Commissioners from WPXW-TV*, dated February 24, 2015.

⁷ 11 FCC Rcd at 10662. Licensees should remember that the "significant purpose" standard was adopted in response to a finding by the Commission that some broadcasters were claiming to have fulfilled their statutory obligations by airing programs shows that, "by any reasonable benchmark, were not "specifically designed" to educate and inform children" as required by the Children's Television Act. *Id.* at 10661-2. Therefore, the staff does not automatically accept a licensee's assertion that proffered programming meets the "significant purpose" standard when a question arises as to its adequacy, but will instead require the licensee to present credible evidence to support its position in such a situation.

Stations, Inc., and Station WPXW-TV Manassas, Virginia, licensed to Ion Media Washington License, Inc.; and also by the Office of Communication of the United Church of Christ, Inc. against WUAB(TV), Lorain, Ohio, licensed to WOIO, License, Inc., a subsidiary of Raycom Media,⁸ ARE DENIED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Eileen Espejo
Children Now

⁸ Recently, a request was filed on behalf of all the petitioners that we address the matters raised herein and clarify the definition of educational and informational children's programming. *Letter to Chairman Wheeler and Commissioners from the Center for Digital Democracy, United Church of Christ, and Children Now*, dated February 2, 2015.