

Federal Communications Commission  
Washington, D.C. 20554

Hoak Media of Dakota License, LLC  
c/o Tom Davidson, Esq.  
Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Ave., NW  
Washington, DC 20036

Re: *Applications for Assignment of Licenses*  
KVLV-TV, Fargo, ND; Facility ID No. 61961  
KFYR-TV, Bismarck, ND; Facility ID No. 41427  
KMOT(TV), Minot, ND, Facility ID No. 41425  
KQCD-TV, Dickinson, ND, Facility ID No. 41430  
KUMV-TV, Williston, ND, Facility ID No. 41429  
K13PL, Glendive, MT, Facility ID No. 41421  
K02GA, Lisbon, ND, Facility ID No. 61979  
K09JM, Jamestown, ND, Facility ID No. 61971  
K09MF, Wahpeton, ND, Facility ID No. 61966  
File Nos. BALCT-20060721ADM-ADU

*Request for Continuing Satellite Authorization*  
KMOT(TV), Minot, ND  
KQCD-TV, Dickinson, ND  
KUMV-TV, Williston, ND

Dear Counsel:

This is in reference to the above-captioned applications for the assignment of licenses from North Dakota Television License Sub, LLC to Hoak Media of Dakota License, LLC ("Assignee"). As part of this transaction, the assignee requests continuing satellite authorization for stations KMOT(TV), KQCD-TV and KUMV-TV, which operate as satellites of KFYR-TV, Bismarck, North Dakota, pursuant to the satellite exemption to the duopoly rule. See 47 C.F.R. § 73.3555, Note 5. Station KFYR-TV and the satellite stations are all located within the Minot-Bismarck-Dickinson, North Dakota DMA. Station KVLV-TV is located in the Fargo-Valley City, North Dakota DMA.

In *Television Satellite Stations*, 6 FCC Rcd 4212, 4215 (1991) (subsequent citations omitted), the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station. *Id.* at 4213-14. If an applicant does not qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis, and grant the application if there are compelling circumstances that warrant approval. *Id.* at 4212.

As to the first criterion, the assignee has submitted an engineering study, which demonstrates that no overlap exists between the City Grade contours of KFYZ-TV and its three satellite stations, KMOT(TV), KQCD-TV and KUMV-TV. Thus, the proposed satellite operation meets the first component of the presumption. With respect to the second criterion, applicants can use two different tests to demonstrate that an area is underserved. Under the “reception test” an area is underserved if twenty-five percent or more of the area located within the satellite’s Grade B contour, but outside the parent’s Grade B contour, receives four or fewer services, excluding the service provided by the satellite. *Television Satellite Stations*, 6 FCC Rcd at 4214. The assignee’s engineering exhibit indicates that four or fewer services are received in 97.2% of the area located within station KMOT(TV)’s Grade B contour, but located outside of the KFYZ-TV Grade B contour. Likewise, the engineering exhibit also shows that for stations KQCD-TV and KUMV-TV, four or fewer services are received in more than 98% of the area within each of the two stations’ Grade B contours, but located outside the KFYZ-TV Grade B contour. Accordingly, Minot, Dickinson, and Williston all qualify as underserved areas, thereby satisfying the second component of the presumption.

Regarding the third criterion, an applicant must show that no alternative operator is ready and able to construct, or to purchase and operate, the proposed satellite as a full-service station. *Id.* at 4215. In support of its continuing waiver request, the assignee submits an economic viability study from Kelly Callan, Vice President of Kalil & Co., Inc., a media brokerage firm. Ms. Callan indicates that her company was retained by the assignee to list stations KFYZ-TV, KMOT(TV), KQCD-TV and KUMV-TV for sale. However, all of the potential buyers expressed that their interest in the stations was as a package. There was no interest in the purchase of any of the satellites as stand alone stations. In fact, Ms. Callan states that if her company had been asked to list any of the satellites as stand alone stations, it would have declined to do so. In Ms. Callan’s opinion, no knowledgeable, qualified buyer would be interested in KMOT(TV), KQCD-TV or KUMV-TV as stand alone stations.

Further, Ms. Callan indicates that the satellite stations cover only small outlying communities within the Minot-Bismarck-Dickinson DMA, and none of these stations would be able to gain access to network or syndicated programming without operating as a satellite of another station in the market. Further, the four major broadcast networks already have affiliates in the DMA and are likely to have DMA-wide exclusivity for such programming. Moreover, each network affiliate operates with one or more satellite stations in the market. Given the small market and level of revenues available in these markets, Ms. Callan asserts that none of these stations operating as a stand-alone station would be able to afford to purchase licensing rights for local programming such as college sports events or to produce and air local news. Furthermore, the assignee notes that these stations have operated as satellites since 1998, and that the Commission most recently granted continued satellite authority to these stations on October 8, 2002. *See Letter from Barbara A. Kreisman, Chief, Video Division, to Jacqueline P. Cleary and Lewis J. Paper*, File Nos. BALCT-20020807AAZ-AAZ, ABA-ABC (October 8, 2002).

Based on our review of the materials submitted, we find that the assignee has set forth information sufficient to warrant continued satellite operation for stations KMOT(TV), KQCD-TV and KUMV-TV. These stations have operated as satellites of station KFYZ-TV for the past 8 years, and the assignee has submitted further evidence demonstrating the infeasibility of finding a purchaser willing to operate the stations on a stand alone basis. We therefore find that the continued operation of KMOT(TV), KQCD-TV and KUMV-TV as satellites of KFYZ-TV would be in the public interest. In view of the foregoing, and having determined that the assignee is qualified in all respects, we find that a grant of the above-referenced applications would serve the public interest, convenience and necessity.

**ACCORDINGLY**, the request of Hoak Media of Dakota License, LLC for the continued operation of KMOT(TV), Minot, North Dakota, KQCD-TV, Dickinson, North Dakota, and KUMV-TV, Williston, North Dakota, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission's rules, **IS GRANTED**.

**FURTHERMORE**, the above-referenced applications for consent to assign the licenses for KVLV-TV, Fargo, North Dakota, KFYZ-TV, Bismarck, North Dakota, KMOT(TV), Minot, North Dakota, KQCD-TV, Dickinson, North Dakota, KUMV-TV, Williston, North Dakota, K13PL, Glendive, Montana, K02GA, Lisbon, North Dakota, K09JM, Jamestown, North Dakota, and K09MF, Wahpeton, North Dakota to Hoak Media of Dakota License, LLC **ARE GRANTED**.

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Andrew Kersting, Esq.