

January 22, 2013

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

**Re: MB Docket Nos. 07-294 and 09-182; GN Docket No. 12-268;
MB Docket No. 10-71; FCC File No. BPRM-20110526AJ0**

Dear Ms. Dortch:

On Thursday, January 17, Randall Bongarten, the President and CEO of Bonten Media Group, Inc. (“Bonten”), and the undersigned, met with Erin McGrath, Commissioner McDowell’s Legal Advisor, and, in a separate meeting, with Alex Hoehn-Saric, Policy Director for Commissioner Rosenworcel. On Friday, January 18, Mr. Bongarten and the undersigned met, in separate meetings, with Commissioner Pai and his Chief of Staff, Matthew Berry; Elizabeth Andrion, Senior Legal Advisor and Acting Chief Counsel for Chairman Genachowski; and Hillary DeNigro, Brendan Holland, and Benjamin Arden of the Media Bureau’s Industry Analysis Division. The purpose of the meetings was to share Bonten’s perspective, as a broadcaster operating exclusively in small markets, on the Commission’s ownership proceeding, and particularly how Joint Sales Agreements (“JSAs”) and Shared Services Agreements (“SSAs”) help enhance localism, diversity, and competition. Mr. Bongarten also discussed the desirability of duopoly relief in smaller markets. Finally, he explained why action on Bonten’s long-pending, pre-freeze petition for a UHF channel for its low VHF Bristol, Virginia station would help serve viewers without sacrificing the FCC’s flexibility in the spectrum repacking.¹

Bonten owns television stations in eight markets, and has JSA/SSA relationships in four of these markets. Mr. Bongarten explained that JSA/SSA arrangements have advanced

¹ This matter was not raised in the meetings with the Media Bureau staff, Ms. McGrath, or with Ms. Andrion.

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and will continue to advance the public interest in these markets. For example, in the small Eureka, California market, Bonten has owned the ABC-affiliated station for several years, and in December 2012 it entered into a Commission-approved JSA/SSA relationship with a Fox-affiliated station recently acquired by Esteem Broadcasting. With the small market size, Bonten has not, to-date, been able to launch any local news programming on Bonten's ABC station. The Fox station also has not been able to provide locally-produced news for many years. Indeed, only one station in the Eureka market offers local news. However, because of the economies of scale that will be created by entering into the JSA/SSA with Esteem, Bonten and Esteem are in the process of implementing the launch of local news on *both* stations, a 6 p.m. newscast on Bonten's station and a separate (non-repeat) 10 p.m. newscast on the Esteem station. Bonten and Esteem anticipate that their stations in Eureka will be broadcasting local news before the end of this year. In addition, while to-date it has not been economically feasible for either of the Bonten or the Esteem stations — both of which are major network affiliates — to make the sizeable investment required to upgrade to HD (over \$1 million), the cooperative relationship recently approved by the Commission will make it possible for *both* stations to upgrade to HD, better serving the viewers in this market.

Mr. Bongarten explained that JSA/SSA relationships also have advanced the interests of localism, diversity, and competition in all of the other three markets where Bonten has these relationships. He provided numerous examples of how economies of scale in operating costs and in capital expenditures have enabled Bonten to support and to expand top-ranked local news operations and to hire more reporters and to invest in HD upgrades and other capital improvements — investments that simply would not be possible without the JSA/SSAs put into place with Commission approval. For example:

- In the Greenville-New-Bern-Washington market, Esteem's station previously broadcast a half-hour local news program produced by another station in the market; Bonten was able to provide an additional half-hour of local news, expanding the nightly newscast to one hour, and was able to add weekend news that was not previously available. Bonten also plans to add an extra hour-long newscast later this year (in a market where no other local news is available in the morning).
- In the Chico market, Esteem's station currently broadcasts no local news. Bonten plans to produce a half-hour local newscast for that station this year, and plans to expand that newscast to an hour next year.
- In the Tri-Cities market, Esteem's station launched local news only after its prior owner entered into an SSA with the prior owner of Bonten's station, first adding a half-hour 10 p.m. newscast and then expanding that to an hour. The stations have been able to maintain this newscast under the existing JSA/SSA.

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- The Bonten and Esteem stations were the first stations to broadcast in HD in the Tri-Cities market and the first and only HD stations in the Greenville-New Bern-Washington market.

These benefits have flowed to both of the stations in the JSA/SSA in each market, and the stations' local communities have benefitted from the stronger local news programs these stations are able to produce, as well as from the other investments that that these stations are able to make in programming, operations, and infrastructure.

Mr. Bongarten stated that if the JSA/SSA relationship became attributable, it would result in a real loss of local news and other services in these communities. Moreover, attribution would impair, not advance, the goals of localism, diversity and competition, because it would make the weaker station much less competitive. Minority- and women-owned businesses and small businesses would have difficulty securing the financing necessary to acquire and operate marginal television stations. The benefits flowing from the JSA/SSA also will enable Bonten to support the 14 low power television stations it recently acquired in California, many of which are affiliated with networks such as Univision, UniMás, and Telemundo.

In response to a query about whether attribution of the JSAs alone — without attribution of the SSAs — would cause similar unintended consequences, Mr. Bongarten answered that it would. He explained that the JSA and the SSA work in tandem to produce the benefits that he had described. As one example, Mr. Bongarten explained the highly competitive nature of local advertising, in which television stations compete not just against other TV and radio stations, but also web sites such as Groupon, Yahoo!, and Google, as well as cable and newspapers. Securing a share of this local advertising business is particularly challenging in smaller markets, requiring an experienced sales staff that can go out and “knock on doors” to make sales. In turn, this necessitates major and ongoing investment in the training and employment of local sales staff (and related personnel, such as in billing). The JSA enables substantial savings on this front; in turn, these resources are invested in the local news production contemplated by the SSA.

In response to a question about why television JSAs concerning at least 15% of a station's sales time should not be attributable when such JSAs are attributable in the radio context, Mr. Bongarten provided several reactions. First, he noted that the programming, operational, and capital expenditures are much greater for television stations. Yet, it costs about a million dollars to upgrade a television station to HD, regardless of whether it is located in a small market or a major market. JSAs can be vital for a television station's viability in a way that generally is not the case in radio. Second, Mr. Bongarten noted that the multiple ownership rules allow radio station owners to create combinations of up to eight radio stations, whereas the television duopoly rule prohibits creation of even a two-station combination in virtually every small market. He pointed out that duopoly relief would be an effective means of achieving the benefits that JSAs/SSAs provide today, and urged a relaxation of the duopoly rule in smaller

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markets. In response to questioning about whether grandfathering of existing JSAs and/or SSAs would be a solution, Mr. Bongarten argued that grandfathering is not an optimal remedy because it freezes stations into place and deprives the public of the benefits that new or expanded arrangements could bring in the future. He added that if such arrangements are made attributable, then the Commission should at least grandfather existing relationships permanently and ensure that they are transferable, so that the public will not lose the benefit of the services that they are already receiving (such as the local news that Bonten and Esteem's stations plans to launch in Eureka before the end of the year), and so that broadcasters are able to receive the benefit of their substantial investments in these relationships, which were entered into with Commission input and approval.

Finally, Mr. Bongarten noted that while Bonten assists Esteem in the negotiation of retransmission consent agreements, no MVPD has ever asked for separate negotiations. Moreover, he pointed out that there is absolutely no difference in the rates that the stations receive under retransmission consent agreements, for markets where Bonten has JSA/SSA relationships versus markets where Bonten does not have such relationships.

On the topic of spectrum and the repacking, Mr. Bongarten urged the Commission to act on the pending request for a UHF channel for Bonten's Bristol, Virginia stations, WCYB-TV.² WCYB-TV operates on a low VHF channel. Low VHF channels have notoriously bad reception in the digital world, and both the Commission and Congress have recognized the inferiority of low VHF channels. Mr. Bongarten pointed out that WCYB's petition was filed before the May 2011 freeze was issued on such filings; that the Spectrum Act expressly authorizes and that Congress supports the FCC moving forward on this request; and that grant of the request will enable WCYB to provide much better service its viewers. Accordingly, he urged expeditious grant of WCYB's petition. A copy of Bonten's petition and a related supplementary filing was provided to Commissioner Pai after the meeting, per his request.

Please direct any questions about this matter to the undersigned.

² FCC File No. BPRM-20110526AJO. This matter was not raised in the meetings with the Media Bureau staff, Ms. McGrath, or with Ms. Andrion.

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Respectfully submitted,



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Counsel for Bonten Media Group, Inc.

cc: Commissioner Pai
Elizabeth Andrion
Erin McGrath
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Matthew Berry
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