



Federal Communications Commission
Washington, D.C. 20554

July 1, 2021

Scripps Broadcasting Holdings LLC
c/o Dave Giles
312 Walnut Street
28th Floor
Cincinnati, OH 45202
(via electronic mail)

KASW(TV), Phoenix, AZ
Facility ID No. 7143
LMS File No. 0000147623

Dear Licensee:

This letter is in reference to the above-captioned application for legal special temporary authority (Legal STA) filed by Scripps Broadcasting Holdings LLC (Licensee), licensee of digital full power television station KASW(TV), Phoenix, Arizona (KASW or Station).¹ In its Legal STA, the Licensee requests authorization to allow KASW'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 KSAZ-TV, Phoenix, Arizona (KSAZ), licensed to NW Communications of Phoenix, Inc. (Fox); KTVK(TV), Phoenix, Arizona (KTVK), licensed to KPHO Broadcasting Corporation (Meredith); and KPNX(TV), Mesa, Arizona (KPNX), licensed to Multimedia Holdings Corporation (TEGNA) (collectively, Multicast Hosts).² This arrangement between the Licensee and the Multicast Hosts has been entered into in connection with the Station's transition of its 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 streams over the Multicast Hosts' facilities,³ it has requested the instant authorizations to make clear that it will remain responsible from a statutory and regulatory perspective for the Station's multicast streams. Specifically, the Licensee requests that KASW be treated as if it is 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 Scripps Broadcasting Holdings LLC, for Legal Special Temporary Authority as amended, LMS File No. 0000147623 (filed May 27, 2021) (Scripps Legal STA).

² KSAZ is licensed to operate on RF Channel 10, KTVK is licensed to operate on RF channel 24, and KPNX is licensed to operate on RF channel 12.

³ Scripps Legal STA, Amendment Exhibit 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, 9970-73, 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.).

Background. On March 13, 2020, the Video Division granted the Licensee's application for modification of license to convert its existing broadcast facilities to ATSC 3.0 transmission.⁵ As required by section 73.3801 of the Rules,⁶ the Station's primary stream is simulcast in an ATSC 1.0 format over the commonly owned facility of KNXV-TV, Phoenix, Arizona (KNXV).⁷ In addition to its primary stream, the Station currently broadcasts three non-primary multicast streams: *HSN*, *Grit*, and *Court TV Mystery*.⁸ In order to avoid the loss of the Station's over-the-air multicast programming to their current ATSC 1.0 viewers, the Licensee entered into a written agreement with Fox to broadcast all three non-primary multicast streams over Fox station KSAZ.⁹

On September 24, 2020, the Media Bureau granted a legal STA finding that for purposes of the Act and the Commission's rules the Station's non-primary multicast programming streams of *HSN*, *Grit*, and *Court TV Mystery* will be considered to be originated by KASW, even though they are being aired over KSAZ's facilities and channel.¹⁰ On March 15, 2021, the Licensee requested an extension of this STA, seeking to continue airing its non-primary multicast streams over KSAZ.¹¹ However, to accommodate planned changes in the Phoenix, Arizona ATSC 3.0 sharing arrangement, the Station has entered into a written agreement to air *Grit* over TEGNA station KPNX, and *Court TV Mystery* over Meredith station KTVK, while continuing to air *HSN* over Fox station KSAZ.¹² As part of this arrangement, KSAZ and KPNX have been provided capacity as ATSC 3.0 guest stations on the Station's facilities.¹³

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, the Station is not able to air all of its multicast streams on the same channel as its primary ATSC 1.0 simulcast signal.¹⁴ Furthermore, due to capacity and other constraints the Station is not able to simulcast an ATSC 3.0 version of its multicast streams.¹⁵ Pursuant to an engineering study conducted by the Licensee, under its

⁵ See, Application of Scripps Broadcasting Holdings LLC for Modification of License, LMS File No. 0000106570 (granted Mar. 13, 2020) (KASW License Modification).

⁶ 47 CFR § 73.3801(b).

⁷ See KASW License Modification. KNXV is licensed to operate on RF channel 15.

⁸ Scripps Legal STA at 1.

⁹ Letter from Barbara A. Kreisman, Chief, Video Division, FCC Media Bureau, to Scripps Broadcasting Holdings LLC at 2 (Sept. 24, 2020) (on file at LMS File No. 0000120506) (KASW Grant Letter).

¹⁰ *Id.* at 4.

¹¹ Application of Scripps Broadcasting Holdings LLC for Extension of Legal Special Temporary Authority, LMS File No. 0000139602 (filed Mar. 15, 2021).

¹² Scripps Legal STA at 1.

¹³ Application of NW Communications of Phoenix, Inc. for Modification of License, LMS File No. 0000106827 (granted Mar. 13, 2020); Application of Multimedia Holdings Corporation for Modification of License, LMS File No. 0000149637 (granted June 29, 2021).

¹⁴ Scripps Legal STA at 2. We also note that stations are not required to air their multicast channels as part of their ATSC 3.0 conversion. See, *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40 ("The provision of multicast channels is discretionary, and we decline to adopt rules requiring broadcasters who currently air such channels to continue to do so.").

¹⁵ Scripps Legal STA at 2. See KASW Grant Letter at 2, n. 14 (noting that in order to air an ATSC 3.0 simulcast of the Station's multicast streams, KASW would not be able to accommodate current ATSC 3.0 guests as arranged;

multicast hosting arrangements, 100% of the Station's current over-the-air ATSC 1.0 viewers will retain access to *HSN* on KSAZ, *Grit* on KPNX, and *Court TV Mystery* on KTVK.¹⁶ Absent the proposed arrangements and grant of the instant request, the Licensee states that KASW "may not be able to continue to provide [its] non-primary multicast streams over-the-air, which would result in a complete loss of service to all of the over-the-air viewers of those streams."¹⁷ The Licensee's engineering study also shows that its non-primary multicast streams will continue to serve the Station's designated market area and community of license.¹⁸

The Licensee goes on to state that it has provided the requisite notice to MVPDs regarding relocation of the Station's primary ATSC 1.0 stream and its non-primary multicast streams.¹⁹ The Station will also air the requisite over-the-air announcements²⁰ regarding the need for over-the-air viewers to rescan their television sets to continue to receive KASW's ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channel for each of KASW's programming streams will remain unchanged and will be identified to viewers as being associated with KASW.²¹ The Station plans to commence its ATSC 1.0 multicast operations over the facilities of KPNX and KTVK on July 8, 2021.²²

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.²³ Grant of the instant Legal STA will promote continued transmission of the Station's non-primary multicast programming streams in an ATSC 1.0 format to viewers and make clear that the Station 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 the Station's non-primary multicast streams, we will treat those signals as multicast streams being originated by the Station even though they are being transmitted over the Multicast Hosts' channels and facilities. The Licensee is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regard to all of its original non-primary multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children's programming,²⁴ equal employment opportunities, public inspection files, indecency, sponsorship identification, station identification, contests, the CALM Act, and

would require the reworking of existing ATSC 3.0 agreements; additional engineering work and equipment; and would impact the station's abilities to offer enhanced ATSC 3.0 offerings).

¹⁶ See Scripps Legal STA at 2, 4.

¹⁷ Scripps Legal STA at 2.

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 2. See 47 CFR § 73.3801(g) (Notice to MVPDs).

²⁰ Scripps Legal STA at 2. See 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

²¹ Scripps Legal STA at 2.

²² *Id.* at 1.

²³ *Supra* note 14.

²⁴ The Licensee notes in its Legal STA that KASW "does not currently, and does not intend to, rely on its non-primary multicast streams for compliance with the Commission's Children's Television Programming requirements. Accordingly, KASW's compliance with the Commission's Children's Television Programming requirements and viewer's access to the station's core programming will not be affected." Scripps Legal STA, Second Amendment Exhibit at 1.

the Emergency Alert System.²⁵ Furthermore, because the Commission's rules do not require that a multicast stream be simulcasted,²⁶ we will continue to not require that the Station air an ATSC 3.0 version of the ATSC 1.0 non-primary multicast streams being aired over the Multicast Hosts' facilities. For purposes of the instant Legal STA, we find compelling the capacity and engineering constraints that the Licensee has set forth.

Further, 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 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."²⁷

Accordingly, the application of Scripps Broadcasting Holdings LLC, licensee of KASW, Phoenix, Arizona, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on January 1, 2022. For purposes of the Act and the Commission's rules, we will consider the multicast program streams of *HSN*, *Grit*, and *Court TV Mystery* to be originated by the Station, even though the streams are being aired over the Multicast Hosts' facilities and channels.²⁸ Any change in the non-primary multicast streams being aired over the Multicast Hosts by the Station or relocating any of the 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. Because multicast signals are not entitled to mandatory carriage rights,²⁹ any impact on an MVPD's ability to carry KASW's non-primary multicast streams pursuant to a retransmission consent agreement is subject to the terms of the private contractual relationships between KASW and the affected MVPDs. According to the Licensee, it has coordinated with all impacted MVPDs to ensure that they continue to receive a good quality signal of the non-primary multicast streams over-the-air or via alternative delivery methods.³⁰ Whether renewal is granted will be subject to any additional Commission or Bureau decisions on the treatment of multicast

²⁵ See *supra* note 4.

²⁶ See *supra* note 14.

²⁷ *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).

²⁸ By this action we authorize *Grit* to be aired over TEGNA station KPNX and *Court TV Mystery* over Meredith station KTVK. We also extend KASW's authority to continue to air *HSN* over Fox station KSAZ.

²⁹ 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.

³⁰ Scripps Legal STA, Amendment Exhibit at 1.

non-primary streams pursuant to an ATSC 3.0 simulcasting arrangement.³¹

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):

Coe Ramsey, Esq.
(Counsel of KASW)

Ann Bobeck, Esq.
(Counsel for KSAZ)

Michael Beder, Esq.
(Counsel of KPNX)

Christina Burrow, Esq.
(Counsel for KTVK)

³¹ 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 prejudge the outcome of any potential proceeding undertaken in response to the Petition.