



Federal Communications Commission
Washington, D.C. 20554

March 22, 2007

DA 07-1368

Released: March 22, 2007

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Clear Channel Broadcasting Licenses, Inc.
WLMT(TV)
P.O. Box 470408
Tulsa, Oklahoma 74147

Re: Clear Channel Broadcasting Licenses, Inc.
WLMT(TV), Memphis, Tennessee
Facility ID No. 68518
File No. BRCT-20050401AXA

Dear Licensee:

This refers to your license renewal application for station WLMT(TV), Memphis, Tennessee.

In the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewals the extent to which the licensee has complied with such commercial limits. Pursuant to this statutory mandate, the Commission adopted Section 73.670 of the Rules, 47 C.F.R. § 73.670, which limits the amount of commercial matter which may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission also reaffirmed and clarified its long-standing policy against "program-length commercials." The Commission defined a "program-length commercial" as "a program associated with a product, in which commercials for that product are aired," and stated that the entire duration of any program-length commercial would be counted as commercial matter for the purpose of the children's television commercial limits. *Children's Television Programming*, 6 FCC Rcd 2111, 2118, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991). The commercial limitations became effective on January 1, 1992. *Children's Television Programming*, 6 FCC Rcd 5529, 5530 (1991).

On April 1, 2005, you filed the above-referenced license renewal application for station WLMT(TV). In response to Section IV, Question 5 of that application, you certify that, during the previous license term, WLMT(TV) failed to comply with the limitations on commercial matter in children's programming specified in Section 73.670 of the Commission's Rules. In Exhibit 19 to that application, you indicate that station WLMT(TV) violated the children's television commercial limits and policies on August 20, 1998 and January 19, 2003. You

characterize those two violations as consisting of an 80-second overage and a program-length commercial, both of which you attribute to human error. Finally, you describe corrective measures taken subsequently to prevent future violations.

Clear Channel Broadcasting Licenses, Inc.'s record of exceeding the children's television commercial limits on two occasions, including one program-length commercial, is unacceptable and means that children have been subjected to commercial matter in excess of the limits contemplated by Congress when it enacted the Children's Television Act of 1990. Congress was particularly concerned about program-length commercials because young children often have difficulty distinguishing between commercials and programs. S. Rep. No. 227, 101st Cong., 1st Sess. 24 (1989). Given this Congressional concern, the Commission made it clear that program-length commercials, by their very nature, are extremely serious violations of the children's television commercial limits, stating that the program-length commercial policy "directly addresses a fundamental regulatory concern, that children who have difficulty enough distinguishing program content from unrelated commercial matter, not be all the more confused by a show that interweaves program content and commercial matter."¹

The only reason cited for the overages, human error, does not mitigate or excuse the violations. In fact, the Commission has repeatedly rejected human error and inadvertence as a basis for excusing violations of the children's television commercial limits. *See, e.g., LeSea Broadcasting Corp. (WHKE(TV))*, 10 FCC Rcd 4977 (MMB 1995); *Buffalo Management Enterprises Corp. (WIVB-TV)*, 10 FCC Rcd 4959 (MMB 1995); *Act III Broadcasting License Corp. (WUTV(TV))*, 10 FCC Rcd 4957 (MMB 1995); *Ramar Communications, Inc. (KJTV(TV))*, 9 FCC Rcd 1831 (MMB 1994). Furthermore, while corrective actions may have been taken to prevent subsequent violations of the children's television rules and policies, this does not relieve Clear Channel Broadcasting Licenses, Inc. of liability for the violations which have occurred. *See, e.g., WHP Television, L.P. (WHP-TV)*, 10 FCC Rcd 4979, 4980 (MMB 1995); *Mountain States Broadcasting, Inc. (KMSB-TV)*, 9 FCC Rcd 2545, 2546 (MMB 1994); *R&R Media Corporation WTWS(TV)*, 9 FCC Rcd 1715, 1716 (MMB 1994); *KEVN, Inc. (KEVN-TV)*, 8 FCC Rcd 5077, 5078 (MMB 1993); *International Broadcasting Corp.*, 19 FCC 2d 793, 794 (1969).

While we consider any violation of our rules limiting the amount of commercial matter in children's programming to be significant, the violations described in your renewal application appear to have been isolated occurrences. 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 violations of the children's television commercial limits rule and policies described in station WLMT(TV)'s renewal application.

¹ *Children's Television Programming*, 6 FCC Rcd at 2118.

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to Andrew W. Levin, Chief Legal Officer, Clear Channel Broadcasting Licenses, Inc. at the address listed above, and to Dorann Bunkin, Esq., Wiley Rein & Fielding LLP, 1776 K Street, N.W., Washington, D.C. 20006.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau