



Federal Communications Commission
Washington, D.C. 20554

March 25, 2008

DA 08-520
Released: March 25, 2008

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Barry Friedman, Esq.
Thompson Hine LLP
1920 N Street NW
Washington, DC 20036-1600

Re: Entravision Holdings, LLC
KFRQ(FM), Harlingen, TX (Fac. ID # 56484)
KNVO-FM, Port Isabel, TX (Fac. ID # 40680)
KVLY(FM), Edinburg, TX (Fac. ID # 67188)
KKPS(FM), Brownsville, TX (Fac. ID # 56483)

Dear Mr. Friedman:

By letter dated March 7, 2005, to your client, Entravision Holdings, LLC (“Entravision”), licensee of the above-noted stations, the employment unit containing the stations was randomly audited for compliance with the Federal Communications Commission’s Equal Employment Opportunity (EEO) rule, 47 C.F.R. § 73.2080.¹ Entravision submitted its audit response on April 6, 2005.

Our review of Entravision’s response shows that, for the April 2, 2003 – April 1, 2004 reporting period, Entravision failed to recruit widely for every full-time vacancy, instead relying on its corporate Internet web site, the stations’ on-air advertisements, word-of-mouth, walk-ins, unsolicited job applications, or internal job postings as recruitment sources for eight of its nine full-time vacancies. For the April 2, 2004 – April 1, 2005 reporting period, Entravision continued to rely on its corporate Internet web site, its stations’ on-air advertisements, walk-ins, word-of-mouth, unsolicited job applications, or internal job postings as recruitment sources for all four of its full-time vacancies.

In light of the foregoing, we conclude that Entravision failed to recruit widely for every full-time vacancy, as required by Section 73.2080(c)(1)(i), instead relying on one web site, its stations’ on-air advertisements, word-of-mouth, walk-ins, unsolicited job applications, or internal job postings as recruitment sources. The Commission has established that, although it does not require a specific number of recruitment sources, if a source or sources cannot reasonably be expected, collectively, to reach the entire community, a licensee may be found in noncompliance with the Commission’s EEO rule, as here.² The Commission’s policy allows recruitment from as few as one source, but the effort must be sufficiently broad.³ Relying only on a licensee’s own employees or its own private contacts does not

¹ 47 C.F.R. § 73.2080(c)(1)(i)..

² See 47 C.F.R. § 73.2080(c)(1)(i). See also, *Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Policies*, MM Docket No. 98-204, Second Report and Order and Third Notice of Proposed Rulemaking, 17 FCC Rcd 24018, 24047, ¶86 (2002), *recon. pending*.

³ *Id.*

constitute recruitment as contemplated under our rules, which require public outreach.⁴ A “walk-in” may reflect the “source” of an interviewee or hiree, but relying solely on walk-ins does not reflect a recruitment effort.⁵ Further, the Commission’s EEO policy requires a licensee to recruit from non-Internet sources, in addition to any sources from the Internet, in order for its recruitment to sufficiently widely disseminate information concerning the vacancy.⁶

We accordingly conclude that Entravision willfully and repeatedly violated the Commission’s EEO rule, Section 73.2080(c)(1)(i), as discussed above. Further, because of Entravision’s failure to recruit properly for all of its vacancies, we find that it did not adequately analyze its recruitment program on an ongoing basis to ensure that it was effective in achieving broad outreach, in violation of Section 73.2080(c)(3)⁷.

Under Section 503(b)(1) of the Communications Act of 1934, as amended (the “Act”), any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a monetary forfeiture penalty.⁸ Because the violations here occurred during the prior license term and the stations’ renewal applications have since been granted, however, the statute of limitations prohibits us from initiating a forfeiture proceeding in this case.⁹ For this reason, we admonish Entravision for these violations. But for the running of the statute of limitations, we would have proposed a forfeiture in this case. We remind Entravision that we expect it to take the steps necessary to ensure that its staff understands and complies with the requirements of the Commission’s EEO rules and caution it that we will not hesitate to impose appropriate sanctions against it for any further violations.

Accordingly, Entravision Holdings, LLC is hereby ADMONISHED for its willful and repeated violation of our EEO rules, specifically Sections 73.2080(c)(1)(i) and 73.2080(c)(3) of the Rules.

IT IS FURTHER ORDERED that Entravision Holdings, LLC and any successor licensee of Stations KFRQ(FM), Harlingen, Texas; KNVO-FM, Port Isabel, Texas; KVLY(FM), Edinburg, Texas;

⁴ *New Northwest Broadcasters LLC*, Memorandum Opinion and Order and Notice of Apparent Liability, 21 FCC Rcd 10748, 10749 (2006) (forfeiture paid).

⁵ *Id.*

⁶ See 17 FCC Rcd at 24051, ¶99, wherein the Commission said, “...we are unable to conclude that Internet usage has become sufficiently widespread to justify allowing it to be used as the sole recruitment source.”

⁷ 47 C.F.R. § 73.2080(c)(3).

⁸ See 47 U.S.C. § 312(f)(1). Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law. 47 U.S.C. § 312(f)(1). The legislative history accompanying Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act, and the Commission has so interpreted the term in the Section 503(b) context. See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982). See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) (“*Southern California Broadcasting Co.*”). “Repeated” merely means that the act was committed or omitted more than once, or lasts more than one day. See *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5; see also *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359 (2001) (proposing forfeiture for, *inter alia*, a cable television operator’s violation of the signal leakage rules).

⁹ See 47 U.S.C. § 503(b)(6)(A). See also FCC File Nos. BRH-20050331BJZ, BRH-20050331BMR, BRH-20050331BMS, and BRH-20050331BMT.

and/or KKPS(FM), Brownsville, Texas¹⁰ shall submit to the Federal Communications Commission, Media Bureau, EEO Staff, an original and one copy of the following information on May 1, 2008; May 1, 2009; and May 3, 2010, with respect to these stations and any other station(s) in this employment unit:

- (a) the unit's most recent EEO public file report;
- (b) dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing each full-time vacancy for the preceding reporting year;
- (c) the recruitment source that referred the hiree for each full-time vacancy; and
- (d) the total number of interviewees for each full-time vacancy for the preceding reporting year and the referral source for each interviewee.

Sincerely,

Lewis Pulley
Assistant Chief, Policy Division
Media Bureau

cc: Walter Ulloa, CEO, Entravision Holdings, LLC

¹⁰ In the event of an assignment of any of the stations in this employment unit, this continuing obligation will run to the assignee with regard to each station so assigned.