



Federal Communications Commission
Washington, D.C. 20554

June 27, 2018

Alpha Broadcasting Corporation
Sunny Isle Post Office
P.O. Box 6000
Christiansted, St. Croix, VI 00823

Re: Request for Waiver of
Post-Incentive Auction
Consumer Education Requirements
WZVI(TV), Charlotte Amalie, USVI
Facility ID No. 83270
LMS File No. 0000054869

Dear Licensee,

On June 1, 2018, Alpha Broadcasting Corporation (Alpha Broadcasting), the licensee of WZVI, Charlotte Amalie, USVI (Station or WZVI), submitted the above-captioned request for waiver of the post-incentive auction consumer education requirements.¹ For the reasons set forth below, we grant the request for waiver.

Background. The Commission adopted consumer education requirements that repacked stations must complete beginning 30-days prior to discontinuing operations on their pre-auction channels.² Alpha Broadcasting states that in September 2017 the Station was forced to go silent as a result of damage to its transmission facilities suffered during Hurricane Irma. The Station continues to be silent as a result of this damage. On January 11, 2018, the Media Bureau (Bureau) modified the transition schedule for WZVI by permitting it, as well as all replaced stations in Puerto Rico, to transition prior to its assigned transition phase. The Bureau established a testing period start date of July 1, 2018, and a phase completion date of August 1, 2018.³ The Bureau also recognized that as the result of damage suffered during both Hurricanes Irma and Maria, some stations may remain silent until they transition to their post-auction channel. As a result, the Bureau instructed such stations to apply for waiver of the consumer education requirements and explain: (1) why the station is unable to comply with the existing consumer education requirements; (2) propose an alternative but comparable means to notify viewers; and (3) explain why grant of the waiver complies with Section 1.3 of the Commission's rules (Rules).⁴

¹ See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786, 2814-2815, para. 83 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*); see also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 880-881, para. 71 (IATF & MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR § 73.3700(c).

² See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814-2815, para. 83; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 880-881, para. 71; 47 CFR § 73.3700(c).

³ *Incentive Auction Task Force and Media Bureau Grant Waiver of the Post-Auction Transition Schedule and Modify the Transition Phase Assignments of Repacked Stations in Puerto Rico and the U.S. Virgin Islands*, Public Notice, 33 FCC Rcd 138, para. 1 (MB 2018).

⁴ *Id.* at 141, para. 8. 47 CFR 1.3 (waiver for good cause shown).

Alpha Broadcasting explains that the Station remains silent as it is focused on constructing the Station's post-auction facility on Channel 21 rather than rebuilding its pre-auction facility on Channel 43. As a result, WVZI is unable to broadcast the required consumer education PSAs or crawls on its pre-auction channel. In lieu of airing the required over-the-air announcements, Alpha Broadcasting proposes to provide viewer notice at least 30 days prior to its transition to its post-auction channel as follows: (i) include information about the post-auction transition on the website that Station shares with sister station WSVI – WSVI.tv; (ii) include information about the post-auction transition on the Facebook page that Station shares with WSVI; and (iii) include an on-air announcement on its streaming channel, which is aired through USVI's sole cable provider, Viya. Alpha Broadcasting maintains that it has "every incentive" to ensure that viewers are notified that it is resuming operation on its post-auction channel and it believes these efforts will best serve that goal.

Discussion. Upon review of the facts and circumstances presented, we find that grant of Alpha Broadcasting's request for waiver is in the public interest. A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁵ We find that deviation from the existing post-incentive auction consumer education requirements is appropriate in light of the fact that the station is unable to conduct the consumer education required under the Rules due to the damage suffered to its pre-auction facility as a result of Hurricane Irma. We find that the public interest and overall policy goal underlying the Bureau's decision to permit WZVI to transition early would be advanced by permitting Alpha Broadcasting to comply with the modified consumer education requirements for Station that it has proposed in its waiver request and as outlined herein.

Accordingly, Alpha Broadcasting Corporation's request for waiver of the post-incentive auction consumer education requirements, 47 CFR § 73.3700(c), for WZVI(TV), Charlotte Amalie, USVI, **IS GRANTED**, and the Station is required to conduct its consumer education in the manner set forth in the waiver request.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Ari Meltzer, Esq. (via electronic mail)

⁵ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3.