



Federal Communications Commission  
Washington, D.C. 20554

October 9, 2014

*In Reply Refer to:*  
1800B3-JWR/AJR

Dennis J. Kelly, Esq.  
P.O. Box 41177  
Washington, DC 20018

Brian M. Madden, Esq.  
Lerman Senter PLLC  
2000 K Street, N.W.  
Suite 600  
Washington, DC 20006-1809

In re: **Entercom Boston License, LLC**

**WAAF(FM), Westborough, MA**  
Facility ID # 74467  
File No. BRH-20051201CFP

**WEEI(AM), Boston, MA**  
Facility ID # 1912  
File No. BR-20051201CFN

**WEEI-FM, Lawrence, MA**  
Facility ID # 1919  
File No. BRH-20051201CFM

**WRKO(AM), Boston, MA**  
Facility ID # 1902  
File No. BR-20051201CFG

**Applications for Renewal of Licenses  
Informal Objection**

Dear Counsel:

We have before us the captioned applications (collectively, the "Applications") of a subsidiary of Entercom Communications ("Entercom") to renew the licenses of four stations (the "Stations") for the license term ending April 1, 2006. We also have before us an Informal Objection ("Objection") to the Applications<sup>1</sup> filed February 28, 2006, by Irene M. Stolz ("Stolz").<sup>2</sup> For the reasons set forth below we deny the Objection and grant the Applications.

---

<sup>1</sup> The Objection was directed against renewal applications for six stations. However, the applications for two of these stations, WVEI(AM), Worcester, Massachusetts (File No. BRH-20051201CFB), and WEEI-FM, Providence, Rhode Island (File No. BRH-20051201CGE) were granted, and the Objection was denied with respect to these stations. See *Entercom Portland License, LLC, et al.*, Letter, 23 FCC Rcd 3695 (MB 2008) ("*Portland Staff Decision*").

**Background.** On December 1, 2005, Entercom filed the Applications to renew the Stations' licenses. Stolz incorporates by reference the November 1, 2005, Petition to Deny ("2005 Petition") the applications for renewal of the licenses of Entercom's Sacramento, California, radio stations (the "Sacramento Proceeding").<sup>3</sup> Stolz argues that the Applications should not be granted because Entercom has shown a "wanton disregard for the FCC's rules" as evidenced by: (1) Notices of Apparent Liability ("NALs") issued to Entercom stations in other markets for violations of restrictions on the broadcast of indecent programming; and (2) Entercom's role as a target of "payola" investigations<sup>4</sup> by the New York State Attorney General and the Commission.<sup>5</sup> Stolz states that the "aggregate of violations" by Entercom and its subsidiaries creates a "discernible pattern of abuse" under the Communications Act and the Commission's rules, which establishes a substantial and material question of fact as to whether the licenses for the Applications should be renewed.

In response to the Objection, Entercom argues that (1) there is no need to relitigate the indecency issues because the Commission determined that monetary forfeitures were the appropriate remedy and these sanctions did not affect Entercom's qualifications as a licensee; and (2) a *Consent Decree*<sup>6</sup> between the Commission and Entercom has rendered the payola allegations moot. Accordingly, Entercom believes that the Objection should be denied.

**Discussion.** Informal objections must, pursuant to Section 309(e) of the Communications Act of 1934, as amended (the "Act"), provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,<sup>7</sup> which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find, with respect to that station, that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission's Rules (the "Rules"); and (3) there have been no other violations which, taken together, constitute a pattern of abuse.<sup>8</sup>

*Indecency.* Stolz does not raise any indecency issues specific to the Applications. Rather, Stolz relies upon instances of indecent programming at other Entercom stations. The plain language and structure of Section 309(k) clearly establish that the scope of the "violations" listed in Section 309(k)(1) is

---

<sup>2</sup> On March 26, 2006, Ms. Stolz died. We have previously accepted the substitution of Edward R. Stolz, II, as the objector in his capacity as the executor of Ms. Stolz's estate. See *Portland Staff Decision*, 23 FCC Rcd at 3695 n.1. On September 28, 2007, Entercom filed a Consolidated Opposition to Informal Objections.

<sup>3</sup> Radio Stations KCTC(AM), Sacramento, CA; KDND(FM), Sacramento, CA; KRXQ(FM); Sacramento, CA; KSEG(FM), Sacramento, CA; KSSJ(FM), Fair Oaks, CA ; and KWOD(FM), Sacramento, CA .

<sup>4</sup> A station's receipt of payment for airing programming without disclosing the payment is known as "payola." See *Educational Community Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 5283 (MB 2013). "Payola" is prohibited by the sponsorship identification laws. See 47 U.S.C. § 508, 47 C.F.R. § 73.1212.

<sup>5</sup> Stolz also states the renewals of the Stations, "at a minimum" should be deferred until the completion of these payola proceedings.

<sup>6</sup> *Entercom Communications Corp.*, Order and Consent Decree, 22 FCC Rcd 7121 (2007) ("*Consent Decree*").

<sup>7</sup> See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 note 10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested).

<sup>8</sup> 47 U.S.C. § 309(k)(1).

limited to the station for which license renewal is being considered. Congress has expressly limited the scope of the license renewal inquiry to matters occurring at the particular station for which license renewal is sought.<sup>9</sup> To the extent that Stolz claims we should consider the activities of Entercom at stations other than those referenced here, his Objection will be denied.

Additionally, the Commission previously investigated these specific instances and found that they do not put Entercom's qualifications in question.<sup>10</sup> Further, subsequent to the release of these NALs, the Commission granted license renewal applications for other Entercom stations and has permitted Entercom to acquire a station.<sup>11</sup> Accordingly, we find that no further inquiry is warranted regarding Entercom's airing of indecent programming.

*Payola.* Stolz's arguments regarding Entercom's violations of the sponsorship identification laws are barred from consideration by the terms of a *Consent Decree* entered into by the Commission and Entercom. Under the terms of the *Consent Decree*, the Commission agreed to refrain from entertaining petitions to deny or other third-party objections against Entercom based upon any broadcast occurring prior to the April 13, 2007, effective date of the *Consent Decree*.<sup>12</sup> Stolz's Objection was filed on February 28, 2006, and concerned programming aired before the effective date of the *Consent Decree*. Accordingly, Stolz's allegations about Entercom's compliance with the sponsorship identification requirements do not warrant additional consideration.

**Conclusion/Actions.** For the foregoing reasons, we conclude that Stolz has not raised a substantial and material question of fact calling for further inquiry regarding Emmis' qualifications to remain a Commission licensee.

Additionally, we have evaluated the referenced Applications pursuant to Section 309(k) of the Act,<sup>13</sup> and we find that the Stations have served the public interest, convenience, and necessity during the subject license term. Moreover, we find that there have been no serious violations of the Act or the Rules, nor have there been violations by the Licensee of the Act or the Rules which, taken together, would constitute a pattern of abuse.

Accordingly, the Objection filed by Irene M. Stoltz on February 28, 2006, IS DENIED. Additionally, the applications for renewal of license for Stations WAAF(FM), Westborough,

---

<sup>9</sup> *Sagittarius Broadcasting Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 22551, 22555 (2003).

<sup>10</sup> See e.g., *Entercom Kansas City License, LLC*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 25011, 25018 (2004) (concluding that a monetary forfeiture alone was the appropriate sanction). As a related matter, we note that Stolz seeks to incorporate by reference arguments made in the 2005 Petition. We find that "using incorporation by reference to reprise arguments already made and rejected is improper." *KFCD(AM), Farmersville, Texas*, Letter, 23 FCC Rcd 2646, 2648 (MB 2008).

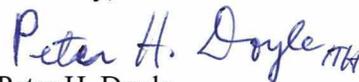
<sup>11</sup> See, e.g. *Portland Staff Decision*, 23 FCC Rcd at 3695 (MB 2008) (renewing licenses for 30 Entercom stations and denying Informal Objections filed by Stolz raising identical indecency issues); *Entercom Sacramento License, LLC, et al.*, Letter, Ref. 1800B3-MM (Sep. 6, 2012) (renewing licenses for 6 Entercom stations); and *WVEI-FM, Easthampton, MA*, Letter, 22 FCC Rcd 20058 (MB 2007) (granting assignment application).

<sup>12</sup> See *Consent Decree*, 22 FCC Rcd at 7121 (¶ 8).

<sup>13</sup> 47 U.S.C. § 309(k).

Massachusetts (File No. BRH-20051201CFP), WEEI(AM), Boston, Massachusetts (File No. BR-20051201CFN), WMKK(FM), Lawrence, Massachusetts (File No. BRH-20051201CFM), and WRKO(AM), Boston, Massachusetts (File No. BR-20051201CFG) ARE GRANTED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" with a stylized flourish at the end.

Peter H. Doyle  
Chief, Audio Division  
Media Bureau