

October 3, 2014

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20045

Re: PMCM TV, LLC
KVNV (TV), Middletown Township, New Jersey
Alternative PSIP Proposal
MB Docket No. 14-150
Construction Permit File No. BPCDT-20130528AJP

Dear Ms. Dortch:

Meredith Corporation (“*Meredith*”), ION Media License Company, LLC (“*ION*”), and CBS Broadcasting Inc. (“*CBS*”), by their respective attorneys, hereby request that the Media Bureau immediately notify PMCM TV, LLC (“*PMCM*”) that any further equipment or program tests initiated by KVNV(TV), Middletown Township, New Jersey (“*KVNV*”), must use virtual channel 33 pending final action by the Commission in the above-referenced proceeding. Meredith is the licensee of WFSB(TV) (“*WFSB*”), RF channel 33, virtual channel 3, Hartford, Connecticut. CBS is the licensee of KYW-TV (“*KYW*”), Philadelphia, Pennsylvania, RF channel 26, virtual channel 3. ION is the licensee of WPXN-TV (“*WPXN*”), New York, NY, which is carried on Channel 3 on Cablevision cable systems in the New York DMA.

PMCM is openly defying the Commission’s rules and causing precisely the harm that the Commission sought to avoid — a conflict over a major channel number — when it incorporated ATSC A/65 into its rules at 47 C.F.R. § 73.682(d). The Commission should not permit PMCM to circumvent either the rule or the ongoing review, in MB Docket No. 14-150, of KVNV’s PSIP assignment.

The Media Bureau initiated the proceeding in MB Docket No. 14-150 to determine the appropriate major channel designation for KVNV in view of the objections to PMCM’s proposed use of major channel 3 as KVNV’s virtual channel and PMCM’s alternative proposals concerning KVNV’s major channel designation. By public notice released on September 12, 2014, the Media Bureau requested public comment on PMCM’s “Alternative PSIP Proposal.”¹ In that filing, PMCM requests an unprecedented waiver of the Commission’s rules for KVNV to use a two-part virtual PSIP channel 3.10 (with any additional program streams eventually transmitted on KVNV(TV) identified as 3.11, 3.12, *etc.*). Under PMCM’s alternate proposal, Meredith’s WFSB, which has had over-the-air identification as Channel 3 in its market for

¹ See *Public Notice*, MB Docket No. 14-150, DA 14-1298, released September 12, 2014.

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almost half a century would retain use of virtual channels 3.1 through 3.9. Furthermore, PMCM has taken the position that it is entitled to be positioned on channel 3 on cable systems in the New York DMA, notwithstanding WPXN's first-in-time right to carriage on channel 3.

On September 29, 2014, PMCM advised the Commission that it had completed the construction of the facilities authorized by its above-referenced construction permit and was commencing equipment tests. As of September 30, 2014, PMCM was testing its equipment with a visual call-sign slide in place (*See Attachment A*) and using virtual channel 3.10, even though the Commission has granted PMCM no authority for use of virtual channel 3.10 and initial comments in the waiver proceeding seeking that authority are not even due until October 14, 2014. KVNV nevertheless has commenced program-length commercial programming and network (ME-TV) programming identifying itself over the air as "Channel 3" and using virtual channel 3.10, which it can only use if it obtains a waiver that the Commission has never issued.

Through objections to the KVNV construction permit application and a subsequent petition for declaratory ruling, Meredith has pointed out that the PSIP standards incorporated as part of the Commission's rules call for the assignment of virtual channel 33 to KVNV, since it is a station being newly licensed in the market. ION has supported that position in its own submissions in this proceeding. Furthermore, as Meredith and ION have pointed out, a principal purpose for the Commission's adoption of the PSIP standards for assignment of digital virtual channels to market newcomers was to avoid viewer confusion and to permit incumbent stations such as Meredith's WFSB, CBS's KYW, and ION's WPXN to retain the equity and brand identification that they have built up in their channels over many years. Permitting KVNV to begin program tests using the virtual major channel number identified with Meredith's WFSB, CBS's KYW, or ION's WPXN in advance of a decision in MB Docket 14-150 would amount to a prejudgment of the merits of the proceeding. Moreover, over-the-air viewers would be subject to confusion and Meredith would suffer impairment of the value of its channel-based service marks before the Commission decided the merits of its position regarding the proper virtual channel for KVNV or even reviewed public comments. At present, KVNV is using the same major channel designation as Meredith's WFSB for ongoing programming and is identifying its programming as coming from "Channel 3."

The Media Bureau also should clarify that PMCM's unilateral decision to disregard Section 73.682(d) of the Commission's rules and to circumvent the ongoing Media Bureau inquiry does not entitle KVNV in any way to select channel 3 in cable positioning matters. Not only is it inappropriate for KVNV to be operating today with major channel 3, but PMCM's demand that KVNV be carried on cable channel 3 is contrary to well-established precedent that a first-in-time channel positioning arrangement — such as ION's for carriage of WPXN on channel 3 — has priority over a channel positioning election subsequently made by another must-carry station.

KVNV, as a station being newly licensed in the market, has no existing identification with virtual major channel 3 among its potential viewers. Requiring KVNV to use virtual channel 33 for equipment and program tests thus would not harm KVNV or engender viewer confusion. KVNV, of course, may choose not to initiate further equipment or program testing until its

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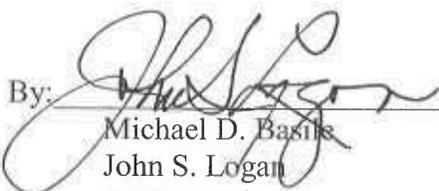
virtual channel assignment is determined in this proceeding. If PMCM should choose to continue equipment tests or initiate program tests for KVVN using virtual channel 33, its use of virtual channel 33 would be without prejudice to any decision the Commission ultimately might make. We respectfully request the Commission immediately direct PMCM to use virtual channel 33 for any program tests or other broadcast operations, pending a final order in the captioned docket.

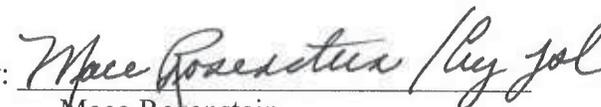
Please inform the undersigned if any questions should arise concerning this request.

Respectfully submitted,

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cc: Per attached certificate of service

ATTACHMENT A

>> YOUR FATHER JUST THINK SHE
SHOULD HAVE A LITTLE MORE
GUMPTI

MeTV
3 NEW JERSEY
NEW YORK

LG



CERTIFICATE OF SERVICE

I, Rayya Khalaf, a secretary at the law firm of Cooley LLP, do hereby certify that a true and correct copy of the foregoing letter was served by first-class U.S. mail, postage-prepaid, unless otherwise indicated, on the 3rd day of October, 2014 on the following:

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