

## **Renewal Exhibit**

### ***Limited Licensee Ownership Period***

The Applicant became the Licensee of the Station subject to the instant application after the commencement of the current license term. Accordingly, for the Station, the scope of the Applicant's certifications and exhibits in the instant application is limited to the period after which the Applicant became the Licensee.

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### ***Non-Discrimination in Advertising Sales Agreements***

At no time on or before August 1, 2019, has the Licensee, to its knowledge, accepted advertising that was placed with an intent to discriminate on the basis of race or ethnicity. Further, at no time on or before August 1, 2019, have the Licensee's sales practices or its verbal advertising sales agreements discriminated on the basis of race or ethnicity.

However, out of an abundance of caution, the Licensee has answered this certification "No" because it does not generate and generally does not enter into formal written advertising sales contracts.<sup>1</sup> As of the date of this application, the Licensee has incorporated non-discrimination clauses into its written communications with advertisers, including: in its email correspondence; in its correspondence regarding confirmation of placed advertising orders; and on its invoices to advertising sales clients.

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<sup>1</sup> To the extent that the Commission determines that the Licensee did not comply with the requirement that non-discrimination clauses be included in advertising agreements (which non-compliance the Licensee does not concede, as it believes it has indeed complied with the rule), the Licensee respectfully requests that the Commission treat it in the same manner as it has treated licensees who have come into compliance with the rule in an untimely manner: by excusing the delay as a *de minimis* violation and cautioning the licensee "of the importance of continued full compliance with this requirement." See, e.g., *Killeen Christian Broadcasting Corp., Licensee of Station KPLE-CD, Killeen, Texas*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 8357, 8360 n.7 (2014) (excusing delay as *de minimis* where licensee had recently come into compliance); *Campbellsville Univ., Licensee of Station WLCU-CA, Campbellsville, Kentucky*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 12649, 12651 n.4 (excusing delay as *de minimis* where licensee had recently begun a process to revise its forms and procedures for selling advertising time to incorporate the appropriate nondiscrimination language).

### ***Online Public Inspection File***

Out of a similar abundance of caution, the Licensee has responded in the negative to the FCC online public inspection file certification that states: “Licensee certifies that the documentation required by 47 C.F.R. § 73.3526 or 73.3527, as applicable, has been uploaded to the station’s public inspection file as and when required.”

The Licensee believes the following observations are relevant to the foregoing certification:

**Pre-Filing Announcement Certification.** The Station uploaded its pre-filing announcement certification immediately upon learning that it needed to do so, on July 26, 2019. As shown on the certification, all of the required pre-filing announcements were timely made. As such, the Licensee submits that neither the public nor the Commissioner was materially affected by this slight upload delay.<sup>2</sup>

**EEO Annual Report.** The Station did not timely upload its 2017-18 EEO Annual Report to the online public inspection file. The Station notes that the 2017-18 EEO Annual Report was the first such Annual Report that the Station was required to upload to the online public file following the OPIF transition; the failure to timely upload the Report was an inadvertent oversight. The Licensee did, however, upload its earlier EEO Annual Reports to the online public file in a timely manner (prior to the conversion deadline). And, it has uploaded its 2018-19 EEO Annual Report in a timely manner as well, which the Licensee submits is evidence that the aforementioned late-upload was a singular incident with respect to EEO reporting that will not recur.

**Issues/Programs Lists.** The Station’s First Quarter 2018 Issues/Programs List was not timely uploaded. The Station notes that the First Quarter 2018 List was the first List that the Station was required to upload following the transition to the OPIF, and that, aside from that delinquency, the Station has otherwise uploaded all of its quarterly Issues/Programs Lists in a timely manner.<sup>3</sup> The Licensee has now established processes that will ensure the timely upload of Issues/Programs Lists (and other required records) to the OPIF.

The Station respectfully believes that the late uploads of one EEO Annual Report and one

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<sup>2</sup> The Licensee also notes that the question whether the pre-filing announcement certification must be uploaded to the OPIF prior to the filing of the license renewal application (here, by July 23, 2019)—as opposed to months later in conjunction with the post-filing announcement certification—is itself an open question.

<sup>3</sup> In addition, the Licensee wishes to note that the Fourth Quarter 2018 Issues/Programs List was timely filed once the federal government reopened after the shutdown. Further, the Station notes that it uploaded its pre-OPIF-transition Issues/Programs Lists in a timely manner, too. The Station’s Third Quarter 2017 Issues/Programs Report was timely uploaded (in February 2018) and subsequently supplemented at a later date, in June 2018.

Issues/Programs List—both of which represented the first of each respective report that was required to be uploaded to the OPIF—was *de minimis* in nature and warrants no further action by the Commission.<sup>4</sup>

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<sup>4</sup> If the Commission takes the view that the late uploads described above are more than *de minimis*, the Licensee respectfully submits that the late uploads described above are not material to its overall compliance with 47 C.F.R. § 73.3526. The Commission has previously granted license renewal applications, or issued enforcement decisions in the context of license renewals, for more substantial public file deficiencies than those here without monetary sanctions. *See, e.g., Nepsk, Inc.*, 30 FCC Rcd 6315 (2015) (issuing only an admonishment where television licensee failed to timely upload issues/programs lists “[f]or twenty-two quarters” and uploaded relevant documents “just before it filed its license renewal application). In fact, the Commission has said, in situations where the OPIF issues were of greater magnitude than those here, that “[s]taff practice in cases where the Section 73.3526 violation has lasted less than one year (i.e., involved fewer than four missing issues/programs lists) has generally been to admonish the licensee rather than issue an NAL.” *See In re WNLB Radio, Inc.*, 25 FCC Rcd 1420, 1422 n.14 (2010).