



Federal Communications Commission  
Washington, D.C. 20554

June 29, 2018

CMGG Puerto Rico LLC  
David J. Wilhelm  
900 Laskin Road  
Virginia Beach, VA 23451

Re: Request for Waiver of  
Post-Incentive Auction  
Consumer Education Requirements  
WOST(TV), Mayaguez, PR  
Facility ID No. 60357  
LMS File No. 0000055246

Dear Licensee,

On June 15, 2018, CMGG Puerto Rico, LLC (CMGG), the licensee of WOST(TV), Mayaguez, Puerto Rico (Station or WOST), submitted the above-captioned request for waiver of the post-incentive auction consumer education requirements.<sup>1</sup> For the reasons set forth below, we grant the request for waiver.

*Background.* Pursuant to Section 73.3700(c) of the Commission's rules (Rules), repacked stations must complete specific consumer education requirements beginning 30-days prior to discontinuing operations on their pre-auction channel.<sup>2</sup> CMGG states that in September 2017 WOST was forced to go silent because of damage to its transmission facilities suffered during Hurricane Maria.<sup>3</sup> The Station continues to be silent due to the damage. On January 11, 2018, the Media Bureau (Bureau) modified the transition schedule for all repacked stations in Puerto Rico, including WOST, by permitting them to transition to their post-auction channel prior to their assigned transition phase. The Bureau established a testing period start date of July 1, 2018, and a phase completion date of August 1, 2018.<sup>4</sup> 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

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<sup>1</sup> See 47 CFR § 73.3700(c); *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 (MB 2017) (*Broadcast Transition Procedures Public Notice*).

<sup>2</sup> 47 CFR § 73.3700(c); 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.

<sup>3</sup> See LMS File Nos. 0000030578 and 0000048885.

<sup>4</sup> *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).

alternative but comparable means to notify viewers; and (3) explain why grant of the waiver complies with Section 1.3 of the Rules.<sup>5</sup>

CMGG explains that because WOST remains silent, it is unable to broadcast the required consumer education PSAs or crawls on its pre-auction channel and requires waiver of Section 73.3700(c) of the Rules. In lieu of airing the required over-the-air announcements, CMGG proposes to provide viewer notice prior to its transition to its post-auction channel by: (1) airing daily radio PSAs starting on or before July 3, 2018, until a few days after the transition date and (2) purchasing newspaper ads to run daily starting July 15, 2018 until a few days following the transition date.

*Discussion.* Upon review of the facts and circumstances presented, we find that grant of CMGG'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.<sup>6</sup> 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 Maria. We find that the public interest and overall policy goal underlying the Bureau's decision to permit WOST to transition early would be advanced by permitting CMGG to comply with the modified consumer education requirements for Station that it has proposed in its waiver request and as outlined herein.

Accordingly, CMGG's request for waiver of the post-incentive auction consumer education requirements, 47 CFR § 73.3700(c), for WOST, Mayaguez, Puerto Rico, **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: Melodie Virtue, Esq. (via electronic mail)

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<sup>5</sup> *Id.* at 141, para. 8. 47 CFR 1.3 (waiver for good cause shown).

<sup>6</sup> 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.