



Federal Communications Commission  
Washington, D.C. 20554

June 29, 2011

WBAL Hearst Television, Inc.  
c/o Mark J. Prak, Esq.  
Brooks Pierce McLendon Humphrey  
& Leonard, LLP  
P. O. Box 1800  
Raleigh, North Carolina 27602

Re: WBAL-TV, Baltimore, Maryland  
File No. BPCDT-20100429AAF  
Facility ID No. 65696

Dear Licensee:

This is with respect to the above-referenced application for minor modification of WBAL-TV, channel 11, Baltimore, Maryland, licensed to WBAL Hearst Television, Inc. ("Hearst"). Hearst requests a waiver of Section 73.622(f) of the Commission's rules to operate with facilities that exceed the maximum power and antenna height.

In support of its waiver request, Hearst states that once the station terminated its pre-transition operations and began operating solely on digital channel 11, it began receiving numerous complaints from viewers of poor or no reception of the station's over-the-air signal. In an attempt to resolve the VHF reception issues, Hearst obtained an experimental license to operate the station with 26.6 kW ERP.<sup>1</sup> In order to obtain the experimental authorization, Hearst was required to obtain interference consent agreements from Harrisburg Television, Inc., the licensee of WHTM-TV, channel 10, Harrisburg, Pennsylvania, Ion Media Martinsburg License, Inc., the licensee of WWPX-TV, channel 12, Martinsburg, West Virginia, Shenandoah Valley Educational Television Corporation, the licensee of WVPT-DT, channel 11, Staunton, Virginia, and Nexstar Broadcasting, Inc., the licensee of WBRE-TV, channel 11, Wilkes-Barre, Pennsylvania, whereby those stations agreed to accept predicted interference from experimental operation of WBAL-TV at the higher power. According to Hearst, testing conducted by the station indicates that the power increase significantly resolves WBAL-TV's viewers' reception issues. Hearst further states that none of the stations which entered into interference agreements have reported any detrimental impact from WBAL-TV's experimental operation, which commenced on August 10, 2009 and continues to this day.

Hearst's modification application seeks to convert WBAL-TV's current experimental authorization to a permanent authorization. While the licensees of stations WHTM-TV and WWPX-TV have consented to the grant of the WBAL-TV modification application, Hearst states that the licensees of WVPT(TV) and WBRE-TV have refused to extend their previous consents from the experimental authorization to the modification application absent substantial monetary consideration from Hearst. Citing *Northwest Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) for the holding that "A waiver is appropriate when special circumstances warrant a deviation from the general rule and such deviation will serve the public interest," Hearst argues that special circumstances are present here which support a waiver of Section 73.622(f). We agree. It is clear that in order to continue to providing a

<sup>1</sup> FCC File Nos. BDSTA-20090713ACP and BEDSTA-20091231AAS.

viewable over-the-air service to a significant number of viewers, WBAL-TV must operate with power that exceeds the authorized power permitted by the rules. WBAL-TV has been operating the facilities requested in the modification application since August 10, 2009 pursuant to an experimental authorization and with the consent of the four stations which were predicted to receive interference. Neither Hearst or the Commission has received any interference complaints from these stations, or their viewers, regarding interference from WBAL-TV's almost three-year operation at 26.6 kW power. Under these circumstances, the public interest would not be served by denying Hearst's waiver request because stations that previously consented to such operation have refused to extend their consent to WBAL-TV's permanent operation at 26.6 kW. Accordingly, we will grant the requested waiver of Section 73.622(f) of the Commission's rules.

In view of the foregoing, we conclude that grant of the requested waiver would serve the public interest and the above-referenced application for minor modification of WBAL-TV IS HEREBY GRANTED.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau