



September 6, 2006

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BY HAND DELIVERY

Ms. Marlene Dortch
Secretary
Federal Communications Commission
Portals II Building
445 Twelfth Street, S.W.
TW-A325
Washington, D.C. 20554

**Re: Application to Transfer Control of WFDC-TV, Arlington, Virginia
(BTCCT-20060718AJP)**

Dear Ms. Dortch:

On behalf of the Shareholders of Univision Communications Inc. (“Univision”), the proposed transferor of WFDC-TV, Arlington, Virginia in the above-referenced application, this letter is submitted in response to an August 23rd, 2006 letter filed with the Commission on behalf of Theodore M. White (the “White Letter”). The White Letter does not oppose grant of the WFDC-TV transfer application (the “WFDC Application”), but merely “requests that the Commission associate this letter with the referenced application” However, White makes no effort to connect the allegations in his letter, which concern the actions of an unrelated third party and which the Commission has in any event previously rejected, to the current application. Accordingly, the letter is irrelevant to the WFDC Application and should be given no further consideration by the Commission.¹

¹ As it does not oppose grant of the WFDC Application, the White Letter qualifies as neither a petition to deny nor an informal objection. Even had it opposed grant of the application, however, the letter would fail to qualify as a petition to deny because, among other things, it fails to establish Mr. White’s standing to challenge the WFDC Application, it does not include a declaration from anyone with personal knowledge of the facts asserted, and it does not set forth specific allegations of fact supported by such a declaration demonstrating that grant of the application is prima facie inconsistent with the public interest. See 47 U.S.C. § 309(d)(1). Indeed, the letter fails to indicate how approval of the transfer application would even affect White. See *Letter to Sweetwater Broadcasting Company from Donna C. Gregg, Chief, Media Bureau*, 20 FCC Rcd 13034, 13037 (MB 2005)

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As is apparent on the face of the White Letter, White's allegations relate not to Univision, but to a predecessor-in-interest, USA Broadcasting, Inc. Univision acquired a number of stations from USA Broadcasting in 2001. While WFDC-TV was not among those stations, Univision did receive in the associated transaction a minority non-voting interest in WFDC-TV's licensee. White was the sole voting shareholder of that licensee, Urban Broadcasting Corporation.

Even though Univision's applications at the Commission to acquire control of the USA Broadcasting stations did not involve WFDC-TV (as control of that station by White was unaffected by the transaction), White petitioned to deny the transfers, citing the same alleged misconduct by USA Broadcasting that the White Letter now purports to attribute to Univision. Notably, White's petition to deny the USA Broadcasting transfer applications did not even mention Univision beyond stating that Univision was the proposed transferee. Instead, White argued at pages 1-2 of the petition that "[t]he transferor [USA] has engaged in conduct which is at odds with its Commission obligations and places into issue its qualifications to transfer the subject broadcast facilities." Quite clearly, Univision is not responsible for the conduct of a prior station owner.

In any event, the Commission has previously passed upon and rejected White's contentions. In *Letter to Scott R. Flick, Esq. from Roy J. Stewart, Chief, Mass Media Bureau*, 16 FCC Rcd 10904 (2001), the Mass Media Bureau concluded that White lacked standing to raise his allegations in a petition to deny and dismissed his petition. However, the Bureau exercised its discretion to consider White's allegations as an informal objection. Noting that "[t]he Commission has long held that it is not the proper forum for the resolution of private contractual disputes," the Bureau denied White's informal objection. *Id.* at 10905. In doing so, the Bureau rejected White's allegation that USA Broadcasting lacked candor in a judicial proceeding when it successfully persuaded a judge for the Circuit Court of the County of Arlington, Virginia to adopt an interpretation of an affiliation contract that was adverse to White. The Bureau letter noted in this regard that "the Commission will only evaluate allegations of *adjudicated* non-FCC misconduct involving fraudulent representations to government agencies" *Id.* at 10906 (emphasis in original). The Bureau's decision was affirmed by the Commission, and White's judicial appeal of that decision was rejected by the U.S. Court of Appeals for the D.C. Circuit.²

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("Party in interest status is deemed to exist when a petitioner demonstrates that the grant of the petitioned application will cause the petitioner a direct injury.")

² On appeal, the Commission also found that White lacked standing, but exercised its discretion to consider White's appeal as an informal objection. The Commission then dismissed White's Application for Review and rejected his informal objection, stating that "[t]he arguments raised in the application for review are essentially reiterations

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In attempting to resolve a longstanding grudge against USA Broadcasting that has smoldered since before the 2001 USA Broadcasting proceeding, the White Letter now seeks to attribute White's misfortunes to Univision merely because it purchased WFDC-TV at an open bankruptcy auction later that same year.³ As the matters discussed in the White Letter are irrelevant to the WFDC Application and in any event have already been repeatedly addressed by the Commission and the courts, they merit no consideration here. The White Letter is the epitome of a frivolous filing, which the Commission defines as "one filed without any effort to ascertain or review the underlying facts or based on arguments that have been specifically rejected by the Commission . . . or having no plausible basis for relief." *Commission Taking Tough Measures Against Frivolous Pleadings*, 11 FCC Rcd 3030 (1996).⁴

Univision therefore urges the Commission to reject White's Letter and its ill-conceived invitation to "re-open the questions" raised against an unrelated party in a long-final proceeding, and expeditiously grant the WFDC Application.

Sincerely,



Scott R. Flick

cc: Bruce A. Eisen, Esq.
Mace Rosenstein, Esq.
Barbara Kreisman, Esq.

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of the arguments raised in the petition to deny, which the Bureau Chief adequately and correctly addressed in his letter decision." *In the Matter of USA Broadcasting, Inc. and Univision Communications Inc.*, 19 FCC Rcd 4253 at ¶ 8 (2004).

White appealed to the U.S. Court of Appeals for the D.C. Circuit, which let stand the Commission's decision, finding that White lacked standing to appeal. *White v. FCC*, No. 04-1110 (D.C. Cir. Sep. 9, 2004). White responded by filing for rehearing by the court, which the Court of Appeals also rejected, bringing to a conclusion White's four year effort at the FCC and the Court of Appeals to correct a perceived injustice in a 1998 Arlington County, Virginia Circuit Court decision. *White v. FCC*, No. 04-1110 (D.C. Cir. Jan. 18, 2005).

³ See FCC File No. BAPCT-20010411AAX. As the White Letter makes clear, White is dissatisfied with the bankruptcy court's distribution of the proceeds from the bankruptcy sale, but that is not a matter for review by the Commission, nor in any way relevant to the WFDC Application.

⁴ (Quotation marks and brackets omitted; ellipses in original).