



Federal Communications Commission
Washington, D.C. 20554

May 2, 2013

Paging Associates, Inc.
24 Rockdale Road
West Haven, Connecticut 06516

Re: W28AJ, Allingtown, Connecticut
Facility ID No. 51284
File No. BRTTA-20061129ARC

Dear Licensee:

On November 6, 2012, the Video Division issued an "Order to Show Cause" to Paging Associates, Inc. ("Paging Associates"), licensee of Class A television station W28AJ, Allingtown, Connecticut, after Paging Associates failed to respond to two letters regarding its failure to file Children's Television Programming Reports since the first quarter of 2010.¹ We received the December 6, 2012 "Response and Opposition to Order to Show Cause" filed by Paging Associates ("Response") and now request additional information based on that response.

As detailed in our letters and the Order to Show Cause, Class A television stations are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").² To qualify for Class A status, the CBPA provides that, during the 90 days preceding enactment of the statute, a low power television station must have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station; and (3) been in compliance with the Commission's rules for low power television stations.³ Class A licensees must continue to meet these eligibility criteria in order to retain Class A status.⁴

As further detailed in our previous correspondence, beginning on the date of its application for a Class A license and thereafter, the CBPA requires that a station must be "in compliance with the Commission's operating rules for full power television stations."⁵ As we stated in our previous letters, Class A licensees must prepare and file electronically FCC Form 398 (Children's Television Programming Report) on a quarterly basis.⁶ In addition, as noted in your Response, Section 73.671 of the Commission's Rules also requires the *airing* of a minimum of three hours per week of programming specifically designed to serve the educational and

¹ *Reclassification of License of Class A Television Station W28AJ*, Order to Show Cause, 27 FCC Rcd 13548 (Vid. Div. 2012). The Licensee's 2006 renewal application for the Station, File No. BRTTA - 20061129ARC, remains pending due to deficiencies with Children's Television Programming Reports.

² Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 -1501A-598 (1999), *codified at* 47 U.S.C. § 336.

³ 47 U.S.C. § 336(f)(2)(A)(i).

⁴ 47 U.S.C. § 336(f)(1)(A)(ii); 47 C.F.R. § 73.6001(b).

⁵ 47 U.S.C. § 336(f)(2)(A)(ii).

⁶ *Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000)("R & O"); *see also* 47 C.F.R. § 73.3526.

informational needs of children.⁷ That rule defines “educational and informational television programming” as any television programming that furthers the educational and informational needs of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs.⁸

Our previous letters and the Order to Show Cause informed you that the Station has not filed its Form 398 Children’s Television Programming Reports since the first quarter of 2010. Moreover, each report from the fourth quarter of 2001 through the first quarter of 2010 was filed late, and in certain cases years after the report was due. Although you responded to the Order to Show Cause, the Children’s Television Programming Reports for the last three quarters of 2010, all four quarters of 2011 and 2012, and the first quarter of 2013 have still not been filed.⁹

Given your failure to file these reports after these repeated notices, we have serious concerns about whether your client has complied with the requirement to air children’s television programming since 2010 and, indeed, whether the Station is meeting its ongoing programming requirements for Class A status generally. Moreover, we have questions about whether certain programming listed on Paging Associates’ Children’s Television Programming Reports meets the requirements of Section 73.671 of the Commission’s Rules.

In order to determine whether the Station is meeting these requirements, Paging Associates shall provide the following information for the Station:

- 1) Form 398 Children’s Television Programming Reports for the second quarter of 2010 through the present;
- 2) A declaration from a Station representative providing a detailed explanation of how each of the following programs listed in the Licensee’s Children’s Television Programming Reports qualifies as “educational and informational television programming” as defined in Section 73.671 of the Commission’s Rules: “NWS,” “Cartoon Zone,” “Cartoon Arcade,” “Cartoon Junction,” “Animal Rescue,” and “Clown Town.”
- 3) A DVD¹⁰ copy of five representative episodes of the programs described above in #2;
- 4) A declaration from a representative from the Station’s children’s programming provider identified in the Response, White Springs Television, verifying that White Springs Television has continued to provide children’s television programming to the Station during each quarter from 2006 through the present, or if White Springs Television no longer provides such programming, a declaration from the current programmer verifying that such programming has been provided;
- 5) Copies of the Station’s full programming schedule for January 2002, January 2003, January 2004, January 2005, January 2006, January 2007, January 2008,

⁷ 47 C.F.R. § 73.671.

⁸ 47 C.F.R. § 73.671(c). The programming must meet other guidelines specified in our Rules.

⁹ Please see *Paging Associates, Inc.*, Notice of Apparent Liability for Forfeiture, DA 13-976, which was released today.

¹⁰ The Commission will also accept the copies in another mutually agreed upon format.

January 2009, January 2010, January 2011, January 2012, and January 2013, with notations to identify the locally produced programming aired during each month;

- 6) The street address of the location of the station's public inspection file; the hours during which the file is available for public inspection; and the name of the person with responsibility for providing access to the public inspection file; and
- 7) A copy of the required public inspection file documentation demonstrating that the station broadcast a minimum of 18 hours of programming per day and an average of at least three hours per week of locally produced programming for all quarters from 2002 through the present, with a statement giving the dates on which the documentation was prepared and placed in the public inspection file.¹¹

Your submission must be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, within 30 days of the date of this letter. An electronic copy should also be sent to peter.saharko@fcc.gov. **In the event that W28AJ wishes revert to low power television status, you need only notify us of this election and request a change in status for the station.¹² Should the Station make such an election, the potential violations addressed in this letter would be moot and no further response would be required. Failure to provide the requested information or to request a change in status within 30 days from the date of the letter will result in further action, including potential loss of Class A television status or referral of your license renewal application to the Commission and potential loss of license.**

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (by mail and email):
Timothy E. Welch
Hill & Welch
1025 Connecticut Avenue N.W. #1000
Washington, D.C. 20036
welchlaw@earthlink.net

¹¹ Please see our April 8, 2013 letter directing you to comply with the online public file requirements of Class A television stations, which include the requirement that documentation certifying continuing eligibility for Class A status be uploaded.

¹² See 47 C.F.R. § 73.6001(d).