



Federal Communications Commission
Washington, D.C. 20554

November 2, 2005

DA 05-2884

Released: November 2, 2005

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Paxson Lexington License, Inc.
WUPX-TV
601 Clearwater Park Road
West Palm Beach, FL 33401-6233

Re: Paxson Lexington License, Inc.
WUPX-TV, Morehead, KY
Facility ID No. 23128
File No. BRCT-20050401BYT

Dear Licensee:

This refers to your license renewal application for station WUPX-TV, Morehead, KY.

Under the Commission's rules implementing the Children's Television Act of 1990 (CTA),¹ each television broadcast station licensee has an obligation, during its license term, to air programming that serves the educational and informational needs of children through both the licensee's overall programming and programming "specifically designed" to educate and inform children (core programming).² In *Policies and Rules Concerning the Children's Television Programming, Revision of Programming Policies for Television Broadcast Stations*,³ the Commission adopted several public information initiatives to improve the information to the public regarding programming broadcasters air to fulfill their statutory obligation. One of the public information initiatives requires licensees to provide to publishers of program guides, information identifying programming specifically designed to educate and inform children, including an indication of the age group for which the program is intended.⁴ In the *Children's Television Programming Order*, the Commission stated its belief that "program guides are an effective means of providing parents with advance notice of scheduling of educational programs."⁵ Moreover, the Commission indicated that this information would help parents to find appropriate programs for their children and others who want to monitor a station's compliance with the CTA.⁶ The Commission acknowledged, however, that broadcasters cannot

¹ Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394.

² 47 C.F.R. § 73.671(a).

³ 11 FCC Rcd 10660 (1996) (*Children's Television Programming Order*).

⁴ 73.673(b).

⁵ *Children's Television Programming Order*, 11 FCC Rcd at 10689.

⁶ *Id.*

require program guide publishers to print this information.⁷ Nonetheless, the Commission concluded that the information is more likely to be included in program listings if broadcasters regularly provide it.

On April 1, 2005, you filed the above-referenced license renewal application for station WUPX-TV, Morehead, Kentucky (BRCT-20050401BYT). In Exhibit 23 to that application, you stated that a review of internal records revealed that program guide publishers had not been receiving the target age range for WUPX-TV's core programming. You indicated that although program guide publishers usually do not publish such information, you have revised your procedures and now include such data in submissions to publishers of program guides.

Based upon the record before us, we think that an admonition is warranted for the station's failure to identify for publishers of program guides the age group for which its children's programming is targeted. Although we do not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, based upon the facts and circumstances before us, we ADMONISH you for the admitted violation of Section 73.673(b) described in station WUPX-TV's renewal application.

In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 309(k). Section 309(k) provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Communications Act or the Commission's Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.⁸ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁹

On balance, we find that Paxson Lexington License, Inc.'s violation of Section 73.673(b) does not constitute a “serious violation” of the Commission's rules warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, evidence a pattern of abuse. Further, we find that station WUPX-TV served the public interest, convenience, and necessity during the subject license term.

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to Paxson Lexington License, Inc. at the address listed

⁷ *Id.*

⁸ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Order, Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, 11 FCC Rcd 6363 (1996).

⁹ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

above, and to its counsel, Anne M. Swanson, Esquire, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

Finally, IT IS ORDERED that, the application (File No. BRCT-20050401BYT) of Paxson Lexington License, Inc. for renewal of license for station WUPX-TV, Morehead, Kentucky IS HEREBY GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau