



Federal Communications Commission  
Washington, D.C. 20554

February 12, 2008

**DA 08-351**

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**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Pittsburgh Television Station WPCW Inc.  
WPCW(TV)  
2175 K Street, N.W.  
Suite 350  
Washington, D.C. 20037

Re: Pittsburgh Television Station WPCW Inc.  
WPCW(TV), Jeannette, Pennsylvania  
Facility ID No. 69880  
File No. BRCT-20070402JVN

Dear Licensee:

This refers to your license renewal application for station WPCW(TV), Jeannette, Pennsylvania.

In the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b and 394, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that commercial television stations may air during children's programming, and to consider in its review of television license renewal applications 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 which limits the amount of commercial matter which may be aired by such stations 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.<sup>1</sup> In addition, the Commission reiterated its long-standing policy against "host-selling," *i.e.*, "the use of program talent to deliver commercials," including "endorsements or selling by animated cartoon characters as well as 'live' program hosts."<sup>2</sup>

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<sup>1</sup> *Children's Television Programming*, 6 FCC Rcd 2111, 2118, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991).

<sup>2</sup> *Id.* at 2127 n.147, 6 FCC Rcd at 5097; *see also Action for Children's Television*, 50 FCC 2d 1, 8, 16-17 (1974).

On April 2, 2007, you filed the above-referenced license renewal application for station WPCW(TV). In response to Section IV, Question 5 of that application, you certify that, during the previous license term, WPCW(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, you indicate that station WPCW(TV) violated the children's television commercial limits and policies on three occasions between July 21, 2000, and December 23, 2006. Of those violations, one was a two-minute overage and one was a program-length commercial which occurred when station WPCW(TV) aired a commercial for Idlewild Park that included an image of a "Doug" doll during the "Doug" children's program. The remaining incident you reported occurred on December 23, 2006, when station WPCW(TV) aired a commercial for Post Cereal's Cocoa Pebbles during the "Xiaolin Showdown" program. You state that the commercial contained glimpses of "Xiaolin Showdown" characters.<sup>3</sup> You attribute the conventional overage to human error and describe corrective measures taken subsequently to prevent future violations.

Pittsburgh Television Station WPCW Inc.'s record of exceeding the children's television commercial limits, 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.<sup>4</sup> 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."<sup>5</sup>

The only reason cited for the conventional overage, human error, does not mitigate or excuse the violation. In fact, the Commission has repeatedly rejected human error as a basis for excusing violations of the children's television commercial limits.<sup>6</sup> Furthermore, while corrective actions may have been taken to prevent subsequent violations of the children's television rules and policies, this does not relieve Pittsburgh Television Station WPCW Inc. of liability for the violations which have occurred.<sup>7</sup>

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<sup>3</sup> From the licensee's description of the "Xiaolin Showdown" commercial, it appears that this incident is more akin to a violation of the Commission's "host-selling" policy, rather than a program-length commercial.

<sup>4</sup> S. Rep. No. 227, 101<sup>st</sup> Cong., 1<sup>st</sup> Sess. 24 (1989).

<sup>5</sup> *Children's Television Programming*, 6 FCC Rcd at 2118.

<sup>6</sup> 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).

<sup>7</sup> 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,

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 WPCW(TV)'s renewal application.

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to the licensee at the address listed above, and to its counsel, Howard F. Jaeckel, Esquire, Vice President and Associate General Counsel, CBS Law Department, 1515 Broadway, 49<sup>th</sup> Floor, New York, New York 10036.

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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1716 (MMB 1994); *KEVN, Inc. (KEVN-TV)*, 8 FCC Rcd 5077, 5078 (MMB 1993); *International Broadcasting Corp.*, 19 FCC 2d 793, 794 (1969).