



Federal Communications Commission
Washington, D.C. 20554

January 5, 2021

Manhan Media, Inc.
1776 Park Ave 4-135
Park City, UT 84060
Scott.flick@pillsburylaw.com
(via electronic mail)

WWHO-TV, Chillicothe, OH
Facility ID No. 21158
LMS File No. 0000129747

Dear Licensee:

This letter is in reference to the above captioned application for legal special temporary authority (Legal STA) filed by Manhan Media, Inc. (Manhan or Licensee), licensee of full power television station WWHO-TV, Chillicothe, Ohio (WWHO or Station).¹ In its Legal STA, Manhan requests authorization to allow some of WWHO's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on the facilities of WCMH(TV), Columbus, Ohio (WCMH), licensed to Nexstar Inc. (Nexstar or multicast host).² This arrangement between Manhan and Nexstar has been entered into in connection with WWHO's transition of its facility to the ATSC 3.0 transmission standard. Although Manhan has agreed to indemnify Nexstar from all liabilities or claims resulting from the airing of its multicast stream over WCMH's facilities,³ Manhan has requested the instant authorization to make clear that it will remain responsible from a statutory and regulatory perspective for WWHO's multicast streams. Specifically, Manhan requests that WWHO be treated as if it is still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communication Act of 1934, as amended (Act) and the Commission's rules (Rules).⁴ For the reasons below, we grant WWHO's request.

Background. On December 23, 2020, the Video Division granted WWHO's application for modification of license to convert its existing broadcast facility to ATSC 3.0 transmissions.⁵ As required by section 73.3801 of the Rules,⁶ WWHO's primary stream will be simulcast in an ATSC 1.0 format over

¹ Application of Manhan Media, Inc. for Legal Special Temporary Authority, LMS File No. 0000129747 (filed Dec. 15, 2020) (WWHO Legal STA).

² WTTE is licensed to operate on RF channel 27, WCMH is licensed to operate on RF channel 14.

³ WWHO Legal STA at 1.

⁴ See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 79-82 (2017) (*Next Gen TV Report and Order*) (requiring Next Gen TV broadcasters to comply with all Commission broadcast rules, including, but not limited to, the Rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection files, indecency, sponsorship identification, etc.).

⁵ Application of Manhan Media, Inc. for Modification of License, LMS File No. 0000129743 (granted Dec. 23, 2020) (WWHO License Modification).

⁶ 47 CFR § 73.3801(b).

the facility of WTTE.⁷ In addition to its primary stream, WWHO currently broadcasts two non-primary multicast streams: Charge! and Comet TV.⁸ In order to avoid the loss of WWHO's over-the-air multicast programming to its current ATSC 1.0 viewers, Manhan has entered into a written agreement with Nexstar to broadcast Comet TV using the facilities and channels of WCMH.⁹ As part of the same arrangement, WCMH has been provided capacity as an ATSC 3.0 guest station on WWHO's facilities.¹⁰

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, WWHO is not able to air all of its multicast streams on the same channel as its primary ATSC 1.0 signal, which is being hosted by WTTE.¹¹ Furthermore, due to capacity and other constraints WWHO is not able to simulcast an ATSC 3.0 version of WWHO's multicast streams.¹² Pursuant to an engineering study conducted by the Licensee, under its arrangement with Nexstar, over 98% of WWHO's current over-the-air ATSC 1.0 viewers will retain access to Comet TV on WCMH.¹³ Absent the proposed arrangement and grant of the instant request, WWHO states that "all over-the-air viewers would lose access to WWHO(TV)'s multicast streams."¹⁴ The Licensee's engineering study also shows that its non-primary multicast streams will continue to serve WWHO's designated market area and community of license.¹⁵

Manhan also states that it provided the requisite notice to MVPDs regarding relocation of WWHO's primary ATSC 1.0 stream and its non-primary multicast streams.¹⁶ WWHO also has been airing the requisite over-the-air announcements¹⁷ regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets in order to continue to receive WWHO's ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channels

⁷ See WWHO License Modification.

⁸ WWHO Legal STA at 1.

⁹ *Id.* WWHO plans to air its Charge! non-primary ATSC 1.0 multicast stream on the channel and facilities of WTTE. *Id.* Because WTTE is hosting WWHO's primary simulcast and WWHO has a license to operate utilizing WTTE's channel and facilities, there is no need for a legal STA noting that WWHO is responsible for the content of its streams (primary or otherwise) aired on WTTE's channel and facilities.

¹⁰ See Application of Columbus (WTTE-TV) for Modification of License, LMS File No. 0000129745 (granted Dec. 23, 2020); Application of Nexstar Inc. for Modification of License, LMS File No. 0000129771 (granted Dec. 23, 2020).

¹¹ WWHO Legal STA at 1.

¹² Specifically, WWHO states that in order to air an ATSC 3.0 simulcast of the Station's non-primary multicast streams, WWHO would not be able to accommodate current ATSC 3.0 guests as arranged. According to the Licensee, doing so would impact the stations' abilities to offer enhanced ATSC 3.0 offerings, such High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels, and non-real time interactive data delivery. Furthermore, the Licensee notes that additional engineering work and equipment would be required to accommodate simulcasting WWHO's non-primary multicast streams in both an ATSC 1.0 and ATSC 3.0 format and thereby delay rollout of ATSC 3.0 in the Columbus, OH, Designated Market Area. *Id.* at 1-2.

¹³ WWHO Legal STA Engineering Technical Statement at 1, 3. We also note that over 98% of WWHO's current over-the-air ATSC 1.0 viewers will retain access to WWHO's primary and non-primary programming on WTTE. *Id.* at 1, 4.

¹⁴ WWHO Legal STA at 2.

¹⁵ WWHO Legal STA Engineering Technical Statement at 1.

¹⁶ WWHO Legal STA at 2. See 47 CFR § 73.3801(g) (Notice to MVPDs).

¹⁷ WWHO Legal STA at 2. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

for each of WWHO's program streams will remain unchanged and will be identified to viewers as being associated with WWHO.¹⁸ Manhan plans to convert WWHO's facilities to ATSC 3.0 and commence its ATSC 1.0 operations over the facilities of WTTE (primary and non-primary stream) and WCMH (non-primary multicast stream) on January 7, 2020.¹⁹

Discussion. We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of Licensee's Legal STA. Under the Rules, Next Gen TV Broadcasters are not required to simulcast or continue airing their existing non-primary multicast streams.²⁰ Grant of the instant Legal STA will promote continued transmission of WWHO's non-primary multicast programming streams to viewers and by providing WWHO an authorization to air these signals over Nexstar's facilities make clear that WWHO is responsible for the content of those signals from a regulatory compliance and enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to WWHO's non-primary multicast streams airing on WCMH, we will treat those signals as multicast streams being originated by WWHO even though they are being transmitted over WCMH's facilities. That is, WWHO is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regards to WWHO's original non-primary multicast stream. This includes, but is not limited to, our rules regarding political broadcasting, children's programming,²¹ equal employment opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System. Furthermore, because the Commission's rules do not require that a multicast stream be simulcasted,²² we will not require that WWHO air an ATSC 3.0 version of the ATSC 1.0 non-primary multicast streams being aired over Nexstar's facilities.

Given that the current arrangement is temporary and is in furtherance of an ATSC 3.0 simulcasting arrangement, we will not apply the broadcast ownership rules to the extent that the arrangement would result in a potential violation of those rules. We find this approach is consistent with the Commission's decision and underlying basis to "not apply the broadcast ownership rules in any situation where airing an ATSC 3.0 signal or an ATSC 1.0 simulcast on a temporary host station's facility would result in a potential violation of those rules."²³ For purposes of the instant Legal STA, we find compelling the capacity and engineering constraints that the Licensee has set forth.²⁴

We are taking this temporary measure in order to help facilitate the deployment of ATSC 3.0 and in light of the evolving nature of ATSC 3.0 deployment and related agreements.²⁵ As explained above,

¹⁸ WWHO Legal STA at 2.

¹⁹ *Id.*

²⁰ *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40.

²¹ WWHO notes in its Legal STA that WWHO "does not currently, and does not intent to, rely on its multicast streams for compliance with the Commission's children's programming requirements. . . . As such, neither WWHO(TV)'s compliance with the Commission's Children's Television Programming requirements nor viewers' access to the station's required core programming will be affected." WWHO Legal STA at 2.

²² See *supra* note 20.

²³ *Next Gen TV Report and Order*, 32 FCC Rcd at 9972, para. 80, n.237. See also *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Declaratory Ruling and Notice of Proposed Rulemaking, 35 FCC Rcd 5916, 5924, para. 15 (2020).

²⁴ *Supra* note 12.

²⁵ We note that the Commission has before it a Petition for Declaratory Ruling and Rulemaking requesting that the Commission "(1) clarify that its existing rules permit a station transmitting in ATSC 3.0 to partner with one or more

we will continue to consider these program streams to be WWHO's multicast streams even though they are being aired on different channels than WWHO's ATSC 1.0 primary stream. Multicast signals are not entitled to mandatory carriage rights,²⁶ and this authorization does not modify or alter WWHO's mandatory carriage rights. Ultimately any impact on an MVPD's ability to carry WWHO's non-primary multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between WWHO and the affected MVPDs. According to WWHO, it does not expect there to be any adverse impact on MVPD viewers.²⁷ As stated, WWHO has provided written notice to all impacted MVPDs, is coordinating with all impacted MVPDs, and will continue to coordinate as needed with potentially affected MVPDs to ensure they continue to receive a good quality signal of the non-primary multicast streams over-the-air or via alternative delivery methods, such as direct fiber feed.²⁸ As a result, we do not expect there to be any adverse impact on MVPD viewers.

Accordingly, the above captioned Manhan Media, Inc., licensee of WWHO-TV, Columbus, Ohio, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on July 5, 2021. For purposes of the Act and the Commission's rules we will consider the multicast program streams of Comet TV to be originated by WWHO, even though they are being aired over WTTE's and WCMH's facilities and channels. Further, we will not apply our ownership rules to the extent the instant temporary arrangement would otherwise result in a potential violation of those rules so long as WWHO's non-primary multicast streams are being aired on the facilities of Nexstar pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., WWHO is operating an authorized ATSC 3.0 facility and its primary stream, absent waiver, is being aired over the facility of an ATSC 1.0 simulcast host). Any change in the non-primary multicast streams being aired over Nexstar's facilities by WWHO or relocating either of WWHO's non-primary multicast streams to a new ATSC 1.0 multicast host, will require the filing of a new request. Manhan agrees to coordinate with MVPDs as necessary. While renewal of the instant authorization may be requested, there is no expectation of renewal and whether renewal is granted will be subject to any additional Commission or Bureau decisions on the treatment of multicast non-primary streams pursuant to an ATSC 3.0 simulcasting arrangement.

other stations that would host the first station's simulcasted ATSC 1.0 multicast streams to preserve existing service in the market; and (2) establish rules permitting a station transmitting in ATSC 3.0 to partner with one or more other stations that would host the first station's ATSC 1.0 multicast streams, regardless of whether those ATSC 1.0 multicast streams are simulcast in ATSC 3.0, and also permit a station transmitting in ATSC 1.0 to partner with one or more other stations to host content transmitted in ATSC 3.0." See *Petition for Declaratory Ruling and Rulemaking of the National Association of Broadcasters*, GN Docket No. 16-142 (filed Nov. 9, 2020) (Petition); *Media Bureau Seeks Comment on Petition for Declaratory Ruling and Petition for Rulemaking of the National Association of Broadcasters Seeking to Clarify Treatment of Multicast Streams Under the Next Gen TV Local Simulcasting Rules*, GN Docket No. 16-142, Public Notice, DA 20-1394 (rel. Nov. 24, 2020). Our action herein is not intended to prejudge the outcome of any potential proceeding undertaken as a result of the Petition.

²⁶ See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket Nos. 98-120, 00-96 and 00-2, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2621-22, para. 54 (2001); affirmed by *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, Second Report and Order and First Order on Reconsideration, CS Docket No. 98-120, 20 FCC Rcd 4516, 4518, para. 3 (2005) (*DTV Must-Carry Second R&O*) (declining to require cable systems to carry a licensee's multicast streams). In the *DTV Must-Carry Second R&O*, the Commission affirmed its decision in the First Report and Order to interpret the statutory term "primary video" to mean only a single programming stream. If a digital broadcaster elects to divide its digital spectrum into several separate programming streams, only one of these streams is entitled to mandatory carriage. *Id.* at 4530-37, paras. 28-44.

²⁷ WWHO Legal STA at 2.

²⁸ *Id.*

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):
Jason Roberts, Esq.
(Counsel for WCMH)