

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Entercom Communications and CBS Radio Seek	)	MB Docket No. 17-85
Approval to Transfer Control of and Assign FCC	)	
Authorization and Licenses	)	
	)	

**OPPOSITION OF ENTERCOM COMMUNICATIONS CORP.  
TO PETITION FOR FURTHER RECONSIDERATION**

Entercom Communications Corp. (“Entercom”) hereby opposes the Second Reconsideration Petition filed in this proceeding by Edward R. Stolz II et al.<sup>1</sup> Petitioners request that the Entercom/CBS Radio merger application be designated for hearing to examine the character qualifications of CBS Radio in light of allegations of sexual misconduct regarding Leslie Moonves, the former Chairman of the Board and Chief Operating Officer of CBS Radio’s corporate parent, CBS Corporation.

The core of Petitioners’ argument appears to be that the non-FCC misconduct allegations addressed in its Second Reconsideration Petition render this case similar to Commission decisions in the *Contemporary Media* and *Catoctin Broadcasting* cases such that the Commission would be unlawfully treating similar situations differently, in violation of the *Melody Music* doctrine.<sup>2</sup> But those two cases, in which the Commission disqualified licensees

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<sup>1</sup> Petition for Further Reconsideration of Edward R. Stolz II d/b/a Royce International Broadcasting Company, Golden State Broadcasting, LLC, Silver State Broadcasting, LLC, Major Market Radio, LLC, and Deborah J. Naiman (“Petitioners”), MB Docket No. 17-85 (Nov. 26, 2018) (“Second Reconsideration Petition”).

<sup>2</sup> *Id.* at 3-5 (citing *Melody Music, Inc. v. FCC*, 345 F.2d 730 (D.C. Cir. 1965); *Contemporary Media, Inc.*, 12 FCC Rcd 14254 (ALJ 1997), *aff’d*, 13 FCC Rcd 14437 (1998), *recon. denied*, 14 FCC Rcd 8790 (1999), *aff’d*, *Contemporary Media, Inc. v. FCC*, 214 F.3d 187 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 920 (2001); *Catoctin Broadcasting Corporation of New York*, 2 FCC Rcd 2126 (Rev. Bd. 1987), *aff’d*, 4 FCC Rcd 2553, *recon. denied*, 4 FCC Rcd 6312 (1989), *aff’d by unpublished opinion*, 920 F.2d 1039 (D.C. Cir. 1990)).

on character qualifications grounds, are not substantially similar to the situation here. In *Contemporary Media*, “the licensees’ sole owner and president was convicted of sexually abusing children, and [] the licensees made misrepresentations to the Commission about the owner’s continued involvement in station affairs.”<sup>3</sup> Here, among other distinctions, there has been no conviction or other adjudication regarding the alleged non-FCC misconduct.<sup>4</sup> The *Catoctin Broadcasting* case did not involve any allegations of non FCC-related misconduct at all. There thus is no issue of unfair differential treatment under *Melody Music*.<sup>5</sup>

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<sup>3</sup> *Contemporary Media*, 214 F.3d at 190.

<sup>4</sup> See *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 F.C.C.2d 1179, 1205 ¶ 48 (1986) (emphasis added) (citation omitted) (“We will not take cognizance of non-FCC related misconduct . . . unless it is adjudicated. In this regard, *there must be an ultimate adjudication* by an appropriate trier of fact, either by a government agency or court, before we will consider the activity in our character determinations.”); accord, *Policy Regarding Character Qualifications in Broadcast Licensing*, 5 FCC Rcd 3252, 3252 ¶ 4 (1990) (emphasis added) (citations omitted) (“evidence of any *conviction* for misconduct constituting a felony will be relevant to our evaluation of an applicant’s or a licensee’s character.”).

<sup>5</sup> To the extent Petitioners are suggesting that *Jefferson Radio Co., Inc. v. FCC*, 340 F.2d 781 (D.C. Cir. 1964), requires a hearing to resolve all character qualifications allegations, see Second Reconsideration Petition at 4, that is clearly not the law. See, e.g., *supra* note 4. To the extent Petitioners are suggesting that the Commission’s designation for hearing in the Sinclair/Tribune case also raises a *Melody Music* issue, see Second Reconsideration Petition at 5, as the Commission previously explained, the only similarity between this case and the Sinclair/Tribune case is “the fact that both cases involve acquisition of broadcast stations....” *Entercom Communications and CBS Radio Seek Approval to Transfer Control of and Assign FCC Authorizations and Licenses*, FCC 18-152, ¶ 6 (rel. Oct. 25, 2018).

Accordingly, the Commission should promptly deny the Second Reconsideration  
Petition.

Respectfully submitted,

**ENTERCOM COMMUNICATIONS CORP.**

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December 6, 2018

**CERTIFICATE OF SERVICE**

I, Luciana Jhon, do hereby certify that, on this 6th day of December, 2018, the foregoing Opposition of Entercom Communications Corp. to Petition for Further Reconsideration was served by first class mail, postage prepaid, on the following persons:

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