

# United States Senate

WASHINGTON, DC 20510

June 14, 2019

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The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Pai:

We write to reiterate our deep alarm with the Federal Communications Commission's (FCC or Commission) decision to renew WWOR-TV's license in July of 2018. The decision to renew the license is especially concerning given the recent news that the new owners of WWOR's former facility in New Jersey are demolishing the broadcast equipment at that location.<sup>1</sup> In fact, the FCC renewed WWOR's licenses a mere month before the station sold its New Jersey facility, effectively terminating its operational and physical presence in our state.<sup>2</sup> We believe that this information was highly relevant to the Commission's decision whether to renew WWOR-TV's license, given that the station is under special obligations to serve northern New Jersey pursuant to section 331 and its license terms.

As a result, this series of events raises a question for us as to whether WWOR revealed all the relevant information in its renewal application and throughout the renewal process. To that end, we seek information as to whether the FCC knew or had reasons to believe that WWOR was contemplating the sale of the Secaucus facility and whether that knowledge factored into the Commission's renewal decision. For more than a decade, WWOR has failed to live up to its obligations to the people of New Jersey. And we believe that in renewing this license, the FCC has failed to live up to its statutory obligations under Section 309(k)(1) of the Communications Act to examine whether WWOR has complied with its obligation to "serve[] the public interest, convenience, and necessity."<sup>3</sup> As you know, if the densely populated state of New Jersey had its own media market, it would be the fourth-largest media market in the country. However, due to its position between New York City and Philadelphia, the state does not have a designated television market area centered in New Jersey. Rather, the state is split between the New York City and Philadelphia markets. As a result, WWOR-TV is one of a handful of commercial high-power television stations licensed to a community in New Jersey, and as noted below, the station has specific obligations to serve citizens of that state.

Carrying out a law passed in 1982 and codified in Section 331 of the Communications Act, the FCC stipulated that any license holder for WWOR "devote itself to meeting the special needs of its new community (and the needs of the Northern New Jersey area in general)."<sup>4</sup> The WWOR-TV license makes clear – and the FCC has confirmed on multiple occasions – that WWOR has

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<sup>1</sup> <https://www.nj.com/hudson/2019/06/bye-bye-channel-9-demolition-begins-at-secaucus-based-tv-station.html>

<sup>2</sup> *Id.*

<sup>3</sup> 47 U.S.C. Sec. 309(k)(1).

<sup>4</sup> Channel 9 Reallocation (WOR-TV), 53 RR 2d 469 (1983)

special obligations to serve North Jersey. We find it hard to imagine that WWOR can carry out these obligations to New Jersey without so much as having a physical presence in the state.

At a minimum, WWOR-TV shuttering its studio in New Jersey should make the Commission skeptical that the station's owner intends to meet its special obligations under the station's license in the future. In fact, we believe that this move should disqualify the station from a future license renewal. The timing of this sale raises serious questions for us about what information the Commission knew about the sale before the license renewal was approved. As a result, we ask the Commission to respond to the following questions within seven days:

1. Did WWOR-TV inform the Commission at any time before its license was renewed that the station had contemplated selling its studio in Secaucus, NJ?
2. Did WWOR-TV inform the Commission at any time before its license was renewed that the station had in fact begun the process of selling its studio in Secaucus, NJ? If so, what specific information was conveyed to the Commission about the actions taken by WWOR-TV to sell the facility?
3. Was the Commission made aware directly or indirectly that WWOR-TV planned to terminate its physical presence in New Jersey even though the station was under special obligations to serve our state pursuant to section 331 and the terms of its license?
4. Was any of the foregoing information shared with the five Commissioners or their staff in advance of the Commission's decision to approve the station's license renewal?
5. Has the Commission ever determined that a failure to disclose relevant information about a station's operations (including a plan to cease operating a studio in a particular community) when it pertains to that station's ability to comply with specific license terms merits reevaluation of the grant of a license renewal or the qualifications of an entity to hold a broadcast license?

As we have said before, we fear that the FCC's rubber-stamping of WWOR's license renewal portends the end of the public interest standard for TV licensees as set forth in the Communications Act. The FCC is charged with "implementing and enforcing America's communications law and regulations,"<sup>5</sup> a task that can only be accomplished if the agency uses its enforcement prerogative to review the facts surrounding this license renewal. The FCC, must, take its responsibility to the American people, including to the people of New Jersey, more seriously.

Thank you in advance for your prompt attention to this matter.

Sincerely,



Robert Menendez  
United States Senator



Cory A. Booker  
United States Senator

<sup>5</sup> <https://www.fcc.gov/about/overview>





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

September 17, 2019

The Honorable Robert Menendez  
United States Senate  
528 Hart Senate Office Building  
Washington, DC 20510

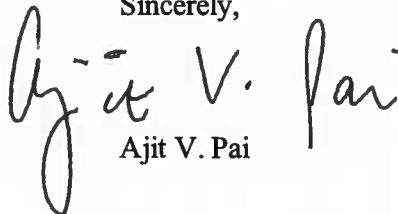
Dear Senator Menendez:

Thank you for your letter regarding WWOR-TV. As you know, the Federal Communications Commission unanimously approved the license renewal for the station's prior term last July, and also affirmed a 2014 action approving WWOR-TV's previous license renewal. This decision evinced a bipartisan consensus among Commissioners that the licensee met its obligations to serve the people of Northern New Jersey during its prior two license terms.

The Commission in this case (as in all similar cases) reviewed issues related to the character qualifications of licensees at the time of license renewal or as part of a license transfer proceeding. It unanimously rejected petitions to deny WWOR-TV's license renewal application and found that the license deserved to be renewed on the record presented. And while WWOR-TV did not inform me, my office, or FCC career staff, or other Commissioners or their staffs (so far as I am aware) of any plans to sell its studio prior to or after its license renewal, and the issue was not raised in any of the petitions to deny, our rules did not (and do not) require it to do so. Additionally, there were no conditions or other special obligations contained in WWOR-TV's license relating to this issue. I do not know whether there is a precedent regarding the failure to disclose relevant information about a station's operators along the lines you suggest, but in any event that circumstance does not describe this case.

For these reasons, every member of the Commission, Republican and Democrat, believed that under the laws of the United States and rules long-established by the Commission, the license for WWOR-TV ought to be renewed. Please let me know if I can be of any further assistance.

Sincerely,

  
Ajit V. Pai



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September 17, 2019

The Honorable Cory Booker  
United States Senate  
717 Hart Senate Office Building  
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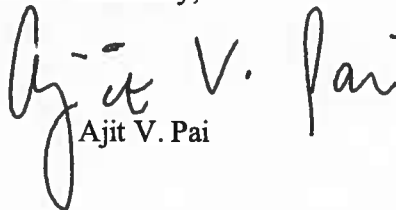
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