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September 15, 2020

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

WGBH Educational Foundation
W247DO (Facility ID 72093), Beacon Hill, MA
File Number 0000115764
Submission for the Record

Dear Ms. Dortch:

WGBH Educational Foundation (“WGBH”), licensee of FM Translator Station W242AA, Beacon Hill, Massachusetts, respectfully submits this letter to correct the record regarding an untrue allegation raised in Beanpot License Corp.’s (“Beanpot”) September 8, 2020 letter concerning WGBH’s decision to surrender for cancellation its construction permit, File Number 0000115764 (the “Cancellation Notice”).¹

Specifically, Beanpot repeats an allegation that the Commission’s *ex parte* rules entitled it to formal service of the Cancellation Notice.² While WGBH elected against responding to Beanpot’s incorrect understanding of the *ex parte* rules the first time Beanpot raised it (in an August 24, 2020 self-styled opposition), WGBH feels compelled to respond and correct the record in light of Beanpot’s baseless call for “disciplinary action” against WGBH.³

Notably, WGBH’s August 18, 2020 surrender of its construction permit was not a “presentation” in a proceeding in which another party, WJFD-FM, Inc., sought reconsideration

¹ See Letter from Matthew S. DelNero, Counsel to WGBH Educational Foundation, to Robert Gates, Audio Division, Media Bureau, FCC, LMS File No. 0000115764 (filed Aug. 18, 2020).

² See Letter from Barry A. Friedman, Counsel to Beanpot License Corp., to Marlene H. Dortch, Secretary, FCC, LMS File No. 0000115764, at 1 (filed Sept. 8, 2020).

³ *Id.* (suggesting that “appropriate disciplinary action be taken against WGBH including, but not limited to, a referral [of WGBH] to the Enforcement Bureau”).

of the grant of the permit.⁴ WGBH's letter informed the Commission of its decision to voluntarily surrender the permit. The letter did not provide a "communication directed to the merits or outcome" of Commission decision-making on the issues raised in WJFD-FM, Inc.'s petition, which asked the Commission to "rescind grant of" the permit.⁵ Nor did the Cancellation Notice address the merits of Beanpot's opposition to the relief that WJFD-FM, Inc. sought from the Commission. The fact that WGBH's voluntary decision to surrender the permit may have rendered the WJFD-FM, Inc. petition moot does not turn a routine notice of that decision into a "presentation" under the *ex parte* rules.

Beanpot's effort to elevate its misconstruction of the Commission's *ex parte* rules into an enforcement proceeding is all the more perplexing given Beanpot's own acknowledgement that it was directly advised *by WGBH* of the surrender of the construction permit.⁶ Beanpot experienced no prejudice by the fact that it received direct notification from WGBH of the Cancellation Letter rather than a courtesy copy of it.

In short, WGBH's August 18 submission was entirely consistent with the Commission's rules. WGBH has appropriately surrendered construction permit File Number 0000115764 and looks forward to continuing operation on channel 242, as it has done for many years.

Please direct any questions in this matter to the undersigned.

Respectfully submitted,



Matthew S. DelNero
Corey Walker
Counsel to WGBH
Educational Foundation

cc: Barry A. Friedman
Scott Woodworth
Robert Gates

⁴ See WJFD-FM, Inc. Petition for Reconsideration and Interference Complaint, LMS File No. 0000115764 (filed July 27, 2020).

⁵ See 47 C.F.R. § 1.1202(a) (defining a "presentation" as a "communication directed to the merits or outcome of a proceeding").

⁶ See Letter from Barry A. Friedman, Counsel to Beanpot License Corp., to Marlene H. Dortch, Secretary, FCC, LMS File No. 0000115764, at 2 n.1 (filed Aug. 24, 2020) ("Beanpot was informally advised of WGBH's plan, in a communication from WGBH's corporate counsel.").