

Request for Waiver of Consumer Education Requirement

Pursuant to Section 1.3 of the FCC's Rules, America-CV Station Group, Inc. ("Licensee"), licensee of full power television station WJWN-TV, San Sebastian, PR (Fac. ID 58342) (the "Station"), hereby requests a waiver of Section 73.3700(c) of the Commission's rules to permit Station to provide consumer education regarding its post-auction operations through alternate means. Specifically, because the Station is currently silent due to the devastating effects of Hurricane Maria, Licensee proposes to provide consumer education through notices on the Station's website and on its sister station, WJPX, San Juan. PR (Fac. ID 58340).

Like many other stations in Puerto Rico and the U.S. Virgin Islands, the Station suffered major damage to its transmission facilities as a result of Hurricane Maria, forcing the Station off the air. See LMS File No. 0000034142. On January 11, 2018, the Commission recognized that "Hurricanes Irma and Maria devastated Puerto Rico and the U.S. Virgin Islands, resulting in widespread damage to infrastructure, including to the Stations' facilities" and reassigned the Station from transition phase 3 to an early transition period beginning on July 1, 2018 and ending on August 1, 2018. See *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, MB Docket No. 16-306 (rel. January 11, 2018) (the "January 11 Public Notice"). As a result, Section 73.3700(c) requires Station to begin broadcasting on-air consumer education PSAs or crawls on its preauction channel on or before July 2, 2018. See 47 C.F.R. § 73.3700(c)(3). However, the January 11 Public Notice also provided that stations that remain silent as a result of the hurricanes may request a waiver of the consumer education requirement by providing: (1) an explanation describing why the station is unable to comply with the existing consumer education requirements; (2) an alternative but comparable means the station will use to notify viewers of the station's new channel; and (3) an explanation of why grant of the waiver request complies with the Commission's general waiver standard.

Here, allowing Licensee to provide consumer education through alternative means is in the public interest and satisfies the standard set forth in the January 11 Public Notice.

First, as explained above, the Station remains silent as a result of Hurricane Maria and is focused on constructing its post-auction facilities rather than rebuilding its existing facilities. As a result, the Station is unable to broadcast the required PSAs or crawls on its preauction channel.

Second, Licensee has identified alternative but comparable means to notify viewers of Station's new channel. Specifically, Licensee proposes to, at least 30 days before it commences operations on Channel 33: (i) include information about the post-auction transition on the Station's website; and (ii) include an on-air announcement on its sister station, WJPX, San Juan. PR (Fac. ID 58340). These activities are consistent with the Commission's consumer education requirements and likely to reach most viewers interested in learning about Station's operating status. Indeed, Licensee has every incentive to ensure that viewers have ample notice of Station's return to air on its post-auction facilities and reasonably believes that these methods will reach its viewers.

Third, grant of the waiver request complies with the Commission's general waiver standard. The FCC may grant a waiver for good cause shown. 47 C.F.R. § 1.3. The agency typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest. *See N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In the January 11 Public Notice, the Commission recognized that the devastating effects of Hurricane Maria make strict compliance with the consumer education requirement impossible. Permitting Licensee to provide consumer education through the proposed alternative means will achieve the FCC's goals of minimizing consumer confusion and ensuring a smooth transition.

Accordingly, the Media Bureau should grant Licensee a waiver of Section 73.3700(c) and allow it to satisfy the consumer education requirement for Station by providing information about Station's post-transition operations as proposed herein.