

**Compliance with the FCC's Local Radio Multiple Ownership and
Radio/TV Cross-Ownership Rules**

QueenB Radio, Inc. ("QueenB"), licensee of KXLY-FM, Spokane, WA, requests Commission approval of an application for a minor change in its licensed facility. This application complies with the Commission's local radio multiple ownership rule¹, and the Commission's radio-television cross ownership rule.²

I. The Spokane Market

QueenB is wholly owned by Spokane Television, Inc., ("Spokane Television") which through subsidiaries owns and operates one television station in the Spokane, Washington DMA (Station KXLY-DT Spokane, WA) and seven radio stations in the Spokane Arbitron metro. The stations are KXLY-FM, KXLY(AM), KEZE(FM) and KZZU(FM), Spokane, WA; KVNI(AM), Coeur D'Alene, ID; KHTQ(FM), Hayden, ID; and KXLX(AM), Airway Heights, WA. QueenB obtained the licenses for KXLI(AM), KVNI(AM), KHTQ(FM) and KEZE(FM) pursuant to conditional temporary one-to-a-market waivers.³ In 1999, the FCC replaced the one-to-a-market

¹ See 47 C.F.R. § 73.3555(a)(2003).

² See 47 C.F.R. § 73.3555(c)(2002). The cross-media limits adopted by the Commission in 2003 were remanded by the Third Circuit Court of Appeals in *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004). The Commission recently decided to retain the 2002 version of the radio/television cross-ownership rule and the ownership limits specified therein. See *2006 Quadrennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*; *2002 Biennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*; *Cross-Ownership of Broadcast Stations and Newspapers*; *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*; *Definition of Radio Markets*; *Ways to Further Section 257 Mandate and To Build on Earlier Studies*; *Public Interest Obligations of TV Broadcast Licensees*, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, 2057-58 (2008).

³ See *In Re Applications of Melinda Boucher Read (Assignor) and QueenB Radio, Inc. (Assignee) for Assignment of License of KEZE(FM), Spokane Washington*, Memorandum Opinion and Order, 14 FCC Rcd 3287 (1999); *In re Application of North Idaho Broadcasting Co. (Assignor) and QueenB Radio, Inc. (Assignee) for Assignment of Licenses of KVNI(AM), Coeur d'Alene, Idaho, KHTQ(FM), Hayden, Idaho*, Memorandum Opinion and Order, 13 FCC Rcd 9489 (1998); *In re Application of Concrete River Associates, L.P. (Assignor) and QueenB Radio, Inc.*

rule with the current rule (described below), which permits in certain instances common ownership of one television station and up to seven radio stations in a single market.

II. Compliance with the Local Radio Multiple Ownership Rule

The relevant market for purposes of assessing compliance with the local radio multiple ownership rules is the Spokane Arbitron radio market. Grant of the instant application would result in Spokane Television, through subsidiaries, continuing to have a cognizable interest in seven radio stations in the Spokane Arbitron radio market. The Commission's local radio multiple ownership rule permits common ownership of up to seven radio stations (with no more than four commercial stations in either the AM or FM service) in an Arbitron radio market with between 30 and 44 radio stations (inclusive).⁴ The attached BIA study lists 38 commercial and noncommercial radio stations the Spokane Arbitron metro. QueenB's proposal would retain common ownership of seven radio stations (four FM and three AM) in the Spokane Arbitron metro, with no more than four stations in either the AM or FM service. Thus the proposed transaction complies with the local radio multiple-ownership limits of Section 73.3555.

III. Compliance with the Radio-Television Cross Ownership Rule

As explained in detail below, the proposal maintains compliance with the Commission's radio-television cross ownership rule.⁵

The Commission's radio-television cross ownership rule applies when the AM or FM station's principal community contour⁶ wholly encompasses the community of license of a

(Assignee) For Assignment of License of KKPL(AM), Opportunity, Washington, Memorandum Opinion and Order, 12 FCC Rcd 6614 (1997)(KXLI(AM)).

⁴ See 47 C.F.R. §73.3555(a)(1)(ii).

⁵ See 47 C.F.R. §73.3555(c)(2002).

⁶ For commercial AM stations, the 2 mV/m contour; for FM stations, the 1 mV/m contour. See 47 C.F.R. §73.3555(c)(i) and (ii).

television station to be commonly owned, or when a television station's Grade A contour wholly encompasses the community of license of a radio station that is to be commonly owned with the television station.⁷ Where the radio-television cross-ownership rule is triggered, an entity may directly or indirectly own, operate, or control one television station and seven radio stations, if (1) at least 20 independently owned media voices would remain in the market post consummation and (2) the entity would not be barred from owning two television stations and up to six radio stations in the market under the local television multiple ownership rule.⁸

The number of media voices present in a market includes all independently owned full power television stations operating in the DMA of the television station(s) that have Grade B signal contour overlap with the Grade B contour of the television station(s) at issue, all independently owned primary broadcast radio stations operating in the radio metro market in which the television and radio stations' communities of license are located, all independently owned out-of-market radio stations that receive a minimum share as reported by Arbitron or a comparable ratings service, and all English language newspapers that are published at least four days per week and have a circulation greater than 5% of the households in the television station's DMA.⁹ An additional voice is considered to be in the market if cable television is generally available in the market.

⁷ See 47 C.F.R. §73.3555(c)(1).

⁸ See 47 C.F.R. §73.3555(c)(2)(i)(2002). The 2002 rule allows an entity to own two television stations in the same market when at least one of the stations is not ranked among the four highest-ranked stations in the DMA and at least eight independently owned and operating commercial or non-commercial full-power broadcast television stations would remain in the DMA after the proposed combination (the "top-four ranked/eight voices test"). The foregoing analysis applies the traditional voices test, although the D.C. Circuit has invalidated the FCC's definition of "voices" for this purpose, *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (2002).

⁹ See 47 C.F.R. §73.3555(c)(3).

As indicated in the attached “Radio-Television Cross Ownership Voices Study,”¹⁰ the Grade A contour of Station KXLY-DT and TV wholly encompasses the KXLY-FM community of license and the KXLY-FM 2 mV/m contour completely encompasses the KXLY-DT and TV community of license.

The Commission’s radio-television cross ownership rule allows an entity to own one television station and as many as seven radio stations where at least 20 voices will remain in the market subsequent to the consummation of the transaction.¹¹ The attached study shows that there will be more than 20 remaining independent voices in the Spokane, WA market after the proposed transaction is consummated. Moreover, Spokane Television is not barred from directly or indirectly owning, operating or controlling two commercial television stations and up to six radio stations pursuant to 47 C.F.R. Section 73.3555(b). The attached study identifies nine independently owned and operating, full-power commercial and noncommercial stations with overlapping Grade B contours that would remain after a hypothetical transaction resulting in common ownership of KXLY-DT and TV and a non-top-four station elsewhere in the DMA, in satisfaction of the eight-voice minimum.¹² Accordingly, common ownership of the current and proposed radio and television stations in the Spokane market would comply with the Commission’s radio-television cross-ownership rule.

¹⁰ See Attachment B.

¹¹ See 47 C.F.R. § 73.3555(c)(2)(ii)(2002).

¹² See 47 C.F.R. §73.3555(b)(ii)(2002).