

Federal Communications Commission  
Washington, D.C. 20554

SMH-1800E3

**DA 08-2454**

**Released: November 5, 2008**

Kathleen A. Kirby, Esq.  
Wiley Rein LLP  
1776 K Street, NW  
Washington, DC 20006

Re: *Applications for Assignment of Licenses*  
KFDA-TV, Amarillo, Texas (Fac. ID No. 51466)  
KWAB-TV, Big Spring, Texas (Fac. ID No. 42008)  
KWES-TV, Odessa, Texas (Fac. ID No. 42007)  
KXXV(TV), Waco, Texas (Fac. ID No. 9781)  
KSWO-TV, Lawton, Oklahoma (Fac. ID No. 35645)  
KTXC(FM), Lamesa, Texas (Fac. ID No. 71650)  
File Nos. BALCT-20080630AEA; ADW; ADS; ADU; ADY

*Request for Continuing Satellite Authorization*  
KWAB-TV, Big Spring, Texas

Dear Counsel:

This is in reference to the above-captioned applications for the assignment of five television station licenses and one radio station license to various wholly-owned subsidiaries of London Broadcasting Company ("London"). As part of this transaction, KWES License Company, LLC (hereinafter "London Subsidiary"), the proposed assignee of KWAB-TV, Big Spring, Texas and KWES-TV, Odessa, Texas, requests continued authority pursuant to Section 73.3555, Note 5 of the Commission's rules,<sup>1</sup> to operate KWAB-TV as a satellite of KWES-TV. The stations have Grade B overlap and are located within the Odessa-Midland, Texas, DMA.

In *Television Satellite Stations*,<sup>2</sup> 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

---

<sup>1</sup> 47 C.F.R. § 73.3555, Note 5.

<sup>2</sup> *Television Satellite Stations Review of Policy and Rules*, MM Docket No. 87-8, Report and Order, FCC Rcd 4212, 4215 (1991) ("Television Satellite Stations") (subsequent history omitted).

to construct or to purchase and operate the satellite as a full-service station.<sup>3</sup> 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.<sup>4</sup>

As to the first criterion, London Subsidiary has submitted an engineering study, which demonstrates that there is no City Grade contour overlap between KWAB-TV and KWES-TV. With respect to the second criterion, London Subsidiary has demonstrated, using our transmission test, that the respective area is underserved. The “transmission” test deems an area underserved if there are two or fewer full-service television stations licensed to a proposed satellite’s community of license.<sup>5</sup> London Subsidiary asserts that KWAB-TV is the only full-power television station licensed to Big Spring, Texas.

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.<sup>6</sup> In support of its continuing waiver request, London Subsidiary submits a letter from Brian E. Cobb, President of CobbCorp, a media brokerage, appraisal and merchant banking firm specializing in television station transactions. Cobb contends that KWAB-TV would be unable to effectively compete in the Odessa-Midland, Texas DMA. In addition, Cobb states that if any attempt were made to operate the satellite as an independent facility there would be virtually no opportunity to garner a network affiliation, since they are all contracted for in the market. Moreover, he asserts that the My TV Network and the CW are also offered in this small market that garners barely over \$20 million in annual television advertising revenue. Furthermore, he asserts that the current Grade B signal of the station does not reach Odessa or Midland, a necessity to compete in the market. According to Cobb, with full power commercial stations competing in Odessa-Midland via programming from major networks, the level of competition is not only intense, but the opportunity to procure programming attractive to viewers and of the quality that KWAB-TV currently airs would be negligible. Finally, Cobb avers that if asked to list KWAB-TV for sale, his company would have little interest in doing so.

Based on our review of the materials submitted, we find that London Subsidiary has set forth information sufficient to warrant continued satellite operation of KWAB-TV, Big Spring, Texas under our *ad hoc* analysis. KWAB-TV has operated as a satellite of KWES-TV for many years. Moreover, London Subsidiary has submitted evidence demonstrating the unfeasibility of finding a purchaser willing to operate the station on a stand alone basis. We, therefore, find that the continued operation of KWAB-TV as a satellite of KWES-TV would be in the public interest. In view of the foregoing, and having determined that London Subsidiary 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 KWES License Company, LLC for the continued operation of KWAB-TV, Big Spring, Texas, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission’s rules, **IS GRANTED**.

---

<sup>3</sup> *Id.* at 4213-14.

<sup>4</sup> *Id.* at 4212.

<sup>5</sup> *Id.* at 4215.

<sup>6</sup> *Id.*

**FURTHERMORE**, the above-referenced applications for consent to assign the licenses for KFDA-TV, Amarillo, Texas, KWAB-TV, Big Spring, Texas, KWES-TV, Odessa, Texas, KXXV(TV), Waco, Texas, KSWO-TV, Lawton, Oklahoma, KTXC(FM), Lamesa, Texas (File Nos. BALCT-20080630AEA; ADW; ADS; ADU; ADY) **ARE GRANTED**.

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: David Oxenford, Esq.