

**STATEMENT WITH RESPECT TO
NON-COMPETITION AND NON-SOLICITATION AGREEMENT**

Pursuant to paragraph 6.11 of the Asset Purchase Agreement, Assignor and Assignee will enter into a Non-Competition and Non-Solicitation Agreement (the "Agreement") whereby Assignor, GOCOM Broadcasting Corporation, and Richard L. Gorman agree not to compete with the Assignee for a period of five years within the Chico-Redding, California Designated Market Area ("DMA"), which is the market of the station. The station is also carried on cable and DBS systems in its DMA.

Question 6 of Worksheet No. 2 to the FCC Form 314 requires the parties to provide an explanation when the geographic area of a covenant not to compete extends beyond a television station's "Grade B" service contour.¹ Because the area in which the Agreement is in effect will extend beyond the service contour of KHSL(DT), the Agreement could be construed not to comply with Commission rules and policies regarding the geographic scope of restrictive covenants. However, because the Agreement does not unduly inhibit competition, it is not contrary to Commission rules or policy.

The use of the Grade B (or noise-limited) contour of a TV station to define the area within which a party entering into a non-competition agreement cannot compete does not take into account the fact that competing stations can be located outside of the service contour of the TV station being purchased and still place a signal over the area served by the station being purchased. Other stations in the DMA also compete through their carriage on cable and satellite systems. The use of a specific geographic area, such as a DMA, to delineate the area within which a non-competition agreement is to be in effect eliminates this problem caused by reliance on service contours and thus better describes the area of legitimate business concern than does the service contour. Moreover, using a defined geographic area to describe the area within which a non-compete agreement is to be in effect lends itself to greater certainty and clarity than does the use of a service contour because the parties understand the precise boundaries. Thus, the DMA has less of an inhibiting effect than does the use of a service contour, which is subject to varying engineering interpretations.

In sum, the use of the DMA to define the area within which the Agreement is to be in effect more accurately defines the area of concern and thus better protects the buyer's legitimate business interests without unduly restricting competition. As a result, the Agreement contemplated by the parties actually serves the public interest better than it would if it merely relied upon the use of the station's service contour.

¹ KHSL(DT) is a digital-only station and, as a result, does not have a Grade B contour. To the parties' knowledge, the Commission has not yet defined the relevant digital contour for the purpose of analyzing an agreement containing restrictive covenants. In other contexts, however, the Commission has used stations' noise-limited service contours in place of a Grade B contour to make geographic coverage determinations. See e.g., *Digital Television Distributed Transmission System Technologies*, Report & Order, 23 FCC Rcd 166731, nn. 144 & 228.