



Federal Communications Commission  
Washington, D.C. 20554

October 30, 2013

Dominion Media, Inc.  
P.O. Box 2605  
Clarksville, Indiana 47131

Re: WWJS-CA, Clarksville, Indiana  
Facility ID No. 6838

Dear Licensee:

This is in regard to the pending license renewal application of the above-captioned station. Pursuant to Section 1.88 of the Commission's Rules,<sup>1</sup> we write to update you on our pending investigation of the station and to invite you to submit a statement to the staff setting forth the Licensee's views regarding the investigation.

The Community Broadcasters Protection Act of 1999 ("CBPA") directed the Commission to "establish a class A television license to be available to licensees of qualifying low-power television stations."<sup>2</sup> To establish itself as a qualifying low-power television station, a station was required to certify that it broadcast a minimum of 18 hours per day and an average of at least 3 hours per week of locally produced programming.<sup>3</sup> The CBPA further provided that "each such class A licensee shall be accorded primary status as a television broadcaster as long as the station *continues* to meet the requirements for a qualifying low-power station."<sup>4</sup>

The Commission underscored the inherently conditional nature of Class A status in the *Class A MO&O*:

Although Class A licensees will not be subject to loss of license for failure to continue to comply with the eligibility requirements in section (f)(2)(A) of the CBPA [including that they be in compliance with the Commission's rules for full-power stations after they file for a Class A license], they are *subject to loss of Class A status* if they fail to meet these ongoing obligations.<sup>5</sup>

In its implementation of the CBPA, the Commission determined that the statutory broadcast criteria constitute minimum operating requirements for Class A licensees.<sup>6</sup> It also applied to Class A licensees all Part 73 regulations but those that could not apply for technical or

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<sup>1</sup> 47 C.F.R. § 1.88

<sup>2</sup> 47 U.S.C. § 336(f)(1)(A).

<sup>3</sup> 47 U.S.C. § 336(f)(2)(A)(i)(I-II).

<sup>4</sup> 47 U.S.C. § 336(f)(1)(A)(ii).

<sup>5</sup> *Establishment of a Class A Service*, Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8257 (2001) ("*Class A MO&O*") (emphasis added).

<sup>6</sup> *In the Matter of Establishment of a Class A Television Service*, Report and Order, 15 FCC Rcd 6355, 6366 (2000) (*Class A R&O*), *Class A MO&O*, 16 FCC Rcd at 8254-56 (2001); 47 C.F.R. § 73.6001.

other reasons. These include, *inter alia*, the requirement to maintain a main studio; the rules governing informational and educational children's programming and limits on commercialization during children's programming; and the rules concerning the station's public inspection file. The public inspection file rules include (i) preparing, placing in the file, and filing electronically with the Commission on a quarterly basis the FCC Form 398 (Children's Television Programming Report)<sup>7</sup> and (ii) preparing, placing in the file, and filing electronically with the Commission on a quarterly basis a "list of programs that have provided the station's most significant treatment of community issues during the preceding three month period."<sup>8</sup>

The Licensee was granted Class A license status for WWJS-CD based in part on its certifications that each station "does, and will continue to, broadcast: (a) a minimum of 18 hours per day; and (b) an average of at least 3 hours per week of programming each quarter produced within the market area served by the station. . . ."<sup>9</sup>

On March 27, 2013, Licensee submitted its license renewal application.<sup>10</sup> Based on our investigation, we have identified potential violations of our Rules and request further information from the Licensee:

### **1. Extensive Periods of Broadcast Silence**

Our investigation shows that WWJS-CD was off the air from February 15, 2010 through February 4, 2011 and from February 7, 2011 through December 15, 2011.<sup>11</sup> In its second request for special temporary authority, the Licensee stated that it took the station off the air for "business and financial reasons" and that it did not "have the resources to maintain the station on the air while it attempts to sell the station."<sup>12</sup>

### **2. Incorrect Certifications**

In its renewal application, Licensee certified that all required documentation had been placed in the station's public inspection file at the appropriate times<sup>13</sup> and that the station continues to broadcast a minimum of 18 hours per day and an average of at least three hours per week of programming each quarter produced within the market area.<sup>14</sup> Moreover, in its statement of continuing Class A eligibility, the Licensee certified that the station "has been on the air 24 hours a day, 7 days a week for the entire license term."<sup>15</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> 47 C.F.R. § 73.3526(e)(11)(i).

<sup>9</sup> See, e.g., Application for Class A Television Broadcast Station Construction Permit or License," BLTTA - 20010226AAQ. In the same applications, KBXS-CA certified that it would continue to comply with the main studio rule, 47 C.F.R. § 73.1125, and the public file inspection rule, 47 C.F.R. § 73.3526.

<sup>10</sup> File No. BRDTA-20130328AEF.

<sup>11</sup> According to our records, the Licensee did not file a "Resumption of Operations" form as required after its second period of broadcast silence.

<sup>12</sup> File No. BLSTA-20110209AAU.

<sup>13</sup> File No. BRDTA-20130328AEF, Section IV, Question 3.

<sup>14</sup> *Id.*, Section IV, Question 12.

<sup>15</sup> WWJS-CD Class A TV Continuing Eligibility Statement.

The record contradicts these certifications. First, the Licensee's requests for special temporary authority demonstrate that the station was off the air for most of 2010 and 2011, contrary to the certifications in the Class A eligibility statement and the renewal application. Second, the Licensee did not file documents required to be placed in the public file in a timely manner, as described in further detail in the next item.

### **3. Children's Television Programming Reports**

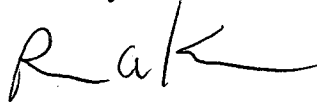
The Licensee filed its Children's Television Programming Reports late for six quarters during the license period. Moreover, the station's Children's Television Programming Reports for all four quarters of 2009 apparently were not filed as they do not appear in the online public file or the KidVid database.

In order for the Commission to evaluate further the license renewal applications, we request that Licensee provide the following information:

- 1) A declaration under penalty of perjury stating (i) the date when the station went back on the air following the period of silence that began on February 7, 2011 and (ii) a full listing of all periods of broadcast silence during the license period;
- 2) Copies of the station's 2009 Children's Television Programming Reports, accompanied by a declaration under penalty of perjury stating the date on which each of the reports were prepared and placed in the station's hard copy public file at its main studio;
- 3) Amendments to all incorrect certifications in the station's online public file and renewal application, accompanied by a declaration under penalty of perjury providing an explanation for the incorrect certifications; and
- 4) A detailed explanation, with cites to Commission rules, guidance, and case precedent, as to why, given the extensive potential violations of Commission rules identified above, renewal of the license for an additional term would serve the public interest, convenience, and necessity.

Your submission must be filed with the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, ATTN: Peter Saharko, 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](mailto:peter.saharko@fcc.gov). **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.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Bak', with a long horizontal stroke extending to the right.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc:

Elise M. Stubbe, Esq. (by email)

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