



Federal Communications Commission
Washington, D.C. 20554

July 27, 2020

KPTV-KPDX Broadcasting Corporation
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(via electronic mail)

KPDX(TV), Vancouver, WA
Facility ID No. 35460
LMS File No. 0000107786

Dear Licensee:

This letter is in reference to the above captioned application for legal special temporary authority (Legal STA) filed by KPTV-KPDX Broadcasting Corporation (Meredith or Licensee), licensee of full power television station KPDX(TV), Vancouver, Washington (KPDX or Station).¹ In its Legal STA, Meredith requests authorization to allow some of KPDX's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on the facilities of KGW(TV), Portland, Oregon (KGW), licensed to Sander Operating Co. III, LLC, D/B/A KGW Television (TEGNA, or multicast host).² This arrangement between Meredith and the multicast host has been entered into in connection with KPDX's transition of its facility to the ATSC 3.0 transmission standard. Although Meredith has agreed to indemnify TEGNA from all liabilities or claims resulting from the airing of KPDX's multicast streams over its facilities,³ Meredith has requested the instant authorization to make clear that they will remain responsible from a statutory and regulatory perspective for KPDX's multicast streams. Specifically, Meredith requests that KPDX be treated as if it is still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communication Act of 1934, as amended (Act), and the Commission rules (Rules) and regulations in the same manner as an ATSC 1.0 primary simulcast stream is treated under the Commission's ATSC 3.0 rules and regulations.⁴ For the reasons below, we grant Meredith's request.

Background. On June 3, 2020, the Video Division granted KPDX's application for modification of license to convert its existing broadcast facility to ATSC 3.0 transmissions.⁵ As required by section

¹ Application of KPTV-KPDX Broadcasting Corporation for Legal Special Temporary Authority as amended, LMS File No. 0000107786 (filed July 10, 2020) (KPDX Legal STA).

² KGW is licensed to operate on RF channel 8.

³ KVCW Legal STA at 2.

⁴ See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 79-82 (2017) (*Next Gen TV Report and Order*) (requiring Next Gen TV broadcasters to comply with all Commission broadcast rules, including, but not limited to, the Rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection file, indecency, sponsorship identification, etc.).

⁵ Application of KPTV-KPDX Broadcasting Corporation, LMS File No. 0000107795 (granted June 3, 2020) (KPDX License Modification).

73.3801 of the Rules,⁶ KPDX's primary stream will be simulcast in an ATSC 1.0 format over the facility of jointly owned KPTV(TV), Portland, Oregon (KPTV).⁷ In addition to its primary stream, KPDX currently broadcasts three multicast channels: Bounce, Escape, and Grit.⁸ In order to avoid the loss of KPDX's over-the-air multicast programming to its current ATSC 1.0 viewers, Meredith has entered into a written agreement with TEGNA to broadcast the multicast streams of Escape and Grit using the facilities and channel of KGW and Bounce using the facilities and channel of KPTV.⁹ As part of the same arrangements, KGW and KPTV have been provided capacity as an ATSC 3.0 guest station on KPDX's facility.¹⁰

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, KPDX is not able to air all of its multicast streams on the same channel as its primary ATSC 1.0 signal, which is being hosted on KPTV.¹¹ Furthermore, due to capacity and other constraints Meredith is not able to simulcast an ATSC 3.0 version of KPDX's multicast streams.¹² Pursuant to an engineering study conducted by the Licensee, under its arrangement with the multicast host, all of KPDX's current over-the-air ATSC 1.0 viewers will retain access to KPDX's multicast programming.¹³ Absent this arrangement and grant of the instant request, Meredith states that "all over-the-air viewers would lose access to KPDX(TV)'s multicast streams."¹⁴ The Licensee's engineering study also shows that its multicast streams will continue to serve KPDX's community of license (which is the same as the one assigned to the multicast host).¹⁵

⁶ 47 CFR § 73.3801(b).

⁷ KPTV is licensed to operate on RF channel 12.

⁸ KPDX Legal STA at 1.

⁹ As noted, KPTV is the ATSC 1.0 primary simulcast host of KPDX. Because KPDX has been authorized to transmit its primary ATSC 1.0 signal over the facility of KPTV, KPDX is permitted to transmit multicast signals over the facilities of KPTV under the same authorization and ATSC 3.0 simulcast arrangement. For purposes of the Act, and the Rules and regulations we will consider the multicast program stream of Bounce to be originated by KPDX, even though it is being aired over KPTV's facilities. We also note that under the ATSC 3.0 rules that Next Gen TV Broadcasters are not required to simulcast their multicast streams. Next Gen TV Report and Order, 32 FCC Rcd at 9937-38, para. 13, n.40.

¹⁰ Application of Sander Operating Co. III LLC D/B/A KGW Television, LMS File No. 0000107807 (granted June 3, 2020).

¹¹ KPDX Legal STA at 1.

¹² Specifically, Meredith states that in order to air an ATSC 3.0 simulcast of the Station's multicast streams, KPDX would not be able to accommodate current ATSC 3.0 guests as arranged. According to Meredith, to do so would not only require a reworking of existing ATSC 3.0 agreements, but impact stations' abilities to offer enhanced ATSC 3.0 offerings, such High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels, and non-real time interactive data delivery. Furthermore, Meredith notes that additional engineering work and equipment would be required to accommodate simulcasting KPDX's multicast streams in both an ATSC 1.0 and ATSC 3.0 format. *Id.*

¹³ *Id.*, KPDX Legal STA Coverage Contours Exhibit at 1-3 (Contours Exhibit). We also note that KPDX's ATSC 1.0 primary simulcast and the multicast signal of Bounce that is being aired over the facility of KPTV will also result in no loss of its current ATSC 1.0 service population. *See* KPDX License Modification, Technical Statement at 1, 3.

¹⁴ KPDX Legal STA at 1.

¹⁵ Contours Exhibit at 1-3.

Meredith goes on to state that it provided the requisite 120-day notice regarding relocation of KPDX's primary ATSC 1.0 stream and its multicast streams.¹⁶ KPDX also has been airing the requisite over-the-air announcements¹⁷ and posted to its website consumer notices regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets in order to continue to receive KPDX's ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channels for each of KPDX's program streams will remain unchanged and will be identified to viewers as being associated with KPDX.¹⁸ KPDX will convert its facility to ATSC 3.0 and commence its ATSC 1.0 operations over the facilities of KPTV (primary and multicast stream), and KGW (multicast streams) on July 28, 2020.¹⁹

Discussion. We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of Licensee's Legal STA. Under the Rules, Next Gen TV Broadcasters are not required to simulcast or continue airing their existing multicast streams.²⁰ Grant of the instant Legal STA will not only promote continued transmission of those programming streams to viewers, but by providing KVCW an authorization to air these signals over the hosts' facilities, this grant will make clear that Meredith is responsible for the content of those signals from a regulatory compliance and Commission enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to KPDX multicast streams airing on KGW (Escape, Grit), we will treat those signals as multicast streams being originated by KPDX even though they are being transmitted over KGW's facilities. We will also treat Bounce as being originated by KPDX even though it is being transmitted over KPTV on KPTV's facilities.²¹ Meredith is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regards to KPDX's three original multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children's programming,²² equal employment opportunities, public inspection file, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System. Furthermore, because the Commission's rules do not require that a multicast stream be simulcasted,²³ we will not require that KVCW air an ATSC 3.0 version of the ATSC 1.0 multicast streams being aired over the multicast hosts' facilities.

Given that the current arrangement is temporary and is in furtherance of an ATSC 3.0 simulcasting arrangement, we will not apply the broadcast ownership rules to the extent that the arrangement would result in a potential violation of those rules. We find this approach is consistent with the Commission's decision and underlying basis to "not apply the broadcast ownership rules in any situation where airing an ATSC 3.0 signal or an ATSC 1.0 simulcast on a temporary host station's facility

¹⁶ *Id.* at 2. See 47 CFR § 73.3801(g) (Notice to MVPDs).

¹⁷ KPDX Legal STA at 2. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

¹⁸ KPDX Legal STA at 1.

¹⁹ See KPDX License Modification.

²⁰ *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40.

²¹ See *supra* note 9.

²² Meredith notes in its Legal STA that KPDX "does not intend to rely on its multicast streams for compliance with the Commission's Children's Television Programming requirements.... As such, neither KPDX(TV)'s compliance with the Commission's Children's Television Programming requirements nor viewers' access to the station's required core programming will be affected by the proposed changes." KPDX Legal STA at 1-2.

²³ See *supra* note 20.

would result in a potential violation of those rules.”²⁴ For purposes of the instant Legal STA, we find compelling the capacity and engineering constraints that the Licensee has set forth.²⁵

We are taking this temporary measure in order to help facilitate the deployment of ATSC 3.0 and in light of the evolving nature of ATSC 3.0 deployment and related agreements. To the extent that existing Rules and regulations do not provide sufficient clarity or guidance on issues related to the relocation of ATSC 1.0 multicast streams (simulcasted or non-simulcasted) and any other arrangements that have become necessary as part of broadcasters’ voluntary transition to ATSC 3.0 since the Commission’s ATSC 3.0 rules were adopted over two years ago, we encourage licensees to formally seek modification or clarification of the Commission’s existing rules prior to seeking renewal of the instant Legal STA.

As explained above, we will continue to consider these program streams to be KPDX’s multicast streams even though they are being aired on a different channel than KPDX’s ATSC 1.0 primary stream. Multicast signals are not entitled to mandatory carriage rights,²⁶ and this authorization does not modify or alter KPDX’s mandatory carriage rights. Ultimately any impact on an MVPD’s ability to carry KPDX’s multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationship between Meredith and the affected MVPDs. According to Meredith, the current arrangement between KPDX and KGW “will preserve access to those KPDX(TV) multicast streams currently received for viewers who are receiving them via MVPDs.”²⁷ Meredith states it has provided written notice to all impacted MVPDs, is coordinating with all impacted MVPDs, and will continue to coordinate as needed with potentially affected MVPDs to ensure they continue to receive a good quality signal of the multicast streams over-the-air or via alternative delivery methods, such as direct fiber feed.²⁸ As a result, we do not expect there to be any adverse impact on MVPD viewers.

Accordingly, the above captioned Legal STA requested by KPTV-KPDX Broadcasting Corporation, licensee of KPDX(TV), Vancouver, Washington, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on January 23, 2021. For purposes of the Act, and the Rules and regulations, we will consider the multicast program streams of Bounce, Escape and Grit to be originated by KPDX, even though they are being aired over KPTV’s and KGW’s facilities.²⁹ Further, we will not

²⁴ *Next Gen TV Report and Order*, 32 FCC Rcd at 9972, para. 80, n.237. See also *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 20-73, para. 15 (rel. Jun. 9, 2020).

²⁵ *Supra* note 13.

²⁶ See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, CS Docket Nos. 98-120, 00-96 and 00-2, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2621-22, para. 54 (2001); *affirmed by Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, Second Report and Order and First Order on Reconsideration, CS Docket No. 98-120, 20 FCC Rcd 4516, 4518, para. 3 (2005) (*DTV Must-Carry Second R&O*) (declining to require cable systems to carry a licensee’s multicast streams). In the *DTV Must-Carry Second R&O*, the Commission affirmed its decision in the First Report and Order to interpret the statutory term “primary video” to mean only a single programming stream. If a digital broadcaster elects to divide its digital spectrum into several separate programming streams, only one of these streams is entitled to mandatory carriage. *Id.* at 4530-37, paras. 28-44.

²⁷ KPDX Legal STA at 1.

²⁸ *Id.*

²⁹ See *supra* note 9.

apply our ownership rules to the extent the instant temporary arrangement would otherwise result in a potential violation of those rules so long as KPDX's multicast streams are being aired on the facilities of KGW and KPTV pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., KPDX is operating an authorized ATSC 3.0 facility and its primary stream, absent waiver, is being aired over the facility of an ATSC 1.0 simulcast host). Any additional multicast streams, a change in the multicast streams being aired over KGW and KPTV's facilities by KPDX or relocating KPDX's multicast streams to a new ATSC 1.0 multicast host, will require the filing of a new request. Meredith agrees to coordinate with MVPDs as necessary.³⁰ While renewal of the instant authorization may be requested, there is no expectation of renewal and whether renewal is granted will be subject to any additional Commission or Bureau decisions on the treatment of multicast streams pursuant to an ATSC 3.0 simulcasting arrangement.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):
Christina Burrow, Esq.
Michael Beder, Esq.
(Counsel for TEGNA)

³⁰ We expect such coordination with MVPDs will occur not only for KPDX's multicast streams being aired over KGW's facilities, but also the multicast stream being aired over KPTV's facilities.