

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

In the Matter of)	
)	
Beach TV Properties, Inc.)	File Nos. BRTTA-20120131AAV <i>et. al.</i>
Licensee of Stations KNOV-CD, New Orleans, LA)	
WCAY-CD, Key West, FL; WDES-CA Destin,)	Facility ID Nos. 64048; 4352; 4353; 4351;
FL; WPFN-CA Panama City, FL; WPCT(TV),)	4354; 54938; 4349; 4350
Panama City, FL; and WAWD(TV), Fort Walton)	
Beach, FL)	NAL/Acct. No. 201541420017
)	
Beach TV of South Carolina, Inc.)	FRN Nos. 0004941621 and 0004954707
Licensee of Stations WGSC-CD, Murrells Inlet, SC)	
and WGSJ-CD, Murrells Inlet, SC)	

ORDER

Adopted: July 16, 2015

Released: July 17, 2015

By the Commission:

I. INTRODUCTION

1. This Order concerns the applications of Beach TV Properties, Inc. and Beach TV of South Carolina, Inc. (together “Beach TV”) for renewal of the licenses of the television stations listed in Exhibit A (the “Beach Renewal Applications”). The applications are unopposed. For the reasons set forth below, we grant the Beach Renewal Applications. We also adopt the attached Consent Decree entered into between the Commission and Beach TV attached as Exhibit B (the “Consent Decree”). The Consent Decree resolves an investigation of the Licensee’s compliance with the provisions of the Children’s Television Act (“CTA”) and by its terms, the Commission agrees to grant the Beach Renewal Applications in conjunction and simultaneously with the Commission’s adoption of the Consent Decree.

II. BACKGROUND

2. Under the CTA,¹ as implemented by Section 73.671 of the Commission’s Rules, broadcast television licensees are required to provide sufficient programming specifically designed to serve the educational and informational needs of children (“CORE programming”). Section 73.6026 requires Class A stations to also comply, *inter alia*, with the Commission’s CORE programming requirements.² In the 1996 *Children’s Television Order* revising our rules and policies governing children’s programming, the Commission established a license renewal application processing guideline of three hours of CORE programming per week.³ The rules provide that the Media Bureau staff shall approve the CTA portion of any license renewal application where the licensee demonstrates that it has

¹ Pub L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303(a), 303(b), and 394.

² 47 C.F.R. § 73.6026

³ *Policies and Rules Concerning Children’s Television Programming: Revision of Programming Policies for Television Broadcast Stations*, Report and Order, 11 FCC Rcd 10660, 10718 (1996) (“1996 *Children’s Television Order*”).

aired an average of three hours per week of CORE programming, as averaged over a six month period.⁴ A licensee will also be deemed to have satisfied this obligation and be eligible for staff approval if it demonstrates that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of CORE Programming, demonstrates a level of commitment to educating and informing children at least equivalent to airing three hours per week of CORE Programming.⁵ The renewal applications of licensees that do not meet these processing guidelines are referred to the Commission, where the licensees have a full opportunity to demonstrate compliance with the CTA.⁶

3. The Commission established rules setting forth seven criteria for evaluating whether a program qualifies as CORE programming: (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 program; (4) the program is at least 30 minutes in length; (5) the program is identified as being specifically designed to educate and inform children through the on-screen display of the E/I symbol throughout the program; (6) the educational objective and the target child audience are specified in writing in the licensee's Children's Television Programming Report; and (7) 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.⁷

4. The Licensee timely filed renewal applications for each of the stations in 2012 and 2013.⁸ As part of its review of the Beach Renewal Applications, Media Bureau staff investigated whether certain programming listed in the Children's Television Programming Reports for the stations complied with the third criterion, namely whether the programming was part of an episodic series.⁹ In explaining the purposes of the regularly scheduled weekly programming requirement, the Commission stressed that "programs that air regularly can reinforce lessons from episode to episode" and "can develop a theme which enhances the impact of the educational and informational message."¹⁰ The Commission thus made clear that regularly scheduled weekly programming was intended to be comprised of different episodes of the same program, not repeats of a single-episode special. The staff concluded that Beach TV did not comply with this criterion of the CORE requirements. As an example, in the third quarter of 2011, the Licensee listed the following single-episode promotional specials as CORE programming offered on the stations: *Sharks and Wildlife*, *Wild About Whale Sharks*, *Florida State Parks*, and *Lagoons, Bayous, & Storms*. These single-episode specials were counted repeatedly for purposes of evaluating the number of CORE programs showed during that quarter.¹¹

⁴ 47 CFR §§73.671(d), (e)(1).

⁵ *Id.*

⁶ *Id.*

⁷ 1996 *Children's Television Order*, 11 FCC Rcd at 10696; 47 C.F.R. § 73.671(c).

⁸ See Exhibit A.

⁹ The Commission stated that television series typically air in the same time slot for thirteen consecutive weeks and that it would leave to the staff to determine, with guidance from the Commission when necessary, what constitutes regularly scheduled programming. 1996 *Children's Television Order*, 11 FCC Rcd at 10711.

¹⁰ *Id.*

¹¹ See, e.g., Children's Television Programming Report (FCC 398) for WACY-CD, Key West, Florida (filed Oct. 10, 2011), available at http://data.fcc.gov/mediabureau/v01/tv/application/KidVid_124965.html (listing *Sharks and Wildlife* as being aired 39 times, *Wild About Whale Sharks* being aired 25 times, and *Florida State Parks* being aired 25 times).

5. On September 25, 2013, the Video Division (“Division”) sent a letter to Beach TV pursuant to Section 1.88 of the Commission’s Rules requesting further information about potential violations, including whether Beach TV met the Commission’s processing guideline of offering three hours per week of CORE programming. On November 4, 2013, Beach TV responded to the letter. Beach TV contended that the four programs highlighted in the Video Division’s letter—*Wild About Whale Sharks*, *Florida State Parks*, *Lagoons, Bayous & Storms*, and *Sharks & Wildlife*—complied with all criteria of CORE programming, including the requirement that the programming offered represented regularly scheduled weekly programming.¹²

6. The Division staff concluded that it could not clear the Beach Renewal Applications under our processing guidelines pursuant to Section 73.671(e)(1) of the Rules and therefore referred the matter to the Commission as required.¹³

III. DISCUSSION

7. As required by the CTA,¹⁴ we have considered whether Beach TV “has served the educational needs of children through the licensee’s overall programming, including programming specifically designed to serve such needs.” The Commission and Beach TV have negotiated the terms of the Consent Decree, which resolves the children’s programming issues raised in this proceeding. As part of the Consent Decree, Beach TV has agreed to make a voluntary contribution of \$90,000 (Ninety Thousand Dollars) to the U.S. Treasury, and has further agreed to a plan that will ensure future compliance with the CTA and Section 73.671 of the Rules. This includes a commitment to have all stations in full compliance with the CTA and Section 73.671 no later than the “Effective Date” of the attached Consent Decree.¹⁵ Compliance will be reflected in each stations’ quarterly Children’s Television Programming Report (FCC Form 398) filed subsequent to the Effective Date of the attached Consent Decree. Beach TV acknowledges that failure to comply with all terms and conditions of this Order and the attached Consent Decree shall constitute a separate violation of a Commission order and/or rule, entitling the Commission to exercise any rights, remedies or sanctions attendant to the enforcement of a Commission order and/or rule.

8. Based on our review of the record, we conclude that Beach TV has the basic qualifications to be a Commission licensee and that the Consent Decree contains appropriate terms and conditions to ensure that Beach TV provides programming specifically designed to serve the educational and informational needs of children in the future. In light of the foregoing and our finding that grant of the Beach Renewal Applications is warranted under Section 309(k)(2) of the Act, we need not determine whether Beach TV committed “serious violations” of our rules or violations that constituted a “pattern of abuse” for purposes of Section 309(k)(1).¹⁶ Therefore, we conclude that there are no substantial and material questions of fact at issue and grant the Beach Renewal Applications, subject to the specific representations and commitments contained in the Consent Decree.

¹² Beach TV, Letter to Barbara A. Kreisman (Nov. 4, 2013).

¹³ 47 C.F.R. §§ 73.671(c),(e)(1). We note that the license renewal applications for full power stations WAWD(TV) and WPCT(TV) were both granted on January 31, 2013, which is prior to commencement of the Video Division’s investigation into Beach TV’s compliance with our CORE children’s programming requirements. *See* BRCDDT-20121001AHS and BRCDDT-20121001AHT. In light of the Division’s investigation into Beach TV’s Class A stations we find that the Division prematurely granted the license renewal applications for WAWD(TV) and WPCT(TV). For purposes of this Order and the attached Consent Decree our investigation covers potential violations by WAWD(TV) and WPCT(TV) through the effective date of the attached Consent Decree.

¹⁴ 47 U.S.C. § 303(b).

¹⁵ “Effective Date” means the date on which the Commission releases this Order.

¹⁶ *See* 47 U.S.C. §§ 309(k)(1), (2); *S’holders of Univision Commc’ns Inc.*, Memorandum Opinion and Order, 22 FCC Rcd 5842, 5859, n.113 (2007).

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, that the Consent Decree attached as Exhibit B **IS ADOPTED**.

10. **IT IS FURTHER ORDERED** that, pursuant to Section 309(k) of the Communications Act of 1934, as amended, the applications for renewal of license of Beach TV Properties, Inc. and Beach TV of South Carolina, Inc. listed in Exhibit A, **ARE GRANTED**.

11. **IT IS FURTHER ORDERED** that the investigation by the Media Bureau into the matters discussed above and in connection with the stations listed in Exhibit A **IS TERMINATED**.

12. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested, to Beach TV Properties, Inc. and Beach TV of South Carolina, Inc., P.O. Box 9556, Panama City Beach, Florida, 32417 and its counsel Melodie Virtue, Esq., Garvey Schubert Barer, 1000 Potomac Street, N.W., 5th Floor, Washington, D.C. 20007.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

EXHIBIT A

Station List

Station	Fac. ID	Community of License	Licensee	Application No.
KNOV-CD	64048	New Orleans, LA	Beach TV Properties, Inc.	BRTTA-20130131AAV
WCAY-CD	4352	Key West, FL	Beach TV Properties, Inc.	BRDTA-20121001AHN
WDES-CA	4353	Destin, FL	Beach TV Properties, Inc.	BRTTA-20121001ALS
WPFN-CA	4351	Panama City, FL	Beach TV Properties, Inc.	BRTTA-20121001AHV
WGSC-CD	4349	Murrells Inlet, SC	Beach TV of South Carolina, Inc.	BRDVA-20120723ADK
WGSJ-CD	4350	Murrells Inlet, SC	Beach TV of South Carolina, Inc.	BRDVA-20120723ADL
WPCT(TV)	4354	Panama City Beach, FL	Beach TV Properties, Inc.	Not Applicable
WAWD(TV)	54938	Fort Walton Beach, FL	Beach TV Properties, Inc.	Not Applicable

EXHIBIT B

**Before the
Federal Communications Commission
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In the Matter of)	
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Beach TV Properties, Inc.)	File Nos. BRTTA-20120131AAV <i>et. al.</i>
Licensee of Stations KNOV-CD, New Orleans, LA)	
WCAY-CD, Key West, FL; WDES-CA Destin,)	Facility ID Nos. 64048; 4352; 4353; 4351;
FL; WPFN-CA Panama City, FL; WPCT(TV),)	4354; 54938; 4349; 4350
Panama City, FL; and WAWD(TV), Fort Walton)	
Beach, FL)	NAL/Acct. No. 201541420017
)	
Beach TV of South Carolina, Inc.)	FRN Nos. 0004941621 and 0004954707
Licensee of Stations WGSC-CD, Murrells Inlet, SC)	
and WGSJ-CD, Murrells Inlet, SC)	

CONSENT DECREE

Adopted: July 16, 2015

Released: July 17, 2015

By the Commission:

1. The Federal Communications Commission (the "Commission") Beach TV Properties, Inc. and Beach TV of South Carolina, Inc. (together "Beach TV") hereby enter into this Consent Decree for the purposes of resolving the Media Bureau's investigation of Beach TV's compliance with the Children's Television Act involving the stations and pending license renewal applications included in Exhibit A to the adopting Order.¹

I. DEFINITIONS

2. For the purposes of this Consent Decree and Compliance Plan provided in Exhibit C, 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 Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- c. "Beach TV" means Beach TV Properties, Inc. and Beach TV of South Carolina, Inc. and their subsidiaries, successors, assigns, and/or transferees.

¹ This Consent Decree does not affect any ongoing appeal, proceeding or investigation involving WTHC-LD, Atlanta, Georgia (Facility ID 65409), which is licensed to Beach TV Properties, Inc. (the "Proceedings"), and is not to be used in making any admissions, findings or determinations, without any limitations, related to such Proceedings, which include *Beach TV Props., Inc. f/k/a The Atlanta Channel, Inc. v. FCC*, Index No. 14-1229 (D.C. Cir.); *In Re Beach TV Props., Inc. f/k/a The Atlanta Channel, Inc.*, Index No. 14-1230 (D.C. Cir.); *The Atlanta Channel, Inc.*, Memorandum Opinion and Order, 27 FCC Rcd 14541 (2012); *The Atlanta Channel, Inc. Statement of Eligibility for Class A Television Status for Low Power Television Station WTHC-LP, Atlanta, GA*, Order on Reconsideration, 29 FCC Rcd 11848 (MB 2014).

- d. "Bureau" means the Media Bureau of the Federal Communications Commission.
- e. "Commission" or "FCC" means 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 to which Beach TV is subject by virtue of it being a Commission licensee, including but not limited to Sections 73.671 and 73.6026 of the Rules.
- g. "CTA" means the Children's Television Act, Pub L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303(a), 303(b), and 394.
- h. "Effective Date" means the date on which the Commission releases the Adopting Order.
- i. "Investigation" means the Media Bureau's investigation of the Stations listed in Exhibit A to the Adopting Order concerning Beach TV's compliance with the CTA and the Commission's children's programming rules, as set forth in Section 73.671 of the Rules.²
- j. "License Renewal Applications" means the applications included in Exhibit A.
- k. "Parties" means Beach TV and the Commission, each of which is a "Party."
- l. "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- m. "Stations" means the broadcast television stations licensed to Beach TV and listed in Exhibit A to the Adopting Order, each of which is a "Station."

II. TERMS OF AGREEMENT

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

4. Jurisdiction. The Parties agree that the Commission has jurisdiction over them and the matters contained in this Consent Decree and that the Commission has the authority to enter into and adopt this Consent Decree.

5. Effective Date; Violations. 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. 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.

6. Termination of Investigation; Grant of Renewal Applications. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public

² We note that the license renewal applications for full power stations WAWD(TV) and WPCT(TV) were both granted on January 31, 2013, which is prior to commencement of the Video Division's investigation into Beach TV's compliance with our CORE children's programming requirements. *See* BRCDT-20121001AHS and BRCDT-20121001AHT. For purposes of the Adopting Order and Consent Decree the Investigation covers potential violations by WAWD(TV) and WPCT(TV) through the effective date of this Consent Decree.

resources, the Commission agrees to terminate the Investigation. In consideration for the termination of the Investigation, Beach TV agrees to the terms and conditions contained herein. The Commission further agrees to grant absent any other restrictions, in conjunction and simultaneously with the adoption of this Consent Decree, the License Renewal Applications for their full terms with the conditions agreed to herein. The Commission further agrees 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 or in response to any petition to deny or other third-party complaint or objection, any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against Beach TV concerning the matters that were the subject of the Investigation. The Commission 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 Beach TV with respect to Beach TV's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

7. Subsequent Investigations. Except as expressly provided in this Consent Decree, nothing in this Consent Decree shall prevent the Commission or its delegated authority from investigating new evidence of noncompliance by Beach TV or adjudicating complaints or other adjudicatory pleadings filed against Beach TV or its affiliates for: (1) alleged violations of the CTA or Section 73.671 of the Rules arising after the Effective Date, or (2) for alleged violations of the Communications Laws for any other type of alleged misconduct regardless of when such misconduct took place.

8. Voluntary Contribution. Beach TV agrees that it will make a voluntary contribution to the United States Treasury in the amount of Ninety Thousand Dollars (\$90,000). The contribution will be made over installments on the following dates: (1) upon release of this Consent Decree, Beach TV will make a payment of \$7,500; (2) Beach TV will make a payment of \$7,500 due on the last day of each subsequent calendar quarter (March 31, June 30, September 30, December 31) beginning September 30, 2015, until the total amount of payments equals \$90,000. Beach TV shall also send electronic notification of payment to Alison Nemeth at alison.nemeth@fcc.gov on the date payments are made. The payments must be made by check or similar instrument, wire transfer, or credit card, and must include the FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³ 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 you should follow based on the form of payment you select:⁴

- 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.
- 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.

³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁴ Should Beach TV have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e mail at ARINQUIRIES@fcc.gov.

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.

9. Waivers. Beach 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 Commission issues an Adopting Order as defined herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Beach TV nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Beach TV shall waive any statutory right to a trial de novo. Beach TV hereby agrees to waive any claims they 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.

10. No Admission of Liability. Beach TV agrees, solely for the purpose of this Consent Decree and for FCC civil enforcement purposes, and in express reliance on the provisions of Paragraph 6 hereof, and for no other purpose or to other effect, that Beach TV has conducted an internal investigation with respect to the matters subject to the Investigations, and Beach TV's policies and practices with respect to the CTA can be improved so as to further enhance the prospects for compliance. By entering into this Consent Decree, Beach TV makes no admission of liability or violation of any law, regulation or policy, and the Commission makes no finding of any such liability or violation.

11. Compliance Plan. In recognition that Beach TV's policies and practices regarding compliance with the CTA and Section 73.671 of the Rules can be enhanced to ensure compliance Beach TV represents that it will adopt and implement a compliance plan at each of the Stations, and at any station acquired by Beach TV as well as any station licensed to Beach TV that becomes newly subject to the requirements of the CTA or Section 73.671 of the Rules while the Compliance Plan remains in effect. A copy of the plan is set forth in Exhibit C. Beach TV agrees, to the extent that they have not already done so, to implement the Compliance Plan upon issuance of the Adopting Order and to keep such Compliance Plan in effect until December 1, 2020.

12. 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.

13. 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 a rule or order specifically intended to revise the terms of this Consent Decree to which Beach TV expressly consents) that provision will not be superseded by such rule or Commission order.

14. Successors and Assigns. Beach TV agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

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

16. 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.

17. Authorized Representative. The individual signing this Consent Decree on behalf of Beach TV represents and warrants that he is authorized by Beach TV to execute this Consent Decree and to bind Beach 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.

18. 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

Marlene H. Dortch
Secretary

Date

Beach TV Properties, Inc. and Beach TV of South Carolina, Inc.

Byron J. Colley
President

Date

Exhibit C

Officer, and any response from Beach TV must be placed in the relevant station's electronic local public inspection file within five (5) business days of the date of the response.

8. Within one (1) year of the Effective Date of this Compliance Plan, and upon request thereafter, Beach TV will provide the Chief of the Video Division with a written briefing explaining how it has implemented the terms of this Compliance Plan and provide a summary of any complaints it has received regarding children's programming and the resolution of those complaints.