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FEDERAL COMMUNICATIONS COMMISSION
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
MOBILEMEDIA CORPORATION, *ET AL.*)
)
Applicant for Authorizations and Licenses)
of Certain Stations in Various Services)

WT Docket No. 97-115

To: The Commission

REQUEST FOR EXTENSION OF STAY

MOBILEMEDIA CORPORATION

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To: The Commission

REQUEST FOR EXTENSION OF STAY

MobileMedia Corporation and its subsidiaries (“MobileMedia” or “the Company”), debtors-in-possession, by their attorneys, hereby request a six-month extension (*i.e.*, until October 6, 1998) of the Commission’s stay order in this matter,¹ within which to file applications to transfer control of the Company’s authorizations pursuant to the Commission’s policy in *Second Thursday Corp.*² As set forth more fully below, the Company’s original stay application was based upon an aggressive timeline for completion of the bankruptcy process.³ Although the Company has made substantial progress in that process since the stay was entered, the normal

¹ *MobileMedia Corp., et al.*, Order, 12 F.C.C. Rcd 7927 (1997) [hereinafter *Stay Order*].

² 22 F.C.C.2d 515 (1970). *Second Thursday* permits a licensee to assign or transfer its facilities even though it is involved in a hearing concerning its character qualifications, so long as (1) the licensee is in bankruptcy and (2) the “individuals charged with misconduct will have no part in the proposed operations and will either derive no benefit from a favorable action on the [assignment or transfer] application or will receive only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors.” *Id.* at 516.

³ As the Commission is aware, MobileMedia filed for bankruptcy, under Chapter 11 of the Bankruptcy Code, on January 30, 1997. The proceedings are pending before the Bankruptcy Court in Wilmington, Delaware. *In re MobileMedia Communications, et al.*, 97-174(PJW).

steps necessary in a bankruptcy of this size and complexity make it unlikely that the process will be complete before the fall.

I. BACKGROUND.

On April 8, 1997, the Commission issued an order commencing a hearing to inquire into the qualification of the Company to remain an FCC licensee.⁴ On May 13, 1997, the Company sought a temporary stay of these proceedings from the Commission, alleging that the hearing would cause significant damage to the Company's business to the detriment of innocent creditors, and explaining that the Company intended to propose a plan of reorganization consistent with the Commission's *Second Thursday* doctrine. In support of the Company's request, the Company supplied the Commission with a bankruptcy timeline – that was admittedly aggressive for a case of this size and complexity – under which the Company would have applied for *Second Thursday* relief within ten months. On June 6, 1997, the Commission issued the *Stay Order*, which provided the Company with a ten-month stay of the hearing and an opportunity to present a plan of reorganization that complies with the FCC's *Second Thursday* doctrine.

Since the issuance of the stay, the Company has made tremendous progress in formulating a plan of reorganization that will satisfy the requirements of the Commission's *Second Thursday* doctrine. More specifically, on January 27, 1998 – seven months after the issuance of the stay and consistent with the initial bankruptcy timeline – the Company filed its Joint Plan of Reorganization (“Plan”) and, on February 2, 1998, filed the related Disclosure

⁴ *MobileMedia Corp., et al.*, Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing for Forfeiture, 12 F.C.C. Rcd 14,896 (1997).

Statement.⁵ Under the Plan as submitted to the Court and the Commission: (1) the Company would engage in a so-called “standalone” reorganization under which it proposes to be “sold” to its existing creditors, comprised, among others, of dozens of lending institutions; (2) the existing Common Stock of MobileMedia would be canceled and the existing shareholders would not participate in the reorganization further; (3) the Company would be internally reorganized; (4) voting equity interests in the Company would be divided among the Company’s existing secured and unsecured creditors; and (5) the Company’s new shareholders would select a new Board of Directors. The Plan has the support of the agent and steering committee for the Company’s pre-petition secured lenders.

Despite the substantial progress made to date, the Company still has significant steps before it in the bankruptcy process. It must have the Disclosure Statement approved by the Bankruptcy Court, after which the Plan (accompanied by the Disclosure Statement) must be sent out to the Company's creditors for a vote. Subsequent to the tabulation of the votes on the Plan, a hearing must be held before the Bankruptcy Court on the confirmation of the Plan. In addition, the conditions precedent to the effectiveness of the Plan – including the approval by the Commission of the license transfers contemplated thereby – must be satisfied. The unsecured Creditors' Committee (the official committee appointed by the United States Trustee and composed of representatives of the unsecured creditors) opposes the current Plan, however, and unless agreement is reached on the terms of a plan, it is likely that the Committee will oppose each of these steps.⁶

⁵ Copies of these documents were provided to the Commission in the Company’s February monthly report.

⁶ Moreover, these cases are pending before the one full-time bankruptcy judge sitting in the
(Continued...)

Although the Company believes that the Plan comports fully with the *Second Thursday* doctrine, it believes that it is more appropriate to file a *Second Thursday* application when the contours of the plan of reorganization submitted to the creditors for a vote are more concrete. In the meantime, the Company hopes that negotiations will take place toward achieving what the Company had hoped to accomplish by this juncture – a successful resolution of the bankruptcy case. At the very least, the Company will work toward finalizing the critical terms of its Plan – and its *Second Thursday* applications – such as arriving at the composition of the Board of Directors of Reorganized MobileMedia and obtaining further information as to the identity of the proposed equityholders of Reorganized MobileMedia.

For the reasons detailed below, MobileMedia asks that the Commission grant the requested stay extension in order to allow it to complete its bankruptcy process and pursue a plan of reorganization – consensual, if possible – that would ultimately speed its emergence from bankruptcy and protect the interests of the Company’s creditors.

II. MOBILEMEDIA HAS MADE GREAT PROGRESS TO DATE IN FASHIONING A PLAN THAT WILL SATISFY THE REQUIREMENTS OF THE COMMISSION’S *SECOND THURSDAY* PRECEDENT.

When the Commission issued its Stay Order, the Company contemplated that MobileMedia would either be sold outright to a third party or that a “standalone” plan of reorganization would be approved by the Bankruptcy Court, pursuant to which the creditors would become the owners of the Company, replacing entirely the current shareholders. Under

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District of Delaware, a judge whose docket is extraordinarily crowded. As a result, hearings and other court proceedings must often be scheduled for dates that are weeks away.

either scenario, MobileMedia committed that those individuals identified by the Commission as suspected wrongdoers⁷ would not profit from the grant of the stay or from the ultimate transfer or assignment of facilities, as required by *Second Thursday*.

Since the grant of the stay, MobileMedia has made tremendous strides toward the finalization of a plan of reorganization that meets the Commission's requirements. Over the last nine months, the Company has continued to explore the various financial and ownership options available to it, solicited bids from and negotiated with interested third-party bidders, and held extensive discussions with its various creditors regarding a standalone plan.⁸ During this time, the Company necessarily has been immersed in other complexities of the bankruptcy process and the substantial litigation attendant to that process.⁹ Moreover, MobileMedia has also been actively engaged in trying to stabilize its business so as to maximize value for its creditors and to ensure the Company's long-term viability.¹⁰ And the Company has been vigorously pursuing a program to help ensure its compliance with the Commission's rules going forward. On each of

⁷ In its Order dated August 11, 1997, the Commission appeared to limit the suspected wrongdoers to four individuals. *MobileMedia Corporation*, Order, 12 F.C.C. Rcd 11,861 (1997). MobileMedia has requested clarification on this issue. See *MobileMedia Request for Clarification* (Sept. 3, 1997).

⁸ MobileMedia's monthly reports to the Commission have set out these activities in substantial detail, and, for the sake of brevity will not be repeated here.

⁹ Among other things, the Company has nearly completed its review of the approximately 2,350 pre-petition claims filed in its bankruptcy case, and has resolved more than 2,100 of them. Of these, 1,231 were resolved pursuant to stipulations and orders of the Bankruptcy Court. These claims were filed in an aggregate amount of over \$80 million and have been allowed at approximately \$3.04 million. In addition, the Company has filed numerous motions in the bankruptcy case, permitting it, *inter alia*, to pay the claims of certain essential vendors, to reject numerous leases and contracts and to enter into significant new contracts with vendors.

¹⁰ Stabilizing the business is also necessary to determine the contours of the business plan and the Company's debt capacity in relation to either a sale or standalone plan.

these topics, MobileMedia has kept the Commission informed through a series of formal monthly reports and various informal contacts with the FCC's Wireless Telecommunications Bureau.¹¹

Although it is possible that certain elements of the Plan will change in the coming weeks or months, under any conceivable scenario the existing Board of Directors will be completely replaced and the existing equity will receive nothing on account of their equity interests. Thus, the Company believes that any plan proposed in its bankruptcy case will give both ownership and control of Reorganized MobileMedia to innocent third parties and otherwise meet the standards of *Second Thursday*. Under the current Plan, the Company's creditors would participate as follows:

- (a) Secured creditors¹² holding approximately \$649 million in secured, pre-petition claims would receive \$150 million in senior notes and the overwhelming majority of the equity of Reorganized MobileMedia. The secured creditors would choose an entirely new board of directors, effective as of the effective date of the Plan.¹³
- (b) Unsecured creditors holding approximately \$450 million in unsecured bonds ("bondholders") would receive distributions that vary depending on whether or not the holders of such bonds vote to accept the Plan. If the bondholders vote to *accept* the Plan, they would receive stock in Reorganized

¹¹ MobileMedia, of course, would be amenable to continuing to report progress on the bankruptcy through monthly reports or through other appropriate methods.

¹² While the rights of creditors are freely transferable, the secured creditors currently consist of approximately 35 financial institutions, none of which would own a majority (or even a substantial plurality) of the equity of Reorganized MobileMedia.

¹³ The Plan provides that the officers and directors of Reorganized MobileMedia will be identified ten days prior to the deadline established for creditors to vote on the Plan. Among other things, the Company believes that it is appropriate to request an extension of the stay so that the *Second Thursday* application can fully inform the Commission of the proposed officers and directors for Reorganized MobileMedia.

MobileMedia amounting to three per cent of the common equity of Reorganized MobileMedia. (Conversely, the secured creditors would receive 97 per cent of the equity.) The bondholders would also receive certain warrants and rights (each of which is described below).

- (c) If the bondholders vote to *reject* the Plan, they would receive the warrants and the rights, but no common equity of Reorganized MobileMedia. (In this case, the secured creditors would receive in excess of 99% of such common equity).¹⁴ The warrants, if fully issued on the effective date of the Plan, would entitle the warrantholders to *purchase* up to 16.5% of the equity of the Reorganized Debtors within a seven-year period. The rights entitle the rightsholders to purchase up to 100% of the equity of the Reorganized Debtors within a 55-day exercise period. Any shares issued in connection with an exercise of the rights: (i) will result in a share-for-share redemption of the stock issued to the secured creditors; and (ii) will have voting rights *only* upon FCC approval, if such approval is necessary.
- (d) Unsecured creditors other than the bondholders would receive, regardless of whether or not the bondholders vote to accept the Plan, cash in an amount that would provide them with the same percent recovery as would be received by the bondholders (other than the holders of the Dial Page Notes) if the bondholders vote to accept the Plan.

The effectuation of the Plan is specifically conditioned on, among other things, FCC approval of MobileMedia's *Second Thursday* transfer.

MobileMedia had transfer applications prior to the expiration of the Commission's stay on April 6. However, because of the sheer amount of the debt being converted to equity, it has been difficult to reach full consensus in the nine months that have elapsed since the stay was

¹⁴ The remainder of the common equity of Reorganized MobileMedia – currently estimated to be less than 1% of the common stock of Reorganized MobileMedia – will be distributed to the holders of the Dial Page Notes, one of the three series of unsecured bonds outstanding, in exchange for claims in the bankruptcy proceedings currently estimated to be approximately \$1.8 million. Based on the contractual subordination provisions contained in the indentures for the other two series of bonds, the Plan provides that the holders of the Dial Page Notes will receive equity securities – including common stock – equal to the full amount of their claims regardless of whether the other bondholders vote to accept or reject the Plan.

granted by the Commission. In light of the current status of the Plan, the Company believes an extension of the stay is appropriate.

III. NOTWITHSTANDING THE PROGRESS MADE TO DATE, THE BANKRUPTCY PROCESS IS LIKELY TO CONTINUE FOR SOME MONTHS FOR REASONS BEYOND THE CONTROL OF MOBILEMEDIA.

The Bankruptcy Code and governing rules mandate the procedures required to be followed in order for the Company to emerge from bankruptcy. First, the Court must determine whether the Disclosure Statement contains adequate information to allow the Company to submit the Plan of Reorganization and the accompanying Disclosure Statement to a vote of the Company's creditors. The earliest that can occur is at the hearing currently being scheduled during the month of May.¹⁵ If the Court approves the Disclosure Statement and allows the Company to submit the Plan to its creditors, the Court will also set a prescribed period of time (usually 60-90 days) within which the Company's creditors will be allowed to vote on the Plan. Only at the end of that voting period will the Court conduct a confirmation hearing on the Plan.

During this process, it is possible under the Bankruptcy Code for creditors who disagree with the Plan, to interpose formal objections – either to approval of the Disclosure Statement or to confirmation of the Plan – before the Bankruptcy Court. In fact, as the Company has reported to the Commission, at the Bankruptcy Court hearing held on January 27, 1998, the unsecured Creditors' Committee indicated its intention to commence discovery in connection with possible

¹⁵ When the Company first requested a hearing date, none was available before mid-April. The Company, with the consent of the unsecured Creditors' Committee and the Steering Committee for secured lenders, recently agreed to postpone the hearing for approximately 30 days in order to continue discussions.

objections to the Plan, and subsequently filed an *ex parte* request for discovery against a broad array of parties, including the Company.¹⁶ Many of the requested documents relate to the current valuation of the Company. The production of these documents was completed earlier this week. However, the Company cannot predict the course, timing or ultimate outcome of this litigation.

Despite the remaining issues and the ongoing litigation, MobileMedia continues to hope that it will reach agreement with the unsecured Creditors' Committee and the secured creditors on the terms of a plan of reorganization – an outcome that would greatly simplify the bankruptcy process.

IV. UNDER THESE CIRCUMSTANCES, THE REQUESTED STAY WOULD CLEARLY SERVE THE PUBLIC INTEREST.

In light of the circumstances described above, MobileMedia submits that the requested extension is clearly warranted.¹⁷ A six-month extension would allow MobileMedia to complete the details of the bankruptcy, would harm no other party, and would, in fact, help accommodate the protection of innocent creditors.¹⁸ Indeed, MobileMedia submits that no purpose would be served by returning the Company to hearing.

¹⁶ The Company has previously filed a copy of that discovery request with the Commission.

¹⁷ While the Stay Order contemplated that the Company's *Second Thursday* applications would be filed by April 6 (and while the Company clearly hoped that this would be possible), the Stay Order also specifically contemplated the possibility of extending the stay, if necessary. *Stay Order* at ¶ 19 (“these proceedings ARE STAYED for a period of 10 months or as specified in a further order of the Commission”). Indeed, as the Company indicated at the time, its request for a 10-month stay was based on an aggressive bankruptcy schedule.

¹⁸ In its original stay request, MobileMedia demonstrated that it met the four-pronged test justifying a stay of the hearing. *Emergency Motion for Special Relief and Stay of Proceedings Regarding MobileMedia Corporation*, WT Docket No. 97-115, at 10-15 (March 13, 1997). Those justifications remain valid today and are hereby incorporated by reference.

First, as detailed above, tremendous progress has been made to date in formulating a Plan of Reorganization. This was a significant task performed on an extremely expedited schedule, and a multitude of difficult issues were resolved among the parties. Especially given the size of the Company and the complexity of issues involved, an enormous amount has been accomplished since the grant of the stay.

Second, while substantial issues remain, it is equally clear that a defined legal process is now in place to resolve those remaining issues. By operation of the Bankruptcy Code, the remaining issues will be resolved – either through negotiation among the parties or by litigation in the Bankruptcy Court. Thus, while the Company cannot control or predict the exact timing of its emergence from the bankruptcy process, the Commission can be assured that a process is in place that will result in the approval of a confirmed plan of reorganization and the filing of *Second Thursday* transfer applications.

Third, the requested stay extension would facilitate the orderly filing and processing of MobileMedia's ultimate *Second Thursday* applications. Because the parameters of the plan are still subject to change, any applications it would file would necessarily have gaps and would have to be filled in by future amendment as the bankruptcy process proceeds. Moreover, requiring the submission of *Second Thursday* applications at this time may invite disgruntled creditors to attempt to expand their bankruptcy litigation to the FCC. As such, it would also likely result in the unnecessary expenditure of scarce resources by both the Company and the Commission in addressing filings that might later be rendered moot.¹⁹

¹⁹ While the Company believes that, in light of such gaps and the current state of the bankruptcy court litigation, it is not appropriate to file its *Second Thursday* applications at this time, it may be appropriate to submit such filings at some later date prior to confirmation.

Finally, MobileMedia submits that by facilitating the orderly completion of the bankruptcy process, the requested extension would help protect the interests of the Company's innocent creditors. As the Commission and Courts have repeatedly found, this is the essential goal of the FCC's *Second Thursday* policy in seeking to "accommodate[] the policies of federal bankruptcy law with those of the Communications Act."²⁰

MobileMedia believes that the requested extension would provide the parties with a realistic opportunity to attempt to resolve the remaining issues and to discuss and explore other options. This additional time would also permit the resolution of certain critical issues by the Bankruptcy Court. Continued progress through the bankruptcy process and towards a confirmed, hopefully consensual, plan will greatly simplify the Company's preparation, and the Commission's review, of the *Second Thursday* applications.

²⁰ *La Rose v. FCC*, 494 F.2d 1145, 1147 (D.C. Cir. 1974).

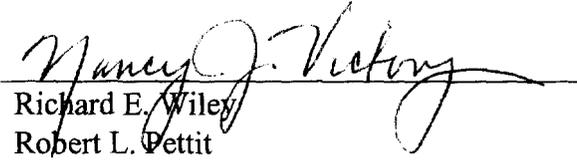
V. CONCLUSION.

For the reasons stated above, MobileMedia Corporation respectfully requests that the subject stay be extended for six months, *i.e.*, until October 6, 1998.

Respectfully submitted,

MOBILEMEDIA CORPORATION, ET AL.

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March, 1998, I caused copies of the foregoing Request for Extension of Stay to be mailed via first-class postage prepaid mail to the following:

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