



**Federal Communications Commission  
Washington, D.C. 20554**

July 15, 2015

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KITV, Inc.  
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Lerman Senter PLLC  
2000 K Street NW, Suite 600  
Washington, DC 20006

Hearst Stations Inc.  
c/o Mark J. Prak  
Brooks, Pierce, McLendon, Humphrey & Leonard LLP  
P.O. Box 1800  
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Re: Application for Consent to Assignment of Licenses and  
Request for Continued Satellite Authority  
KITV, Honolulu, HI, Fac. ID No. 64548  
KHVO, Hilo, HI, Fac. ID No. 64544  
KMAU, Wailuku, HI, Fac. ID No. 64551  
File No. BALCDT-20150521AAR

Dear Counsel:

By this letter we grant the above-captioned uncontested application for the assignment of three television licenses from Hearst Stations Inc. ("Hearst") to KITV, Inc. In connection with the sale, we also grant KITV, Inc. continued authority to operate stations KHVO, Hilo, HI and KMAU, Wailuku, HI, as satellites of KITV, Honolulu, HI, pursuant to the satellite exemption to the local television ownership rule.<sup>1</sup>

In *Television Satellite Stations*, the Commission adopted "a presumption that TV satellite operations are in the public interest if individual applicants can satisfy certain public interest criteria."<sup>2</sup> The presumptive satellite exemption to the duopoly rule is therefore met if the following three public interest criteria are satisfied: (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.<sup>3</sup> If an applicant does not qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc*

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<sup>1</sup> 47 C.F.R. § 73.3555, Note 5.

<sup>2</sup> *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212, 4213 (1991) (subsequent history omitted) ("*Television Satellite Stations*").

<sup>3</sup> *Id.* at 4213-14.

basis and grant the application if there are compelling circumstances that warrant approval.<sup>4</sup> No objections have been filed against the requested continued “satellite exemption.”

With regard to the first criterion, we recognize 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, and that the first criterion of the presumptive standard is no longer relevant in the digital environment.<sup>5</sup> However, prior to the digital transition, neither KHVO’s nor KMAU’s analog City Grade contour overlapped that of the parent station KITV.<sup>6</sup>

Regarding the second criterion, Hearst is unable to presumptively demonstrate that KHVO and KMAU are located in underserved areas. The “transmission” test deems an area underserved where there are two or fewer full-service television stations (including commercial, noncommercial, and satellite stations) licensed to a proposed satellite’s community of license.<sup>7</sup> Four other television stations (in addition to KHVO) are licensed to the community of Hilo and five others (in addition to KMAU) are licensed to the community of Wailuku.<sup>8</sup> However, all but one of those stations operate as satellites and rebroadcast other Honolulu stations’ programming. In fact, the only non-satellite television station licensed to the area is a non-commercial educational station (NCE) in Wailuku.<sup>9</sup> Hearst argues that the lack of non-satellite stations in these communities indicates that, in the absence of satellite operation, these communities would not be served by more than two independent television stations and therefore termination of the continued satellite status of the stations at issue could deprive Hilo and Wailuku of service. Thus, Hearst argues that the continued satellite operation of KHVO and KMAU is warranted under an *ad hoc* analysis.

With regard to the third criterion, the KITV Satellite Waiver Continuation Request does not present evidence that the respective licensees have attempted to sell KHVO and KMAU separately as full-service stations. In its waiver request, Hearst submitted a letter from Mr. Stephan C. Sloan, Director of Media Services Group, Inc., who has over 22 years of experience in the broadcast industry providing expert opinions and valuations for numerous clients. In the letter, Mr. Sloan states his belief that neither KHVO nor KMAU have the potential for viable independent operation, and concludes that the satellite waiver should continue.<sup>10</sup> Several factors make the operation of KHVO and KMAU as stand-alone full-service stations impracticable: (1) the fact that neither station, nor their combined operation, has sufficient market coverage to compete for audience and revenues in the Honolulu market; (2) the geographic expanse of the Honolulu television market illustrates the need for satellite operations; and (3) it is unlikely that prospective buyers would identify either KHVO or KMAU as viable, stand-alone stations due to the technical deficiencies and lack of programming options available to them. Mr. Sloan also contends that 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.<sup>11</sup>

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<sup>4</sup> *Id.* at 4214.

<sup>5</sup> *LIN License Co., LLC*, Letter Order, 27 FCC Rcd 12082, 12083 (MB Vid. Div. 2012)

<sup>6</sup> KITV Satellite Waiver Continuation Request at 2.

<sup>7</sup> *Television Satellite Stations*, 6 FCC Rcd at 4215.

<sup>8</sup> KITV Satellite Waiver Continuation Request at 2.

<sup>9</sup> *Id.*

<sup>10</sup> KITV Satellite Waiver Continuation Request, Att. A, Letter from Stephan C. Sloan, Director, Media Services Group, Inc., to Chief, Media Bureau, FCC at 3 (dated May 11, 2015).

<sup>11</sup> *Id.*

While the instant request does not satisfy all of the criteria of the Commission's presumptive satellite standard, we find that Hearst has set forth information sufficient to warrant continued satellite status for KHVO and KMAU pursuant to our *ad hoc* analysis. Given KHVO and KMAU's long history as satellites of KITV<sup>12</sup> and the geographically challenging nature of their Hawaii coverage areas, it is unlikely that an alternative operator would be willing and able to operate these stations as stand-alone facilities. As we have stated in the past, satellite status is warranted in Wailuku and Hilo because "Hawaii's geographical constraints and limited population outside of Honolulu constitute... compelling circumstances."<sup>13</sup>

We see no evidence in the record that continuing the satellite exemption will harm competition in the market. Indeed, we find that doing so will benefit the public interest by promoting access to broadcast services which may otherwise not be feasible. For the reasons discussed above, we find that the continued operation of KHVO and KMAU as satellites of KITV would be in the public interest.

Furthermore, having reviewed the application and other facts before us, we conclude that, not only will grant of the application comply with Commission rules, but that grant will serve the public interest, convenience, and necessity.

ACCORDINGLY, IT IS ORDERED, That the request for the continued operation of stations KHVO, Hilo, HI and KMAU, Wailuku, HI, as satellites of KITV, Honolulu, HI, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission's rules, IS GRANTED.

IT IS FURTHER ORDERED, That the above-referenced application for consent to assign the licenses of KITV, Honolulu, HI; KHVO, Hilo, HI; and KMAU, Wailuku, HI (File No. BALCDT-20150521AAR) IS GRANTED.

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>12</sup> See *Applications of Argyle Television, Inc., and The Hearst Corporation for Consent to Transfer of Control of Licenses of Stations: WLWT(TV), Cincinnati, Ohio KOCO-TV, Oklahoma City, Oklahoma WNAC-TV, Providence, Rhode Island KITV(TV), Honolulu, Hawaii WAPT(TV), Jackson, Mississippi KHBS(TV), Ft. Smith, Arkansas KHOG-TV, Fayetteville, Arkansas KMAU-TV, Wailuku, Hawaii KHVO-TV, Hilo, Hawaii K51BB, Lihue, Hawaii*, Memorandum Opinion and Order, 12 FCC Rcd 10737 (1997).

<sup>13</sup> *Id.*