

Request for Continued Satellite Authority

This application seeks consent to the assignment of television stations KITV, Honolulu, HI (Facility ID No. 64548), KHVO, Hilo, HI (Facility ID No. 64544), and KMAU, Wailuku, HI (Facility ID No. 64551) from Hearst Stations Inc. to KITV, Inc. Stations KHVO and KMAU are operated as satellite stations of KITV pursuant to Section 73.3555, Note 5 of the Commission's rules.¹ KITV, Inc. hereby respectfully requests that the Commission grant it continued authority to operate KHVO and KMAU as satellites of KITV.²

KITV, an ABC affiliate, and its two satellites, KHVO and KMAU, are located in the Honolulu, Hawaii Designated Market Area (the "Hawaii DMA"). The Hawaii DMA encompasses multiple islands which make up the state of Hawaii. Hawaii's unique topology – the large expanses of water between the islands where the largest population centers are located and the mountainous terrain which can obstruct the reception of broadcast signals – makes it almost impossible for the over-the-air signals of full-power television stations broadcasting from Honolulu to reach the entire Hawaii DMA. As a result, five of the broadcasters serving the Hawaii DMA operate satellite stations in order to best serve the market.³ The Commission has routinely granted requests for continued satellite authority in Hawaii,⁴ and this system of parent and satellite stations has served the viewers of the Hawaii DMA well. In particular, grant of the instant request will ensure that viewers dispersed across Hawaii's multiple islands continue to receive the ABC network programming and local news programming provided by KITV.

In *Television Satellite Stations*,⁵ the Commission stated that stations are entitled to a "presumptive" exemption from Section 73.3555(b) of the Commission's rules if the parent/satellite combination meets the following three criteria: (1) there is no City Grade overlap between the parent and the satellite stations; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or purchase and

¹ *Applications of Argyle Television, Inc. and The Hearst Corporation*, 12 FCC Rcd 10737, 10742-44 (1997) ("*Hearst Decision*").

² Because the digital noise limited contour of KHVO does not overlap that of KITV or KMAU, a waiver of the Commission's ownership rule is not technically necessary for KHVO, but is sought in recognition of the station's long operation as a satellite station in combination with satellite station KMAU.

³ See Letter from Stephan C. Sloan, Director, Media Services Group, Inc. to William Lake, Chief – Media Bureau, Federal Communications Commission (May 11, 2015) (at Attachment A hereto). The affiliates of each of the four major broadcast networks serving the DMA use multiple stations to serve the market. The ABC, NBC and FOX affiliates each have two satellites and the CBS affiliate has one digital TV translator.

⁴ See, e.g., *Consent to Transfer Control of Licenses by Shareholders of Media General, Inc. and Shareholders of LIN Media, LLC to Post-Merger Shareholders of Media General, Inc.*, 29 FCC Rcd 14798 (2014); *LIN License Company, LLC*, 27 FCC Rcd 12092 (2012); *HBK NV LLC*, 25 FCC Rcd 2354 (2010); *Various Applications for Assignment of License and Transfer of Control of Montecito Broadcast Group, LLC to New Vision Television, LLC*, 29 FCC Rcd 19218 (2007).

⁵ *Television Satellite Stations Review of Policy and Rules*, 6 FCC Rcd 4212 (1991) (subsequent history omitted) ("*Television Satellite Stations*").

operate the satellite as a full-service station.⁶ Where all three criteria are not met in a particular case, the Commission will evaluate the satellite exemption request on an *ad hoc* basis and grant the request if there are compelling circumstances that warrant approval.⁷

Contour Overlap. With respect to the first criterion, as the digital transition has been completed, there is no equivalent contour to the City Grade contour for purposes of the waiver standard.⁸ Prior to the transition to digital television, neither KHVO's nor KMAU's analog City Grade contour overlapped that of the parent station KITV.⁹ In the digital era, the noise limited contour of KITV does not overlap that of KHVO.¹⁰ The noise limited contour of KMAU does overlap with KITV; however, virtually all of the overlap takes place in an unpopulated area over water.¹¹

Service to Underserved Areas. The second criterion of the Commission's presumptive test, which requires that the satellite station provide service to an "unserved area," can be satisfied using the "transmission test" or "reception test." An area is considered underserved under the "transmission test" if there are no more than two television stations licensed to the community of license of the proposed satellite. Alternatively, an area is considered underserved under the "reception test" if 25% or more of the portion of the proposed satellite station's contour that does not overlap the contour of the proposed parent station receives four or fewer television signals in addition to the proposed satellite.¹²

The Hawaii DMA's large size and the dispersed location of its population centers among multiple islands make operating a standalone television station more difficult than in other areas.¹³ As a result, the stations' competitors continue to operate satellite stations to cover the market. While there are four television stations (in addition to KHVO) licensed to the community of Hilo and five television stations (in addition to KMAU) licensed to the community of Wailuku, all but one of those stations are operated as satellites rebroadcasting other Honolulu stations.¹⁴ The only non-satellite television station is KMEB(DT), a non-commercial educational station (NCE) in Wailuku. The lack of non-satellite stations in these communities

⁶ *Id.* at 4213-14.

⁷ *Id.* at 4214.

⁸ See, e.g., *Selenka Communications, LLC*, 25 FCC Rcd 278, 279 (MB 2010).

⁹ *Hearst Decision*, 12 FCC Rcd at 10742.

¹⁰ See Attachment B hereto, which contains a map showing the stations' digital noise limited contours created using Google Earth.

¹¹ *Id.*

¹² *Television Satellite Stations*, 6 FCC Rcd at 4215.

¹³ See *BBC License Subsidiary L.P.*, 10 FCC Rcd 10968, 10976 (1995) (discussing Hawaii's unique geography as a basis for granting a "satellite" exemption to stations in Wailuku and Hilo under the Commission's *ad hoc* analysis). See also *Emmis Television License, LLC*, 20 FCC Rcd 20041, 20044 (2005) ("The unique distance and terrain features in the Hawaiian Islands, combined with the fact that most of the stations in the service area operate as satellites, constitute persuasive evidence that continued satellite operation may be warranted for KAI-TV.").

¹⁴ The Honolulu NBC affiliate, KHNL(DT), also operates KHBC-TV, Hilo and KOGG(DT), Wailuku. KHON-TV, the FOX affiliate, also operates KHAW-TV, Hilo and KAI-TV, Wailuku. The MyNetwork TV affiliate, KFVE(DT), also operates KGMD-TV, Hilo and KGMV(DT), Wailuku. Independent station KWHE(DT), Honolulu, also operates KWHM(DT), Wailuku, and KWHD(DT), Hilo.

indicates that, in the absence of satellite operation, these communities would not be served by more than two independent television stations. Moreover, the termination of the continued satellite status of KHVO and KMAU could deprive Hilo and Wailuku of service that would not likely be provided by a standalone operation. Thus, the satellite operation of KHVO and KMAU continues to be warranted under an *ad hoc* analysis.

No Alternative Operator. The third criterion of the Commission's test – the absence of an alternative operator who is ready to purchase and operate the satellite stations as full-service, stand-alone stations – remains true. As demonstrated in the letter attached hereto at Attachment A from Stephan C. Sloan, Director, Media Services Group, Inc., a nationally-recognized media brokerage firm, it is unlikely that any alternative buyer exists who would be willing to operate KHVO or KMAU on a stand-alone basis. In particular, Mr. Sloan notes that “neither KHVO nor KMAU have the potential for viable independent operations.” Additionally, Mr. Sloan notes that “the marketing of KHVO and KMAU as independent stand-alone stations would not be successful as prospective purchasers would recognize the technical difficulties and lack of programming options available to the stations.”

Accordingly, KITV, Inc. respectively requests that the Commission grant it authority to continue to operate KHVO and KMAU as satellites of KITV following the proposed assignment.

Attachment A



MEDIA SERVICES GROUP

May 11, 2015

Mr. William Lake
Chief – Media Bureau
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Re: KITV-DT, Honolulu, HI
KHVO-DT, Hilo, HI
KMAU-DT, Wailuku, HI

Dear Mr. Lake:

The purpose of this letter is to support a Request for Continued Satellite Authority in connection with the transfer application of KHVO and KMAU with KITV (herein “Stations”). I am writing in response to a request for my opinion regarding the merits of continuing the satellite operation of the Stations.

I am a Director of Media Services Group, Inc. with over 22 years of experience in the broadcasting industry. I have provided expert opinions on valuations for numerous clients including the IRS, Justice Department, and FDIC as well as raising capital for network affiliate and independent television stations operators. I have advised numerous banks and investment firms in due diligence work as well as recapitalization and station bankruptcy proceedings including the conduct of auctions and acting as Transition Officer. I currently serve as a licensee and Trustee of a broadcast property for the benefit of an FDIC insured national bank.

I am familiar with the Honolulu, HI television market, the underlying demographic and economic data, as well as programming and competitive influences. Honolulu County, which includes all of the island of Honolulu and the capital city, represents approximately 70% of the market population and 65% of the market’s economic activity as measured by retail sales data. Please see chart below for demographic and economic information important to television operations in the Honolulu market.

<u>CATEGORY</u>	<u>Hawaii</u> <u>County</u> <u>Mkt.</u>	<u>Honolulu</u> <u>County</u> <u>Mkt.</u>	<u>Kauai</u> <u>County</u> <u>Mkt.</u>	<u>Maui &</u> <u>Kala'wao</u> <u>Mkts.</u>	<u>State of HI</u>
Population '14	191,916	991,018	69,324	160,528	1,412,786
Population Growth '10-'14	3.69%	3.97%	3.33%	3.62%	3.86%
Projected Pop. Growth '14-'19	4.80%	4.985	4.49%	4.70%	4.90%
Median Age:					
Male (yrs.)	40.3	36.2	40.5	39.5	37.3
Female (yrs.)	42.2	39.6	43.1	41.1	40.3
2014 Households	69,914	323,368	24,070	56,398	473,750
2014 Average Household EBI	\$57,508	\$88,188	\$71,984	\$80,451	\$81,916
2014 Median Household EBI	\$44,419	\$70,816	\$59,981	\$60,204	\$64,596
2014 Retail Sales (mil's)	3,227.946	15,095.25	1,389.162	3,451.627	23,163.98
2019 Retail Sales (mil's)	3,572.283	16,032.94	1,542.154	3,885.743	25,033.12
% Change '14-'19 Retail Sales	10.66%	6.21%	11.01%	12.57%	8.07%
Comp. Growth Rate R. S. '14-'19	2.05%	1.21%	2.11%	2.40%	1.56%

*Claritas/Nielsen Site Reports 2014; Woods & Poole Economics 2014

The market is served by nine commercial broadcasters representing major and minor network affiliations. Reviewing BIA's Media Access Pro 4.6 Television Analyzer Database indicates that all operators (not including KHLU-LP for which there is incomplete data) have through their main station signal or the assembly of main station and satellite stations achieved coverage of 66% or greater of the market population with an average of 76% of the market population covered. Five of the market's operators utilize one or more satellite stations to deliver their programming to the market. Also apparent from the BIA market data is the robust competition for revenue. BIA estimates that six operators garner 98.9% of Honolulu television market revenues with Raycom Media, Inc. exceeding 41% of the revenue and Media General approaching 30% of market revenues.

The chart below summarizes the Honolulu television market competition.

CALLS	Lic. Channel	Affiliation	Owner	Lic. City of License
KBFD-DT	32	KOR	Allen Broadcasting Corporation (HI)	Honolulu
KFVE	9	My	American Spirit Media LLC	Honolulu
KGMD-TV	9	My	American Spirit Media LLC	Hilo
KGMV	3	My	American Spirit Media LLC	Wailuku
KUPU	56	REL	Hawaii Catholic TV Inc	Waimanalo
KHVO	13	ABC	Hearst Television Inc	Hilo
KITV	4	ABC	Hearst Television Inc	Honolulu
KMAU	12	ABC	Hearst Television Inc	Wailuku
KHLU-LP	46	UNI	HTV/HTN/Hawaiian TV Network	Honolulu
KPXO-TV	66	ION	ION Media Networks Inc	Kaneohe
KKAI	50	RTV	Kailua Television LLC	Kailua
KWHD	14	IND	LeSEA Broadcasting Corp	Hilo
KWHE	14	IND	LeSEA Broadcasting Corp	Honolulu
KWHM	21	IND	LeSEA Broadcasting Corp	Wailuku
KLEI-TV	6	My	Mauna Kea Broadcasting Company Inc	Kailua-Kona
KAIL-TV	7	FOX	Media General	Wailuku
KHAW-TV	11	FOX	Media General	Hilo
KHON-TV	2	FOX	Media General	Honolulu
KIKU	20	IND	NRJ TV LLC	Honolulu
KGMB	5	CBS	Raycom Media Incorporated	Honolulu
KHBC-TV	2	NBC	Raycom Media Incorporated	Hilo
KHNL	13	NBC	Raycom Media Incorporated	Honolulu
KOGG	15	NBC	Raycom Media Incorporated	Wailuku
KAHA-TV	26	TBN	Trinity Broadcasting Network Inc	Honolulu

Given the relative technical parity of signal coverage and the significant revenue competition present, KITV needs both its satellite stations to effectively compete with the other operators in the market. The quality of service provided to the viewers and communities of this geographically diverse market would be diminished significantly if KITV was denied the continuation of operations with KHVO and KMAU.

It is my opinion that neither KHVO nor KMAU have the potential for viable independent operations. Neither station, nor their combined operation, has sufficient market coverage to compete for audience and revenues in the Honolulu market. I believe that if satellite operations are not continued, viewers in KHVO and KMAU's coverage areas would be denied the over the air access to ABC programming and the local news, weather and sports as well as children's programming that KITV delivers through KHVO and KMAU satellite operations. The geographic

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expanse of the Honolulu television market illustrates the utility and necessity of satellite station operations.

My brokerage and valuation experience leads me to believe that the marketing of KHVO and KMAU as independent stand-alone stations would not be successful as prospective purchasers would recognize the technical deficiencies and lack of programming options available to the stations. I believe a knowledgeable buyer would not identify either KHVO or KMAU as viable and would not undertake their acquisition for full-service, independent operation.

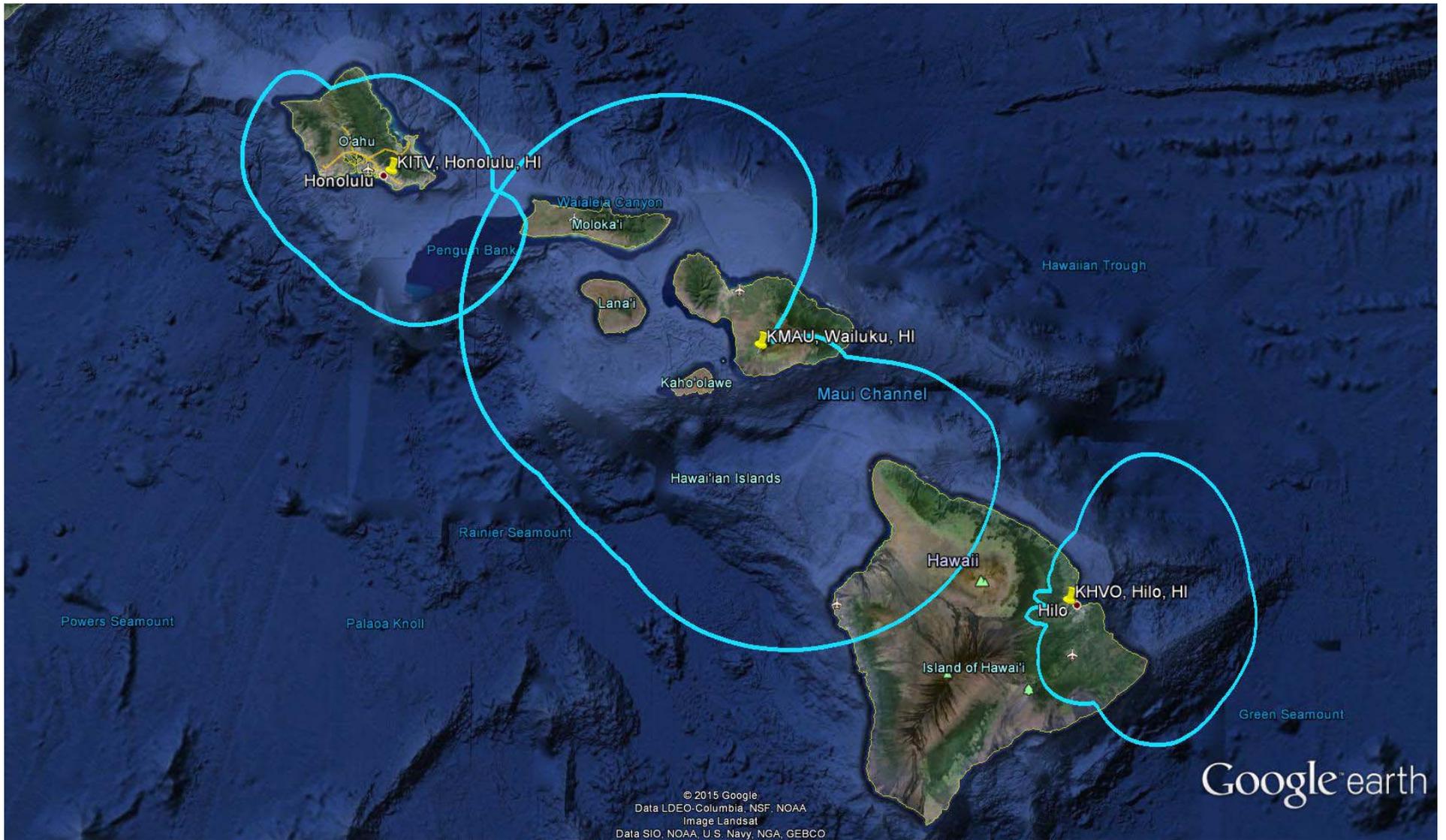
I state that my engagement and compensation are independent of the opinions stated in this letter. The statements and opinions expressed in this letter are correct to the best of my knowledge and belief, subject to the data identified. The analysis, conclusions and opinions that are set forth in this letter represent the work of Media Services Group, Inc.

Sincerely,



Stephan C. Sloan
Director

Attachment B



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