

MULTIPLE OWNERSHIP COMPLIANCE

As demonstrated below, the Tuscaloosa market includes 16 radio stations. A single owner may own or control up to 6 stations in a market of this size, no more than four of which are in the same service. The applicant, Apex Broadcasting, Inc., has the following attributable media interests in the Tuscaloosa market:

FM: WBEI
WFFM
WTUG
WDGM (per a Local Marketing Agreement)

AM: WTSK
WSPZ

Upon the grant of the instant application, Apex will continue to be attributed with ownership or control of the same number of stations. The only difference will be that it will own WDGM rather than having attribution due to a local marketing arrangement. Accordingly, the applicant is in full compliance with the requirements of Part 73.3555.¹

The attached report was prepared using BIA's "Media Access Pro" program for identifying all radio stations in Arbitron Metro markets. The report indicates that there are 17 station in the Tuscaloosa market. It should be noted that, because of the way BIA gathers its data, the BIA report includes one station as being licensed to the Tuscaloosa market despite the fact that the FCC Table of Allocations lists the station as being in the Birmingham market. Specifically, the report correctly reflects that station WANZ is considered "home" in the Birmingham market. The report nevertheless also lists WANZ as part of the Tuscaloosa market solely because the station has been licensed to the community of Northport, AL which is in the Tuscaloosa Arbitron market. However, in Docket 01-104, DA 03-1124, rel. May 20, 2003, the Commission reallocated this station from Northport to Helena, AL. The Helena location is likewise accurately codified in the Commission's Table of Allocations (47 C.F.R. 73.202). Helena is in the Birmingham Metro market.

Apex Broadcasting, Inc., the licensee of station WANZ, has filed a minor modification application (File No. BPH-20040607ADI) with the Commission to conform its community of license to the revised Table of Allocations. Because BIA uses CDBS rather than the Table of Allocations to identify communities of license, however, it will continue to show WANZ as licensed to Tuscaloosa until that application is granted. Correctly speaking, there are actually 16 stations in the Tuscaloosa market and WANZ is not one of them. We note in this regard that the instructions to the FCC

¹ The applicant further notes that its channel complement in the Tuscaloosa area was fully compliant with the multiple ownership rules as markets were defined prior to the partial implementation of Docket 02-277, the 2002 Biennial Regulatory Review.

worksheet for the new Form 314 (page 3) confirm that applicants may rely on the exclusion of a station from the analysis of the market in issue if “the exclusion results from an FCC-approved change in the community of license of a station from within the Metro to outside the Metro.” This is obviously the case here. Thus, because WANZ is neither “home” to Tuscaloosa under the Arbitron rating system nor licensed to a community in the Tuscaloosa market, it is not in the Tuscaloosa Metro market and need not be considered under the ownership analysis for this market.