



Federal Communications Commission
Washington, D.C. 20554

December 15, 2015

International Broadcasting Corporation, Inc.
c/o Davina Sashkin, Esq.
1300 North 17th Street
11th Floor
Arlington, VA 22209

Re: International Broadcasting Company, Inc.
WMTI(AM), Morovis, Puerto Rico, *et al.*
File Nos. BTC-20140114ACT *et seq.*

Dear Counsel:

By this letter we grant the uncontested applications for consent to transfer control of the licenses for the stations listed in Appendix A, licensed to International Broadcasting Company, Inc. ("IBC"), from Mr. Angel Roman Lopez and Ms. Ruth Roman Lopez, as the court appointed heirs of the estate of Mr. Pedro Roman Collazo, to Mr. Lopez and Ms. Lopez as individuals. In addition, we grant IBC's request for a satellite exemption to continue operating WVEO(TV) and WVOZ-TV as satellite stations of WTCV(TV), pursuant to Note 5 of Section 73.3555 of the Commission's rules ("Rules").¹

Background. Mr. Pedro Roman Collazo (now deceased) was the sole member of IBC, which is currently the licensee of one FM station, four AM stations and three full power television stations, two of which are authorized satellite stations.² Mr. Collazo, in his individual capacity, was also the licensee of WVOZ(AM), San Juan, Puerto Rico. On April 25, 2011, Mr. Angel Roman Lopez petitioned a court of competent jurisdiction in the Commonwealth of Puerto Rico requesting that Mr. Collazo, his uncle, be declared disabled and that Mr. Lopez be appointed his legal guardian. According to expert testimony cited in the Court Order, Mr. Collazo had been diagnosed with dementia resulting from Alzheimer's and was unable to meet his basic needs or identify and value his assets. On October 3, 2011, the court appointed Mr. Lopez legal guardian for Mr. Collazo.³ On December 12, 2011, a request for consent to the involuntary transfer of control of stations was filed with the Commission.⁴

While the involuntary transfer of control applications were pending, on February 9, 2012, counsel for IBC notified the Commission by letter that on February 2, 2012, Mr. Collazo passed away. The letter stated that "additional information concerning the ownership of Sr. Collazo's stations will be provided to

¹ 47 C.F.R. § 73.3555, Note 5.

² At the time of Mr. Collazo's death IBC was the licensee of one FM station and five AM stations, including: However, as discussed herein in Station WGYA(AM) has been sold to a third party. *See* File No. BAL-20130827ABD(granted Oct. 14, 2015, consummated Oct. 19, 2015).

³ *See* File No. BTC-20140114ACT ("Transfer Applications").

⁴ *See* File No. BTC-20111212AGU *et al.* Consistent with IBC's request, the Media Bureau has dismissed these applications as they are moot. *International Broadcasting Corp., Inc.*, Order and Consent Decree, DA 15-1189 (MB 2015). As discussed herein, the applications have been superseded by subsequently filed and granted involuntary transfer of control applications filed to transfer the control of IBC to Mr. Lopez and Ms. Lopez as court-appointed heirs. *See* File No. BTC-20151002ACH *et al.*

the Commission when it becomes available.”⁵ No further information concerning ownership of the Stations was filed with the Commission until January 11, 2014, when the instant transfer of control applications were filed requesting Commission consent to transfer the control of the Stations from Mr. Collazo to his court appointed heirs, Mr. Lopez and Mr. Collazo’s niece, Ms. Ruth Roman Lopez.⁶

On October 2, 2015, at the request of Video Division staff, new involuntary transfer of control applications were filed by Mr. Lopez and Ms. Lopez requesting Commission consent to the involuntary transfer of control of IBC to Mr. Lopez and Ms. Lopez as court-appointed heirs of Mr. Collazo’s estate.⁷ In furtherance of the court’s determination, these applications were granted on October 9, 2015, by staff action and were subsequently consummated. On October 26, 2015, IBC, Mr. Lopez and Ms. Lopez entered into a Consent Decree with the Media Bureau terminating an investigation into potential violations of the Commission’s Rules and the Communications Act of 1934, as amended (the “Act”) that may have resulted from the facts described above.⁸

IBC has also filed applications for consent to assign Stations WGYA(AM), Guayama, Puerto Rico and WGIT(AM), Canovanas, Puerto Rico to independent third party buyers, as well as assign Station WVOZ(AM) from Mr. Lopez and Ms. Lopez as court-appointed heirs to IBC.⁹ On October 14, 2015, the Commission granted both applications. While a notice of non-consummation has been filed for WGIT(AM), IBC has consummated the sale of WGYA(AM).¹⁰ The assignment application for WVOZ(AM) remains pending.

Mr. Lopez and Ms. Lopez currently have an attributable interest in Aerco Broadcasting Corporation (“Aerco”) the licensee of radio station WQBS(AM), San Juan, Puerto Rico, and television station WSJU-TV, San Juan, Puerto Rico. In addition to the combination created by Mr. Lopez and Ms. Lopez’s interests in Aerco and proposed interests in IBC, an application for consent to assign WVOZ(AM), formerly held in the name of Mr. Collazo, has also been filed. Grant and consummation of these applications would result in Mr. Lopez and Ms. Lopez having an attributable interest in two television stations and seven radio stations (six AM and one FM). As acknowledged in the transfer of control applications, this combination would violate the Commission’s local radio ownership rule¹¹ and TV-radio cross ownership rule.¹² In particular, Mr. Lopez and Ms. Lopez would exceed by one the

⁵ Letter from Richard F. Swift, Esq., counsel for International Broadcasting Corp. and Pedro Roman Collazo to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Feb. 9, 2012).

⁶ Mr. Lopez and Ms. Lopez were declared heirs of Mr. Collazo’s estate on August 10, 2012. The transfer of control applications state that because Mr. Collazo died intestate and no executor or trustee was named or appointed during the pendency of the court proceeding to determine Mr. Collazo’s heirs, Mr. Lopez continued to control the Stations pursuant to his prior court appointment as legal guardian. Transfer Applications at Attachment 7 (Court Orders).

⁷ See File Nos. BTC-20151002ACH *et al.*

⁸ *International Broadcasting Corp., Inc.*, Order and Consent Decree, DA 15-1189 (MB 2015).

⁹ See File Nos. BAL-20130827ABD, BAL-20141229ACU, and BAL-20151103AYW, *respectively*.

¹⁰ As a result the instant transfer of control application as it relates to WGYA(AM) is now moot and is dismissed as part of our action taken in this item.

¹¹ 47 C.F.R. § 73.3555(a).

¹² 47 C.F.R. § 73.3555(c); Transfer Application at Exhibit 20; see also *Id.* at Attachment 20 (Radio Multiple Ownership Compliance Showing) and (Cross-Ownership Showing).

numerical limit for the total number of radio stations that a person or entity may have an attributable interest in under the Commission's TV-radio cross ownership rule.¹³ As a result, Mr. and Ms. Lopez have agreed to voluntarily divest ownership in one AM radio station.¹⁴

Discussion. Section 310(d) of the Communications Act of 1934 ("the Act") provides that no station license shall be transferred or assigned until the Commission, upon application, determines that the public interest, convenience, and necessity will be served thereby.¹⁵ If the Commission is unable to find that the proposed transaction serves the public interest, or if the record presents a substantial and material question of fact as to whether the transaction serves the public interest, Section 309(e) of the Act requires that the applications be designated for hearing.¹⁶ Having reviewed the application and other facts before us, we conclude that grant of the applications, subject to the divestiture condition set forth above, will result in compliance with the Commission's rules and serve the public interest, convenience and necessity, as required by Section 310 of the Act.

Satellite TV Exemption. In *Television Satellite Stations*,¹⁷ the Commission stated that applicants seeking to transfer or assign a television satellite station are entitled to a "presumptive" exemption from Section 73.3555(b) of the Commission's rules if the parent/satellite combination meets three criteria: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station.¹⁸ Applications meeting these three criteria, when un rebutted, will be viewed favorably by the Commission. If an applicant cannot qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis, and grant the application if there are compelling circumstances that warrant approval.¹⁹ No objections have been filed against the requested continued "satellite exemptions" for stations WVEO(TV) and WVOZ-TV.

With respect to the first criterion, we note that following the digital transition full-power television stations have a digital Principal Community contour that serves a much larger area than their former analog City Grade contour. Thus, the principle community contour is not an equivalent standard

¹³ Under the TV-radio cross ownership rule when the Grade A contour of the commonly owned TV broadcast station(s) encompasses the entire community of license of the commonly owned FM or AM station, so long as there are at least 20 independently owned media voices an entity may have an attributable interest in up to two commercial television and six commercial radio stations (to the extent permitted under the local radio ownership and local television ownership rule). Furthermore, under the local radio ownership rule in a market with 45 or more full power, commercial and non-commercial radio stations, a single person or entity may not have a cognizable interest in more than 8 commercial radio stations, including not more than 5 in the same service). IBC would hold six AM station, one over the limit for a single class of service.

¹⁴ See File No. BAL-20151112XRN. This would ultimately result in Mr. Lopez and Ms. Lopez having an attributable interest in two television stations and six radio stations (five AM and one FM), which would comply with the plain language of both the local radio ownership rule and TV-radio cross ownership rule.

¹⁵ 47 U.S.C. § 310(d).

¹⁶ 47 U.S.C. § 309(e).

¹⁷ *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212 (1991) ("Television Satellite Stations").

¹⁸ *Television Satellite Stations*, 6 FCC Rcd at 4213-4214.

¹⁹ *Id.* at 4214.

to use in determining whether a satellite qualifies for the presumptive satellite exemption to the duopoly rule. Because the first criterion of the presumptive exemption no longer applies, we must evaluate this “satellite” exemption request according to the *ad hoc* standard.

We find that the unique topographical characteristics of Puerto Rico warrant approval of the satellite exemption. IBC argues, and the Commission has long held,²⁰ that the mountainous terrain that divides the island limits signal propagation and effectively prevents stations serving San Juan from reaching other areas of the island. IBC also provides examples of this topographical effect based on other stations located in Ponce, the principal community of license for station WVEO(TV), and Aguadilla, the principal community of license for WVOZ-TV.²¹

Second, IBC contends that economic conditions, including the competitive nature of the broadcast market, necessitate the continued treatment of WVEO and WVOZ-TV as satellites. As part of its request, IBC has included a letter dated March 19, 2015, written by Mr. Jose A Ribas Dominicci, President of JAR Media Group.²² In the letter, Mr. Dominicci highlights the need to provide continued satellite status to WVEO and WTCV-TV, given the competitive nature of the Puerto Rico broadcast market and current economic situation. Not only does Mr. Dominicci conclude, based on his experience and understanding of the Puerto Rico broadcast market, that no alternative operators would be able or willing to operate WZOV-TV and/or WVEO as stand-alone full service stations, but continued satellite status is “imperative” to the survival of the stations.²³ According to Mr. Dominicci, significant declines in population (from 4 million in 2009 to 3.6 million in 2013), and the depressed economy in Puerto Rico, have necessitated the need of broadcasters to operate stations outside the major population center of San Juan as satellites.²⁴

Based on a review of the facts and circumstances we conclude that IBC has provided information sufficient to warrant continued satellite operation for WVEO(TV) and WVOZ-TV under the *ad hoc* standard. We also note that these stations have been operated as satellites of WTCV(TV) since 1993 and we see no evidence in the record that a continued “satellite” exemption will harm competition in the Puerto Rico.²⁵ Accordingly, for the reasons above, we conclude that grant of a continuing satellite exemption for WVEO(TV) and WVOZ-TV to operate as a satellites of WTCV(TV) would be in the public interest.

²⁰ See, e.g., *Shareholders of Univision Communications, Inc. and Broadcasting Media Partners et al*, Memorandum Opinion and Order, 22 FCC Rcd 5842, 5857, ¶33 (2007) (“*Univision/BMPI Order*”) (“[a] mountainous ‘spine’ separates the eastern and western portions of Puerto Rico that limits signal propagation, and effectively prevents stations serving San Juan from reaching other population centers on the island.”); *Paxson Communications of San Juan, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 14139, 14143, ¶14 (2001) (“The island’s topography significantly obstructs local broadcast signals, and limits the ability of television stations in San Juan to provide service to portions of the island for which service would ordinarily be received.”).

²¹ Transfer Application at Attachment 20, pgs. 4-5 (Request for Continued Satellite Exemption).

²² *Id.* at pgs. 8-19.

²³ *Id.* at p. 8-9. Mr. Dominicci has been involved in the Puerto Rico television market since 1958 and has served as Executive Director of the Puerto Rico Association of Broadcasters for nearly twenty years. *Id.* at 8.

²⁴ *Id.* at pg. 9.

²⁵ See *Canal 48, Inc.*, Letter Decision, 8 FCC Rcd 2193 (Vid. Div. 1993); *Esperanza Television, LLC*, Letter Decision (Vid. Div. rel. Jul. 23, 2001).

Voluntary Divestiture. In order to address the potential multiple ownership violations discussed above, IBC has filed an application requesting consent to assign station WRSJ(AM), Bayamon, PR to the IBC Divestiture Trust.²⁶ The trustee is Jean Paul Vissepo Garriga, who IBC has certified has no personal, familial, or extra-trust business relationship with IBC or their affiliates, and does not have an attributable interest in any broadcast station implicating our multiple or cross-ownership rules. Mr. Lopez and Ms. Lopez represent that, in the event there is no agreement in place to sell the station when it is placed in trust, or a pending sale is not timely consummated, the trustee will be required to divest the station within one year of being placed into the IBC Divestiture Trust.

We have reviewed the terms of the trust and find that it complies with Commission rules and precedent.²⁷ Though we find use of the IBC Divestiture Trust to be permissible under the facts of this specific case, we note that it has not been staff precedent to permit such divestiture trusts, even if adequately insulated as is the case here, in single-market transactions. Absent the unique facts and circumstances presented by this case we would not be inclined to grant the applications prior to complete divestiture of WRSJ(AM), and we caution future applicants about use of such trusts.²⁸ We will grant the instant applications conditioned upon consummation of the assignment of WRSJ(AM) to the IBC Divestiture Trust prior to or concurrent with the consummation of the transfer of control of IBC.²⁹ In addition, IBC has requested that action on the assignment application for WVOZ(AM) be held in abeyance until either WRSJ(AM) has been sold or placed in trust.³⁰

ACCORDINGLY, IT IS ORDERED, That the applications for the transfer of control of the licenses listed in Appendix A, pursuant to 47 U.S.C. § 310(d), **ARE GRANTED**, subject to the condition that station WRSJ(AM) shall be assigned to the IBC Divestiture Trust prior to or concurrent with the consummation of the transaction approved herein.

IT IS FURTHER ORDERED, That the application for transfer of control of Station WGYA(AM), Guayama, Puerto Rico (File No. BTC-20140114ADD) **IS DISMISSED**.

²⁶ In the Transfer Applications, IBC had originally committed to send one of the stations to a divestiture trust within 30 days of consummation of the instant transaction. Transfer Application at Exhibit 20. IBC subsequently filed the application proposing to send station WRSJ(AM) to a trust prior to action on the instant applications. See File No. BAL-20151112XRN.

²⁷ 47 C.F.R. § 73.3555, Note 2d.

²⁸ Our action today resolves years of uncertainty surrounding ownership of these stations and will provide certainty as to the ownership of the full power television stations at issue prior to commencement of the television broadcast incentive auction. See *International Broadcasting Corporation, Inc.*, Order and Consent Decree, DA 15-1189 (rel. Oct. 26, 2015) (terminating the investigation into possible violations of Section 310 of the Act and Sections 73.3526, 73.3540, and 73.3555 of the Rules).

²⁹ See, e.g., *Tele-Communications, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 3161 (1999); *Shareholder of Clear Channel Communications, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 1421, 1422 (2008); *Shareholders of Univision Communications, Inc. and Broadcasting Media Partners et al*, Memorandum Opinion and Order, 22 FCC Rcd 5842, 5860-5861 (2007) (“*Univision/BMPI Order*”).

³⁰ File No. BAL-20151103AYW.

IT IS FURTHER ORDERED, That IBC's request for a continuing satellite exemption to operate WVEO(TV) and WVOZ-TV as satellite stations of WTCV(TV), pursuant to 47 C.F.R. § 73.3555, Note 5, **IS GRANTED**.

Sincerely,

A handwritten signature in black ink, appearing to read 'B Kreisman', with a stylized, flowing script.

Barbara Kreisman
Chief, Video Division
Media Bureau

APPENDIX A

Station	Facility ID	File Number
WVOZ-TV, Ponce, Puerto Rico	29000	BTCCDT-20140114ADC
WTCV(TV), San Juan Puerto Rico	28954	BTCCDT-20140114ACY
WVEO(TV), Aguadilla, Puerto Rico	61573	BTCCDT-20140114ACZ
WIVE-LP, Ceiba, Puerto Rico	20578	BTCTT-20140114ACW
WMTI(AM), Morovis, Puerto Rico ³¹	72452	BTC-20140114ACT
WGIT(AM), Canovanas, Puerto Rico	87150	BTC-20140114ACU
WIBS(AM), Guayama, Puerto Rico	72384	BTC-20140114ACV
WVOZ-FM, Carolina, Puerto Rico	28921	BTC-20140114ADA
WRSJ(AM), Bayamon, Puerto Rico	295	BTC-20140114ACX
WVOZ-FM1, Juana Diaz, Puerto Rico	136148	BTCFTB-20140114ADB

³¹ Formerly WEKO(AM).