

**Amended Certification Regarding Compliance with
Children’s Programming Commercial Limits During the Current License Term**

As a standard practice, all programs designed for children 12 years of age and younger that were broadcast on the station were formatted to allow no more than 10.5 minutes of commercial matter per hour on weekends and 12 minutes of commercial matter per hour on weekdays. For a period of time, the station aired a block of children’s programming originated by the KidsClick Network. Applicant was informed that a commercial for Hot Wheels Super Ultimate Garage was inadvertently placed by the network in eight 30-minute long episodes of *Team Hot Wheels* aired as part of the KidsClick Network programming block. These episodes aired between November 10, 2018 and December 16, 2018. According to the network, the episodes and commercials were aired as set forth below, and the network promptly pulled the commercial from the program after discovering the issue.

<u>Date of Affected Episode</u>	<u>Episode Number</u>	<u># of Hot Wheels Commercials Aired</u>
11/10/2018	HOTW101-2	1
11/17/2018	HOTW1014	2
11/18/2018	HOTW103	1
12/1/2018	HOTW1021	1
12/2/2018	HOTW1022	1
12/8/2018	HOTW1041	1
12/9/2018	HOTW1042	2
12/15/2018	HOTW1011	2

Applicant previously amended its fourth quarter commercial limits certification accordingly. Applicant has also reminded its staff that they are required to monitor programming broadcast by the station for compliance with the Commission’s commercial limitations regardless of the programming or advertising source. The station does not currently air any programming designed for children ages 12 and under.

While Applicant acknowledges that stations may be held accountable for commercial limits violations caused by third-party programming sources, Applicant submits that this was an isolated incident and that it otherwise has a long history of compliance with the Commission’s rules. Accordingly, if the Commission should seek to take enforcement action beyond admonishment of the station, Applicant respectfully requests that any such action be limited to the base forfeiture

amount, consistent with precedent.¹ Although the Commission has discretion to propose upward adjustments, it has typically only done so where the number or extent of violations has been more willful and/or repeated than was the case here.² Based on Commission precedent, an upward adjustment is not warranted.

¹ The base forfeiture amount for a children's television commercial limits violation is \$8,000. 47 C.F.R. § 1.80; *see also San Antonio (KRRT-TV) Licensee, Inc.*, Forfeiture Order, 25 FCC Rcd 3747 (MB 2010) (\$8,000 fine for two commercial limit overages and two program-length commercials); *WVTV Licensee, Inc.*, 25 FCC Rcd 3741 (MB 2010) (\$8,000 fine for commercial overages, host-selling, and program-length commercial); *WLOS Licensee, LLC*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 4598 (MB 2010) (\$8,000 fine for 23 commercial overages); *KLGT Licensee, LLC*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 949 (MB 2009) (\$8,000 fine for 4 commercial overages, 2 program-length commercials, and one host-selling violation).

² *See, e.g., KSKN Television, Inc.*, 25 FCC Rcd 6150 (FCC 2010) (\$70,000 fine for 86 program length commercials, one host-selling violation, and failure to publicize the existence and location of the station's Form 398 reports); *UTV of San Francisco, Inc. Licensee, KBHK-TV*, 10 FCC Rcd 10986 (FCC 1995) (\$40,000 fine for 218 overages, including 2 program-length commercials.); *Winston Broadcasting Network, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 14606 (2008) (Initially proposing a \$20,000 fine for 1 commercial overage, 11 program-length commercials, and 5 host-selling violations. The fine was subsequently reduced to \$16,000 due to the licensee's history of compliance with the rules).