



Federal Communications Commission
Washington, D.C. 20554

May 7, 2008

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: WWOR-TV Renewal Application
Docket No.: 07-260

Notice of Ex Parte Presentation

Dear Ms. Dortch:

On April 9, 2008, Monica Shah Desai, Chief, Media Bureau, Barbara Kreisman, Chief, Video Division, and James Brown, Deputy Chief, Video Division, discussed the issues set forth in the attached memorandum relating to the license renewal application of television station WWOR-TV, Secaucus, New Jersey, in a meeting with Michelle Schwartz, Legislative Assistant to United States Senator Lautenberg. On April 24, 2008, Monica Shah Desai participated in a follow-up telephone call with Ms. Schwartz related to these same issues.

The Commission has accorded WWOR-TV's license renewal application proceeding permit-but-disclose status under the *ex parte* rules (see Public Notice, FCC 07-114, released June 19, 2007). Pursuant to Section 1.1206(b) (3) of the Commission's Rules, an original and copy of this letter is being placed in the docket of this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barbara A. Kreisman".

Barbara A. Kreisman
Chief, Video Division
Media Bureau

attachment

Suggested WWOR License Conditions
April 9, 2008

1) Reaffirmation of WWOR's Obligations to New Jersey:

- a) WWOR is licensed to serve New Jersey. Although WWOR is located within the New York City DMA, WWOR is a New Jersey station, not a New York City station. *See In re Application of RKO Gen., Inc.*, F.C.C. Rcd. 1081, 1082 (1986) (noting WOR-TV's "primary obligation to Secaucus and northern New Jersey, instead of New York City"); *id.* at 1085-86 (noting that the owner of WOR-TV was able to retain the license "by promising to become a Secaucus/northern New Jersey outlet under section 331, and to place a primary emphasis on the issues and concerns of Secaucus and northern New Jersey, instead of New York City").
- b) WWOR has a heightened obligation to serve its grade B coverage area of Northern New Jersey. *See Channel 9 Reallocation*, 53 RR 2d 469, 471 (1983) ("[W]e believe it would be appropriate to take steps toward carrying out this intention through a higher service responsibility within RKO's Grade B coverage area. . . . "[W]e expect RKO to perform a higher degree of service to its Grade B coverage area than is normally required of a broadcast licensee. At renewal time RKO will be judged by how it has met the obligation to serve the greater service needs of Northern New Jersey, which we view as broader than the specific needs of Secaucus.").
- c) WWOR is required to focus primarily on issues facing New Jersey, not New York City. *See In re Application of RKO Gen., Inc.*, F.C.C. Rcd. at 1087 (WOR-TV "should focus primarily on the issues facing Secaucus and northern New Jersey, not New York City").
- d) WWOR has an obligation to "operate for the public benefit of" New Jersey. 53 RR 2d at 470 (quoting S. Rep. No. 530, 97th Cong. 2d Sess. 690 (1982)).

2) New Jersey News Programming:

- a) WWOR shall provide discernible, substantive and significant coverage of New Jersey-specific news, including New Jersey civic affairs and electoral programming, during WWOR's regularly scheduled nightly news coverage.
- b) On average, at least 7.5 minutes or 12.5 percent, whichever is greater, of WWOR's regularly scheduled nightly news broadcasts shall be devoted to New Jersey-focused news programming. *Cf. In re 2006 Quadrennial Regulatory Review*, FCC 07-216, ¶ 67 (2007) (hereinafter "Ownership R&O") (defining a "significant amount of local news" as local news programming of at least seven hours per week); *id.* ¶ 70 ("[W]e consider a significant increase to be at least seven hours a week of additional news in the market.").
- i) Such programming must appear between the hours of 5:00 p.m. and 11:35 p.m.
- ii) Such programming shall include significant New Jersey civic and electoral programming.

- iii) Such programming shall include significant and substantive coverage of New Jersey issues.
- iv) Such programming shall include significant news coverage of WWOR's entire grade B service area of Northern New Jersey, including at least one news story per month concerning each of Northern New Jersey's counties.
- c) WWOR shall provide, on average, more New Jersey-focused news programming than New York-focused news programming.
- d) WWOR shall provide substantial and regular coverage of New Jersey State government issues emanating from Trenton, New Jersey's State Capital. *Cf. In re Petition for Inquiry into the Need for Adequate Television Service for the State of New Jersey, Second Report and Order*, 59 F.C.C.2d 1386, ¶ 39 (1976) (noting that even "the area's out-of-state licensees must still recognize and respond to their significant New Jersey service responsibilities, including appropriate coverage of the state's capital" (emphasis added)).
- e) Elections:
 - i) During the month preceding local, state and United States Congressional races for offices to be elected by residents of northern New Jersey, WWOR shall provide, during its prime-time broadcast, substantial New Jersey electoral affairs programming.
 - ii) During the month preceding local, state and United States Congressional races for offices to be elected by residents of northern New Jersey, the programming time devoted by WWOR to New Jersey electoral affairs programming shall exceed the combined programming time devoted to elections of all other states, counties, and municipalities outside of New Jersey.
 - iii) New Jersey electoral affairs programming consists of candidate-centered discourse focusing on the local, state and United States Congressional races for offices to be elected by residents of northern New Jersey. New Jersey electoral affairs programming includes broadcasts of candidate debates, interviews, or statements, as well as substantive discussions of ballot measures that will be put before the voters in a forthcoming election. New Jersey electoral affairs programming must include substantive discussion of electoral issues.
- f) If WWOR multicasts at any time, it shall be required to satisfy all the programming requirements set forth in this section on its primary channel. WWOR's primary channel is the FCC-required free over-the-air programming service which, like its analog predecessor, provides entertainment, sports, local and national news, election results, weather advisories, access for candidates, and public interest programming such as educational programming for children. *Standardized & Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Report and Order, FCC 07-205, at 28 (2007) (citing *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Fifth Report and Order, 12 FCC Rcd 12809, 12820-22 (1997)).

3) Physical Presence:

- a) WWOR is required to maintain a physical presence in New Jersey. *See In re Application of RKO Gen., Inc.*, 1 FCC Rcd. 1081, 1087 (1986) (citing “the ‘physical presence’ requirement underlying section 331”).
- b) WWOR’s news-gathering operations, news production studio, and main studio must be located in New Jersey. *See In re Application of RKO Gen., Inc.*, 1 FCC Rcd. at 1086 (noting congressional intent that a licensee moving its license to an unserved state to take advantage of section 331 “will move its studio and offices to and operate for the public benefit of the unserved State” (quoting S. Rep. No. 530, 97th Cong., 2d Sess. 690 (1982))).
- c) WWOR may not merge or co-locate its news-gathering or news production operation with WNYW-Channel 5 New York or any other broadcast station located outside of New Jersey. *Cf. Ownership R&O*, FCC 07-216 (“[C]ommonly owned media outlets must each maintain their own separate news and editorial staff.”).
- d) WWOR’s editorial and news coverage decisions must be made independently of WNYW-Channel 5 New York or any other broadcast station. *See, e.g., Ownership R&O*, FCC 07-216, ¶ 67 (noting that “independent news outlets” are characterized by “separate editorial and news coverage decisions”); *id.* ¶ 71 (same).
- e) WWOR must reestablish and maintain “a news bureau in the state capital, Trenton, interconnected with its main studio.” *In re Application of RKO Gen., Inc.*, 1 FCC Rcd. at 1087; *see also id.* at 1082 (noting the owner of WOR-TV’s promise to establish a Trenton news bureau); *Amendment to WWOR Application for Renewal of Broadcast Station License*, File No. BRCT-20070201AJT, at 1 (1999) (“WWOR-TV has its main studio in Secaucus, New jersey [sic], maintains a round-the-clock news gathering organization, and has a fully staffed news bureau in Trenton, New Jersey, the state capital.”).

4) Station Identification:

- a) “This station will not be a New Jersey station in name only.” *In re Petition to Reallocate VHF Television Channel 9*, 53 RR 2nd 469, 470 (1983) (quoting 128 Cong. Rec. 10946 (daily ed.), Aug. 3, 1982 (remarks of Sen. Bradley)). WWOR therefore must be a New Jersey station in name.
- b) Whenever WWOR is identified on air, whether audibly or visually, and whether as “WWOR,” “WWOR-TV,” “Channel 9,” “my9,” or any other station identification, its New Jersey location shall be mentioned. For example, it must be identified as “WWOR-New Jersey” or “My 9 New Jersey.”
- c) Whenever WWOR is identified by its location, whether in marketing materials, on air, on the station, on its web site, or anywhere else, it shall not be identified as a New York station (*e.g.*, “WWOR-New York” or “My 9 New York”).

5) **Disclosure:**

- a) WWOR shall make detailed disclosures, on a quarterly basis, to the FCC and to the public regarding its New Jersey-focused programming. Such disclosure shall be made as part of WWOR's regular quarterly disclosure, as provided in FCC 07-205.
- b) On its Television Disclosure Form (*see* FCC 07-205), WWOR shall disclose its New Jersey coverage in a way that makes it easy to determine how much of WWOR's local coverage is focused on New Jersey as opposed to other regions within its broadcast area. Specifically:
 - i) In response to Question 2(a) (Overall Programming), WWOR shall report separately on its:
 - (1) New Jersey News Programming produced by station, Other Local News Programming produced by station, and Total Local News Programming produced by station;
 - (2) New Jersey News Programming produced by an entity other than station, Other Local News Programming produced by an entity other than station, and Total Local News Programming produced by an entity other than station;
 - (3) New Jersey Civic Affairs Programming, Other Local Civic Affairs Programming, and Total Local Civic Affairs Programming; and
 - (4) New Jersey Electoral Affairs Programming, Other Local Electoral Affairs Programming, and Total Local Electoral Affairs Programming.
 - ii) In response to Question 2(c) (Local News), WWOR shall report separately on its New Jersey News (2(c)(1)) and Other Local News (2(c)(2)).
 - iii) In response to Question 2(d) (Local Civic Affairs Programming), WWOR shall report separately on its New Jersey Civic Affairs Programming (2(d)(1)) and Other Local Civic Affairs Programming (2(d)(2)).
 - iv) In response to Question 2(e) (Local Electoral Affairs Programming), WWOR shall report separately on its New Jersey Local Electoral Affairs Programming (2(e)(1)) and Other Local Electoral Affairs Programming (2(e)(2)).
 - v) In response to Question 2(g) (Local Programming), WWOR shall report separately on its New Jersey Programming (2(g)(1)) and Other Local Programming (2(g)(2)).
 - vi) For each of these categories, "Other Local . . . Programming" shall include all such programming for that category (News, Civic Affairs, or Electoral Affairs) that is focused on non-New Jersey locations within WWOR's broadcast area. "Total Local . . . Programming" shall include the sum of New Jersey Programming and Other Local Programming.

- c) None of these disclosure requirements shall be construed to place an obligation on WWOR to provide any programming that is focused on locations other than New Jersey within its broadcast area.
- d) WWOR shall be required to file its New Jersey programming disclosures with the FCC on a quarterly basis, and to make such disclosures available on its web site. *See* FCC 07-205, at 4-13, 21 (requiring broadcasters to post standardized disclosure forms on their web sites and to file such forms on a quarterly basis).
- e) Should the implementation of the programming disclosure requirements provided in FCC 07-205 be delayed, suspended, invalidated, or nullified for any reason, WWOR still shall be required to make available the programming disclosures set forth here on a quarterly basis.

6) **License Renewal Term:**

- a) WWOR's license shall be renewed for a period of four years, through 2011.
- b) "At renewal time [WWOR] will be judged by how it has met the obligation to serve the greater service needs of Northern New Jersey," *In re Petition to Reallocate VHF Television Channel 9*, 53 RR 2nd 469, 471 (1983), and specifically by how well it has met the aforementioned New Jersey News Programming, Physical Presence, and Station Identification obligations.