



Federal Communications Commission
Washington, D.C. 20554

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Nexstar Inc.
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(via electronic mail)

WOLP-CD, Grand Rapids, MI
Facility ID No. 167892
LMS File No. 0000141799

WXSP-CD, Grand Rapids, MI
Facility ID No. 36851
LMS File No. 0000141795

Dear Licensee:

This letter is in reference to the above captioned applications for legal special temporary authority (Legal STA) filed by Nexstar, Inc. (Licensee), licensee of digital Class A television stations WXSP-CD, Grand Rapids, Michigan (WXSP) and WOLP-CD, Grand Rapids, Michigan (WOLP) (Stations).¹ In its Legal STAs, the Licensee requests authorization to allow both Stations 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 WWMT(TV), Kalamazoo, Michigan (WWMT) licensed to WWMT Licensee, LLC (WWMT Licensee), and WXMI(TV), Grand Rapids, Michigan (WXMI), licensed to Scripps Broadcasting Holdings, LLC, (Scripps) (collectively multicast hosts).² Both the primary and non-primary streams of WOLP and WXSP are identical. This arrangement between the Licensee and the multicast hosts has been entered into in connection with the Stations' transition of their facilities to the ATSC 3.0 transmission standard. Although the Licensee has agreed to indemnify the multicast hosts from all liabilities or claims resulting from the airing of its multicast stream over the Stations' facilities,³ it has requested the instant authorizations to make clear that it will remain responsible from a statutory and regulatory perspective for the Stations' multicast streams. Specifically, the Licensee requests that Stations be treated as if they are still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communications Act of 1934, as amended (Act) and the Commission's rules (Rules).⁴ For the reasons below, we grant the Licensee's request.

¹ Application of Nexstar, Inc., WXSP-CD, Grand Rapids, MI, for Legal Special Temporary Authority, LMS File No. 0000141795, as amended (granted Apr. XX, 2021) and Application of Nexstar, Inc., WOLP-CD, Grand Rapids, MI, for Legal Special Temporary Authority, LMS File No. 0000141799, as amended (granted Apr. XX, 2021). Because both applications are identical, we refer them, collectively, as Nexstar Legal STA.

² WWMT is licensed to operate on RF Channel 8 and WXMI is licensed to operate on RF channel 32.

³ Nexstar Legal STA at 2.

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,

Background. On April 16, 2021, the Video Division granted the Stations' application for modification of license to convert their existing broadcast facilities to ATSC 3.0 transmissions.⁵ As required by section 73.3801 of the Rules,⁶ the Stations primary streams will be simulcast in an ATSC 1.0 format over the commonly owned facility of WOOD-TV, Grand Rapids, Michigan.⁷ In addition to its primary stream, the Stations currently broadcast the same two non-primary multicast streams: *Court TV Mystery* and *Cozi TV*.⁸ In order to avoid the loss of the Stations' over-the-air multicast programming to their current ATSC 1.0 viewers, the Licensee has entered into a written agreement with the multicast hosts to broadcast *Court TV Mystery* over WWMT, and *Cozi TV* over WXMI.⁹ As part of the same arrangement, the multicast hosts have been provided capacity as ATSC 3.0 guest stations on the Stations' facilities.¹⁰

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, the Stations are not able to air all of their multicast streams on the same channel as their primary ATSC 1.0 simulcast signal.¹¹ Furthermore, due to capacity and other constraints the Stations are not able to simulcast an ATSC 3.0 version of its multicast streams.¹² Pursuant to an engineering study conducted by the Licensee, under its arrangements 100% of the Stations current over-the-air ATSC 1.0 viewers will retain access to *Court TV Mystery* and *Cozi TV*.¹³ Absent the proposed arrangements and grant of the instant requests, the Licensee states that "all over-the-air viewers would lose access to [[the Stations'] multicast streams."¹⁴ The

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 Nexstar, Inc. for Modification of License, LMS File No. 0000141792 (granted Apr. 16, 2021) (WXSP License Modification); Application of Nexstar, Inc. for Modification of License, LMS File No. 0000141794 (granted Apr. 16, 2021) (WOLP License Modification) (collectively Nexstar License Modifications).

⁶ 47 CFR § 73.3801(b).

⁷ See Nexstar License Modifications.

⁸ Nexstar Legal STA at 1.

⁹ *Id.*

¹⁰ See Application of WWMT Licensee, LLC for Modification of License, LMS File No. 0000141845 (granted Apr. 16, 2021) and Application of Scripps Broadcasting Holdings, LLC for Modification of License, LMS File No. 0000143294 (granted Apr. 16, 2021)

¹¹ Nexstar Legal STA at 1.

¹² Specifically, Licensee states that in order to air an ATSC 3.0 simulcast of the Station's non-primary multicast streams, the Stations' 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 the Stations' 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 Grand Rapids, Michigan, Designated Market Area. *Id.* at 1-2.

¹³ See Nexstar Legal STA, Engineering Technical Statement at 5-6. We also note that 100% of the Stations' current over-the-air ATSC 1.0 viewers will retain access to primary programming over WOOD. Nexstar License Modification, Engineering Technical Statement at 3, 5.

¹⁴ Nexstar Legal STA at 2.

Licensee's engineering study also shows that its non-primary multicast streams will continue to serve the Stations' designated market area and community of license.¹⁵

The Licensee goes on to state that it has provided the requisite notice to MVPDs regarding relocation of the Stations' primary ATSC 1.0 stream and its non-primary multicast streams.¹⁶ The Stations' have also 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 WXSP's ATSC 1.0 programming streams. Because WXSP and WOLP air identical programming and will both have the same multicast hosts, they will only utilize the PSIP for WOLP (channel 15). In order to alleviate any viewer confusion, the Licensee will instruct all viewers that the Stations' programming will be available on channel 15.¹⁸ The Licensee plans to convert the Stations' facilities to ATSC 3.0 and commence its ATSC 1.0 operations over the facilities of WOOD (primary stream), as well as WWMT and WXMI (non-primary streams) on April 22, 2021.¹⁹

Discussion. We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of the Licensee's Legal STA. Under the Commission's 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 the Stations non-primary multicast programming streams in an ATSC 1.0 format to viewers and make clear that the Stations are 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 the Stations' non-primary multicast streams, we will treat those signals as multicast streams being originated by the Stations even though they are being transmitted over the multicast hosts' channels and facilities. The Stations are the sole parties responsible for ensuring compliance with all statutory and regulatory requirements with regards to both of its original non-primary multicast streams. 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 the Stations air an ATSC 3.0 version of the ATSC 1.0 non-primary multicast streams being aired over the multicast hosts 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 arrangements 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

¹⁵ Nexstar Legal STA, Engineering Technical Statement at Exhibit 5, Exhibit 7.

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

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

¹⁸ Nexstar Legal STA at 2.

¹⁹ *Id.*

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

²¹ Licensee notes in its Legal STA that it does not currently, nor does it intend to, rely on its multicast streams for compliance with the Commission's children's programming requirements. Nexstar Legal STA at 2.

²² See *supra* note 20.

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 STAs, 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, we will continue to consider these program streams to be the Stations' multicast streams even though they are being aired on a different channel than Stations' ATSC 1.0 primary stream. Even to the extent that the Stations are eligible for must carry rights, multicast signals are not entitled to mandatory carriage rights,²⁶ and this authorization does not modify or alter the Stations' mandatory carriage rights (or lack thereof). Ultimately any impact on an MVPD's ability to carry the Stations' non-primary multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between the Stations and the affected MVPDs. According to the Licensee, it 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.²⁷ As a result, we do not expect there to be any adverse impact on MVPD viewers.

Accordingly, the application of Nexstar, Inc., licensee of WXSP-CD, Grand Rapids, Michigan and WOLP-CD, Grand Rapids, Michigan, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on October 21, 2021. For purposes of the Act and the Commission's rules, we will consider the multicast program streams of *Court TV Mystery* and *Cozi TV* to be originated by the

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 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, 35 FCC Rcd 13130 (MB 2020). Our action herein is not intended to prejudice 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 Nexstar Legal STA at 2.

Stations, even though the streams are being aired over the multicast host stations' 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 the Stations' non-primary multicast streams are being aired on the facilities of the multicast hosts pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., the Stations are 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 the multicast hosts by the Stations or relocating either of non-primary multicast streams to a new ATSC 1.0 multicast host, will require the filing of a new request. By this grant, the Licensee 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.

Sincerely,

/s/

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