



Federal Communications Commission
Washington, D.C. 20554

September 27, 2018

Telecinco, Inc.
P.O. Box 43
Mayaguez, PR 00681

Lee G. Petro, Esq.
Pillsbury Winthrop Shaw Pittman
1200 17th Street NW
Washington, DC 20036

Re: Request for Extension of Time to
Construct Post-Auction Channel Facility
WRFB(TV), Carolina, Puerto Rico
Facility ID No. 54443
LMS File No. 0000059650

Dear Licensee,

On September 18, 2018, Telecinco, Inc., the licensee of WRFB(TV), Carolina, Puerto Rico (Station or WRFB), submitted the above-captioned request for waiver of the post-incentive auction consumer education requirements.¹ For the reasons set forth below, we grant the request for waiver.

Background. Pursuant to Section 73.3700(c)(3) of the Commission's rules (Rules), repacked stations must complete specific consumer education requirements beginning 30-days prior to discontinuing operations on their pre-auction channel.² WRFB continues to be silent due to damage to its transmission facilities suffered during Hurricane Maria and will remain silent until it completes construction of its post-auction facility.³ On January 11, 2018, the Media Bureau (Bureau) modified the transition schedule for all repacked stations in Puerto Rico, including WRFB, by permitting them to transition to their post-auction channel prior to their assigned transition phase. The Bureau established a testing period start date of July 1, 2018, and a phase completion date of August 1, 2018 for all repacked Puerto Rico stations.⁴ The Bureau also recognized that as the result of damage suffered during both Hurricanes Irma and Maria, some stations may remain silent until they transition to their post-auction channel. As a result, the Bureau instructed such stations to apply for waiver of the consumer education requirements to: (1) explain why the station is unable to comply with the existing consumer education

¹ See 47 CFR § 73.3700(c)(3); *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786, 2814-2815, para. 83 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*); see also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 880-881, para. 71 (MB 2017) (*Broadcast Transition Procedures Public Notice*).

² 47 CFR § 73.3700(c)(3); See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814-2815, para. 83; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 880-881, para. 71.

³ See LMS File Nos. 0000041139, 0000058846, and 0000059655.

⁴ *Incentive Auction Task Force and Media Bureau Grant Waiver of the Post-Auction Transition Schedule and Modify the Transition Phase Assignments of Repacked Stations in Puerto Rico and the U.S. Virgin Islands*, Public Notice, 33 FCC Rcd 138, para. 1 (MB 2018).


requirements; (2) propose an alternative but comparable means to notify viewers; and (3) explain why grant of the waiver complies with Section 1.3 of the Rules.⁵

Telecinco explains that because WRFB remains silent, it is unable to broadcast the required consumer education PSAs or crawls on its pre-auction channel and requires waiver of Section 73.3700(c)(3) of the Rules. In lieu of airing the required over-the-air announcements, Telecinco proposes to provide viewer notice before it commences operations on its post-auction channel as follows: (i) include information about the Station's post-incentive auction transition on the website that the Station shares with co-owned Station WORA-TV; (ii) include information about the Station's post-incentive auction transition on social media platforms (Facebook and Twitter) that the Station shares with co-owned Station WORA-TV; (3) include information about the Station's post-incentive auction transition in crawls that will run on co-owned Station WORA-TV prior to the Station's commencement of operations. WORA-TV not only provides service to a significant portion of WRFB's service area, but also provides service to WRFB's community of license.

Discussion. Upon review of the facts and circumstances presented, we find that grant of Telecinco's request for waiver is in the public interest. A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁶ We find that deviation from the existing post-incentive auction consumer education requirements is appropriate in light of the fact that the station is unable to conduct the consumer education required under the rules due to the damage suffered to its pre-auction facility as a result of Hurricane Maria. We find that the public interest and overall policy goal underlying the Bureau's decision to permit WRFB to transition early would be advanced by permitting Telecinco to comply with the modified consumer education requirements for Station that it has proposed in its waiver request and as outlined herein.

Accordingly, Telecinco's request for waiver of the post-incentive auction consumer education requirements, 47 CFR § 73.3700(c)(3), for WRFB(TV), Carolina, Puerto Rico, **IS GRANTED**, and the Station is required to conduct its consumer education in the manner set forth in the waiver request. Such alternative consumer education efforts must commence at least 30-days prior to commencement of operation on the Station's post-auction channel.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁵ *Id.* at 141, para. 8. 47 CFR § 1.3 (waiver for good cause shown).

⁶ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3.