



Federal Communications Commission
Washington, D.C. 20554

April 6, 2007

DA 07-1650

In Reply Refer to: 1800B3-BSH

Released: April 6, 2007

Richard Eiswerth, President
Cincinnati Public Radio, Inc.
1223 Central Parkway
Cincinnati, OH 45214

Dan Baughman, President
Christian Voice of Central Ohio, Inc.
P.O. Box 793
New Albany, OH 43054

In re: **WVXC(FM), Chillicothe, Ohio**
Facility ID No. 74298
File No. BALED-20060829AAC

WVXR(FM), Richmond, Indiana
Facility ID No. 74295
File No. BALED-20060829AAD

WVXW(FM), West Union, Ohio
Facility ID No. 74301
File No. BALED-20060829AAE

**Application for Assignment of
Licenses
Informal Objections**

Dear Mr. Eiswerth and Mr. Baughman:

We have before us the above-captioned application ("Assignment Application") for approval of the proposed assignment of the licenses for noncommercial educational ("NCE") Stations WVXC(FM), Chillicothe, Ohio, WVXR(FM), Richmond, Indiana, and WVXW(FM), West Union, Ohio, from Cincinnati Public Radio, Inc. ("CPRI") to Christian Voice of Central Ohio, Inc. ("CVCO"). A number of Station WVXW(FM) listeners have filed objections to the Assignment Application, expressing their appreciation for the programming currently offered over the station and asking the Commission to bar its proposed sale to CVCO.¹ These listener letters will be treated as informal objections in accordance with Section 73.3587 of the Commission's Rules (the "Rules").² For the reasons stated below, we deny the informal objections and grant the Assignment Application.

¹ The Commission received objections to the above-captioned assignment application from 24 listeners, who did not serve their objections on the applicants. Their submissions are exempt under the Commission's *ex parte* rules, 47 C.F.R. §§ 1.1200 *et seq.*, pursuant to 47 C.F.R. § 1.1204(a)(8). Their informal comments are addressed herein.

² 47 C.F.R. § 73.3587.

While the Commission recognizes that Station WVXW(FM)'s format has developed a devoted listenership, it is well-settled policy that the Commission does not regulate programming formats, nor does it take potential format changes into consideration in reviewing license assignment applications. In 1976, the Commission issued a *Policy Statement* in which it concluded that review of program formats was not required by the Communications Act of 1934, as amended (the "Act"), would not benefit the public, and would deter innovation, as well as impose substantial administrative burdens on the Commission.³ The Supreme Court of the United States has upheld this policy and the Commission's determination that "the public interest is best served by promoting diversity in entertainment formats through market forces and competition among broadcasters . . ." and that a change in programming is not a material factor that should be considered by the Commission in ruling on applications for license assignment or transfer.⁴

Additionally, one of the objectors has alleged that CPRI's public notice of the proposed sale did not fully comply with Section 73.3580 of the Rules⁵ and, therefore, seeks an extension of the period for filing public comment. We decline to postpone a decision in this matter, noting that the objector advises that CPRI took measures to eliminate the problem with the public notice. In light of the time since those corrective efforts were undertaken by CPRI, all comments to the Assignment Application, including those of the objector in question, have been fully considered.

Based on the above, we find that the objectors have not raised a substantial and material question of fact warranting further inquiry. We further find that CVCO is qualified as the assignee and that grant of the Assignment Application is consistent with the public interest, convenience and necessity.

Accordingly, IT IS ORDERED, that the informal objections filed by the objectors ARE DENIED, and that the application to assign the licenses for Station WVXC(FM), Chillicothe, Ohio (File No. BALED-20060829AAC), Station WVXR(FM), Richmond, Indiana (File No. BALED-20060829AAD), and Station WVXW(FM), West Union, Ohio (File No. BALED-20060829AAE) from Cincinnati Public Radio, Inc. to Christian Voice of Central Ohio IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Kenneth C. Howard, Jr., Esq.

³ See *Changes in the Entertainment Formats of Broadcast Stations*, Memorandum Opinion and Order, 60 FCC 2d 858, 865-66 (1976), *recon. denied*, Memorandum Opinion and Order, 66 FCC 2d 78 (1977), *rev'd sub nom.*, *WNCN Listeners Guild v. FCC*, 610 F.2d 838 (D.C. Cir. 1979), *rev'd*, 450 U.S. 582 (1981). Note that Section 326 of the Act expressly prohibits the Commission from interfering with the right of free speech of broadcasters. 47 U.S.C. § 326.

⁴ *FCC v. WNCN Listener's Guild*, 450 U.S. 582, 585 (1981).

⁵ See 47 C.F.R. § 73.3580.