

January 28, 2013

BY ELECTRONIC FILING

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

**Re: Notice of Ex Parte Communication
MB Docket Nos. 07-294 and 09-182**

Dear Ms. Dortch:

On Thursday, January 24, Randall Bongarten, the Chairman and CEO of Bonten Media Group, Inc. (“Bonten”), and the undersigned, met with David Grimaldi, Chief of Staff and Media Legal Advisor for Commissioner Clyburn, and law clerk Brian Indovina, 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.

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 and will continue to advance the public interest in these markets. He stated that while the concerns that some have raised about these relationships are speculative, the benefits are quite concrete. These real-world benefits would be jeopardized if such agreements were deemed to be attributable — and attribution would not result in the benefits to localism, competition, and diversity that proponents of attribution suggest.

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-affiliated station. The Fox-affiliated 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 created by entering into

Ms. Marlene H. Dortch

January 28, 2013

Page 2

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 anticipates that these two 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 concrete 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 per day, expanding the nightly newscast to one hour, and was able to provide weekend news that was not previously available. Bonten and Esteem's stations in this market now broadcast over 32 hours per week of local news. In addition, they plan to add a new hour-long morning newscast later this year to Esteem's station, scheduled to run from 7-8 a.m., when no other local news is available.¹
- In the Chico market, Esteem's station currently broadcasts no local news. Bonten plans to produce a daily half-hour local newscast for that station this year, and plans to expand that newscast to an hour next year. Together, Bonten and Esteem's stations will be broadcasting more than 25 hours of local news per week.
- 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 daily half-hour 10 p.m. newscast and then expanding that to an hour. The stations

¹ The *ex parte* notice filed by Bonten on January 22, 2013 inadvertently stated that no other local news is available in the market in the mornings; to clarify, no other morning newscasts are broadcast during the 7-8 a.m. hour. See Letter from Jennifer A. Johnson to Marlene H. Dortch, Secretary, FCC, MB Docket No. 07-294 *et al.* (Jan. 22, 2013), at 2.

Ms. Marlene H. Dortch

January 28, 2013

Page 3

have been able to maintain this newscast under the existing JSA/SSA, and together they broadcast more than 38 hours every week of local news.

- 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 each of 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 support Bonten's operation of the low power television stations it recently acquired in California, many of which are affiliated with networks such as Univision, UniMás, and Telemundo.

Mr. Bongarten explained that attribution of the JSAs alone — without attribution of the SSAs — would cause similar unintended consequences.² 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.

Mr. Bongarten 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 markets. Grandfathering existing relationships is not an ideal remedy to offset the

² In an *ex parte* notice filed in the above-captioned dockets on January 22, 2013, Bonten also explained why the rule concerning attribution of radio JSAs should not be expanded to apply in the television context. See Letter from Jennifer A. Johnson to Marlene H. Dortch, Secretary, FCC, MB Docket No. 07-294 *et al.* (Jan. 22, 2013), at 3.

COVINGTON

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Ms. Marlene H. Dortch

January 28, 2013

Page 4

harms of attribution, because it freezes stations into place and deprives the public of the benefits that new or expanded arrangements could bring in the future. If such arrangements are made attributable, however, 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.

Please direct any questions about this matter to the undersigned.

Respectfully submitted,



Jennifer A. Johnson

Eve R. Pogoriler

Counsel for Bonten Media Group, Inc.

cc: David Grimaldi
Brian Indovina