



Federal Communications Commission
Washington, D.C. 20554

DA 07-4979

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Telecinco, Inc.
c/o Lee G. Petro, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209

Alfred Ramirez de Arellano and Josefina Ramirez de Arellano
c/o Thomas M. Lynch, Esq.
Thomas Lynch & Associates
705 Melvin Avenue, Suite 104
Annapolis, MD 21401

Re: Applications for Consent to
Transfer of Control of Telecinco, Inc.
Licensee of:

WORA-TV, Mayaguez, PR
Facility ID No. 64865
File No. BTCCT-20070724ABW

And

W10BG, Mayaguez, PR
Facility ID No. 64864
File No. BTCTVA-20070724ABX

Dear Counsel:

This is in reference to the petition for reconsideration filed on October 17, 2007, in connection with the above-captioned proceeding, by Alfred Ramirez de Arellano and Josefina Ramirez de Arellano ("petitioners"). Petitioners ask for reconsideration of the September 12, 2007 grant of an application for consent to the transfer of control of Telecinco, Inc. ("Telecinco"), licensee of WORA-TV and W10BG, both in Mayaguez, PR, from Alfredo R. Ramirez de Arellano ("Mr. Ramirez") to a trust whose trustee is

Gloria M. Ramirez de Arellano ("Ms. Ramirez"), his daughter.¹ For the reasons set forth below, we deny the petition for reconsideration.

Petitioners, who are children of Mr. Ramirez, and siblings of Ms. Ramirez, allege that Ms. Ramirez conspired with her son, Jose Alberto Vizcarrondo Ramirez de Arellano, to induce and coerce, under false pretense, their mother, Esther R. de Arellano ("Mrs. R. de Arellano"), to execute and sign, as the Attorney in Fact of Mr. Ramirez, five different documents in an attempt to obtain the transfer of Mr. Ramirez's voting rights in Telecinco. Petitioners further allege that, under the laws of Puerto Rico, the Power of Attorney pursuant to which Mrs. R. de Arellano purported to transfer Mr. Ramirez's shares was void.

In an opposition filed on October 29, 2007, Telecinco claims that the matters raised by the petitioners derive from an intra-family disagreement.² Telecinco maintains that the Commission will not seek to resolve such essentially private matters, which are to be left for disposition by civil tribunals. Telecinco further argues that petitioners' request must fail because they do not indicate why it was not possible for them to assert their opposition to the application during the time provided for such opposition. Lastly, Telecinco claims that petitioners' statement that they are presenting new facts is unavailing.

Petitioners filed a reply on November 27, 2007. Therein they state, *inter alia*, that they failed to participate in this proceeding earlier because they mistakenly filed in a different forum initially, namely, the Federal District Court for the District of Puerto Rico. They also maintain that they relied on Section 1.106(c)(2) of the Commission's rules, which governs when the Commission may consider a petition containing new facts, rather than Section 1.106(b)(1), which deals with filings by non-parties.³ They claim Section 1.106(c)(2) is an alternative provision.

We will deny the petition for reconsideration. Section 1.106(b)(1) of the Commission's rules requires petitioners who are not parties, such as petitioners here, to show good reason why it was not possible for them to participate in the earlier stages of the proceeding. The fact that petitioners filed in the wrong forum is not a good reason. On this basis alone, their petition must be denied. We do not agree that petitioners were not required to make this showing because they relied upon Section 1.106(c)(2). Section 1.106(b)(1) is an absolute requirement for non-parties, and is wholly separate from Section 1.106(c)(2).⁴

The petition is also denied because its merits concern a private dispute. The Commission regards disputes such as the one at issue between members of the Ramirez de Arellano family to be matters of private

¹ Although the Petition for Reconsideration includes only File No. BTCVA-20070724ABX in its caption, it is clear that petitioners are seeking reconsideration of the grant of both applications. Indeed, petitioners' reply contains both file numbers in its caption.

² In their reply, petitioners assert that the opposition was untimely because it was due October 27, 2007. We disagree. October 27, 2007 was a Saturday. Pursuant to Sections 1.4(e)(1) and (j) of the Commission's rules, 47 C.F.R. §§ 1.4(e)(1) and (j), the opposition would not have been due until the next business day, which was Monday, October 29. That is when it was filed. Moreover, pursuant to Section 1.4(h), 47 C.F.R. § 1.4(h), because the petition was served by mail, Telecinco could have availed itself of an additional three business days after that.

³ 47 C.F.R. §§ 106(b)(1) and (c)(2).

⁴ In view of the action taken herein, we need not decide whether the petition contains new facts or whether the public interest requires that we consider them. See 47 C.F.R. § 1.106(c)(2). We have considered the facts cited by petitioners and we nevertheless deny the petition for the reasons stated.

controversy to be settled privately or in local courts of competent jurisdiction. The Commission has neither the authority nor the machinery to adjudicate claims arising out of private agreements and redress for such disputes should be sought in local courts.⁵ *John L. Runner*, 36 RR 2d 773 (1976); *A.H. Belo Corp.*, 43 FCC 2d 340 (1973). This is particularly so when, as here, the matters in controversy involve interpretations of local laws.

We further note that our action granting consent to the transfer of control does not prejudice or influence the court proceedings. As always, our consent is permissive rather than compulsory, and the transaction is not effectuated until consummation by the applicants. The parties finalize the transaction at their own risk and remain subject to the courts' determination of applicable rights and remedies.

ACCORDINGLY, IT IS ORDERED, That the Petition for Reconsideration filed on October 17, 2007, in connection with the above-captioned proceeding (File Nos. BTCCT-20070724ABW and BTCVA-20070724ABX), by Alfred Ramirez de Arellano and Josefina Ramirez de Arellano, **IS DENIED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁵ Indeed, petitioners state, at n. 2, that they have commenced litigation in local courts.