

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
BLACK MEDIA WORKS, INC.
Licensee of Station WJFP(FM)
Fort Pierce, Florida
File No. 9706039-KMS
Facility #5488

MEMORANDUM OPINION AND ORDER

Adopted: February 6, 2001

Released: February 7, 2001

By the Chief, Enforcement Bureau:

1. In this Order, we deny the petition for reconsideration filed July 3, 2000, by Midway Broadcasting Company ("Midway"). Midway seeks reconsideration of the June 2, 2000, action of the Chief, Investigations and Hearings Division, admonishing Black Media Works, Inc. ("Black Media") for violating Section 399B of the Communications Act ("Act"), 47 U.S.C. § 399B, and Section 73.503(d) of the Commission's rules, 47 C.F.R. § 73.503(d), by broadcasting prohibited advertisements over noncommercial educational station WJFP(FM), Fort Pierce, Florida. Midway, the original complainant in this matter, argues that admonishment is an inadequate sanction to redress the statutory and rule violations involved.

2. We reject Midway's arguments. The challenged June 2, 2000, decision letter admonished Black Media to comply with the statute and pertinent Commission rules or face more serious sanctions in the event of recurring violations. Notwithstanding its speculation on this point, Midway does not provide adequate reasons why the imposition of a more severe form of initial punishment would be required to ensure WJFP(FM)'s prospective rule compliance. Moreover, while complaining parties may question a licensee's conduct and so invite Commission scrutiny and investigative efforts, the agency itself has broad discretion in determining the ultimate choice of remedies and sanctions appropriate in given cases. See Lorain Journal Co. v. FCC, 351 F.2d 824, 830-31 (D.C. Cir. 1965), cert. denied sub nom. WWIZ, Inc. v. FCC, 383 U.S. 967 (1966), citing FCC v. WOKO, Inc., 329 U.S. 223 (1946). In this connection, after reviewing Midway's petition, the responsive pleadings, and the underlying record, we find no reason to overturn our prior decision and conclude that the decision to issue an admonishment was correct.

3. Accordingly, IT IS ORDERED, pursuant to Section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that the petition for reconsideration filed July 3, 2000, by Midway Broadcasting Company IS DENIED, and that our June 2, 2000, decision imposing an admonishment against Black Media Works, Inc., licensee of noncommercial educational station WJFP(FM), Fort Pierce, Florida, for

1 We note that, in its responsive pleadings, Black Media does not challenge our admonishment.

violating Section 399B of the Act and Section 73.503(d) of the Commission's rules, IS
AFFIRMED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau