

MAY 21 2001

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May 21, 2001

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Re: MM Docket No. 95-31/Reexamination of Comparative Standards for
Noncommercial Educational Applicants)

Dear Ms. Salas:

Youngshine Media, Inc., by its counsel, respectfully submits the enclosed comments in the above-referenced proceeding.

Should you have any questions, please contact the undersigned directly.

Sincerely,


Arthur H. Harding
Counsel for Youngshine Media, Inc.

cc: Rev. Sun Young Joo

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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MAY 21 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter of)
)
Reexamination of the Comparative) MM Docket No. 95-31
Standards for Noncommercial)
Educational Applicants)

To: The Commission

COMMENTS ON PETITIONS FOR RECONSIDERATION

Youngshine Media, Inc. ("Youngshine"), by its attorneys and pursuant to Section 1.429(f) of the FCC Rules, respectfully submits these Comments on the Petition For Reconsideration filed by Adventist Radio Network ("ARN") and the Petition For Further Reconsideration filed by Jimmy Swaggart Ministries ("Swaggart"), both filed with respect to the Commission's most recent Memorandum Opinion and Order ("Order") in the above-captioned proceeding.¹ Those Petitions seek to restrict the availability of the localism credit for pending noncommercial, educational ("NCE") applications, by requiring such applicants to have been formed two years before filing their application. As shown in Youngshine's own Petition For Further Clarification, however, any requirement that a currently pending applicant had been formed for a lengthy period before filing would be unnecessary to achieve the Commission's goals and would withhold this important credit from bona fide, established local applicants.

The FCC's Order imposed an additional requirement for the localism credit, that a new

¹In the Matter of Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Memorandum Opinion and Order, FCC 01-64, released February 28, 2001. 072

NCE applicant have been formed at least two years prior to filing, in order to deter sham applicants with local trustees formed by non-local entities to exploit that credit. In addition, the Order also appears to require even pending applicants, which were formed by local residents and filed before adoption of the new localism credit, to have been in existence for at least two years prior to the upcoming June 4, 2001 deadline for a supplemental filing.²

ARN and Swaggart would impose an even stricter requirement on pending applicants seeking credit for their localism. Both ask the Commission to require that a pending applicant have been in existence and qualified for two years prior to the date they filed, rather than the upcoming supplement date. ARN argues that the use of the supplement date would “produce an uneven and unintended inequity among applicants by virtue of the accident of their having to wait for varying periods of time from filing their respective applications ...” Long-pending applicants, by “idly waiting in line” for two years or more, would earn the credit “intended for long-term established entities.” ARN Petition at 3. Swaggart claims that, by using the supplement date, “the Commission actually rewards sham or otherwise abusive applications simply because of the delay engendered by the present rulemaking proceeding.” Swaggart Petition at 12.

As Youngshine demonstrated in its own Petition, however, the Order’s concerns with national entities “renting” local residents as board members simply do not apply to NCE applicants that were *already in existence, already had local trustees, and already had an application on file* before the time that the FCC adopted its new point system. No national or local applicant could have created a sham arrangement to qualify for a future credit under criteria

²Id. at ¶ 52.

that the Commission had not yet adopted and which the applicant could not yet have known until April 4, 2000, the release date of the initial Order in this proceeding. Before the Commission announced that it would give credit to local entities, there was absolutely no incentive for outsiders to attempt to create a “sham” local entity using local board members. Thus, no “lengthy hearing process” is necessary to demonstrate the legitimacy of such pending applications that were created and filed by local residents when that fact was inconsequential. Neither of the petitioners has shown otherwise.

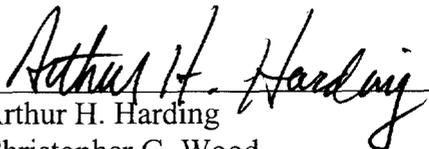
In order to guard against abuse, while at the same time ensuring that the localism credit is awarded to all truly local applicants, the Commission could simply require, in the case of any application filed before April 4, 2000, that 75% of the applicant’s board members were local residents at the time of filing. Those local residents need not have formed their business entity two years prior to the supplement date, let alone two years prior to the application filing date. Even if the Commission were to require such board members to have been local residents for two years prior to filing, it need not -- and should not -- require in addition that the applicant’s business entity itself was formed at such an early date.

There is simply no reason to expect even bona fide local residents to have formed a non-profit entity to apply for a noncommercial station so long before filing their application. As ARN itself admitted, “[l]ocal citizens who come together for the sole purpose of pursuing an application for a new noncommercial station most likely only established their corporation at about the same time they filed their FCC application.” ARN Petition at 3. That fact does not render the organization they form a sham or even any less local. In the case of an NCE applicant other than a school, it is the residence of its board members that provide its qualifications as local. Thus, the Commission should require only that the board members themselves have been local and established for any prior period of time.

In short, it is unnecessary to require that an NCE applicant that was pending as of April 4, 2000, that already qualified as "local" at that time, to also have been in existence for a two year period -- regardless of the date from which that two year period is measured. If the Commission truly wishes to foster the grant of NCE permits to local entities, it should not unnecessarily restrict the localism credit without justification.

Respectfully submitted,

YOUNGSHINE MEDIA, INC.

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Dated: May 21, 2001

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CERTIFICATE OF SERVICE

I, Antoinette M. Thorne, certify that copies of the foregoing, Comments on Petitions For Reconsideration, was served upon the following, via first class mail, on this 21st day of May 2001:

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