



Federal Communications Commission  
Washington, D.C. 20554

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In re: **WMAL(AM), Washington, DC**  
Radio License Holding VII, LLC  
File No. BR-20110531ANB  
Facility ID No. 73250

**License Renewal Application; Informal  
Objection**

Dear Mr. Raymond and Ms. Ory:

The Media Bureau ("Bureau") has before it (1) the application ("Application") of Radio License Holding VII, LLC ("Licensee") to renew the license of radio station WMAL(AM), Washington, DC; and (2) the Informal Objection ("Objection") to that application filed by Kevin M. Raymond on September 12, 2011. For the reasons set forth below, we deny the Objection and grant the Application.

**Background.** Licensee timely filed the Application on May 31, 2011. Raymond subsequently filed his Objection on September 9, 2011. In his Objection, Raymond argues generally that the Application should be denied because the station has an "incessant bias" against the government throughout all its programs and the station broadcasts "blatant lies on each program" that cannot be considered protected by the right to free speech.<sup>1</sup>

**Discussion.** Informal objections to license renewal applications must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Communications Act of 1934, as amended ("Act").<sup>2</sup> Specifically, Section 309(k) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the

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<sup>1</sup> Objection at 1. The Objection also questions whether the Station is funded anonymously for political propaganda purposes. *Id.* The Objection provides no support for this speculative comment. Accordingly, this argument requires no further discussion here.

<sup>2</sup> 47 U.S.C. § 309(e). *See, e.g., WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n. 10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1989) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

Commission's rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.<sup>3</sup> We have examined the Objection and find that it does not raise a substantial and material question of fact calling for further inquiry or otherwise persuade us that granting the Application would contravene the public interest, convenience, and necessity.

The Commission is prohibited from exercising any power of censorship over broadcast stations with respect to content-based programming decisions.<sup>4</sup> A licensee has broad discretion – based on its right to free speech – to choose the programming that it believes serves the needs and interests of the members of its audience.<sup>5</sup> We will intervene in programming matters only if a licensee abuses that discretion.<sup>6</sup> The Commission may, however, regulate broadcast content where federal statutes direct it to do so, but the Commission will not take adverse action on a license renewal application based solely on the subjective determination of a single listener or group of listeners as to what constitutes appropriate programming.<sup>7</sup>

After full review, we have determined that further Commission action is not warranted in this case for several reasons.<sup>8</sup> Raymond seeks the denial of the Station's license renewal because he disagrees with its programming choices and the political views expressed on its programs. However, the Objection contains only unsupported conclusory statements and failed to provide a single example of the alleged "inappropriate" content. Rather, the Objection directs staff to listen to the programs themselves when considering the application.<sup>9</sup> Furthermore, even if Raymond provided specific examples of the alleged

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<sup>3</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 10 Stat. 56 (1996). *See Implementation of Section 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

<sup>4</sup> U.S. Const. amend. 1; 47 U.S.C. § 326 ("Nothing in [the] Act shall be understood or construed to give the Commission the power of censorship over radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated . . . by the Commission which shall interfere with the right of free speech by means of radio communication").

<sup>5</sup> *See, e.g., License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401 (1993) ("*Philadelphia Station License Renewals*") (citing *Time-Life Broadcast, Inc.*, Memorandum Opinion and Order, 33 FCC 2d 1081, 1082 (1972) and *Office of Communications of United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983) (subsequent history omitted)).

<sup>6</sup> *Philadelphia Station License Renewals*, 8 FCC Rcd at 6401 (abuse of discretion occurs if a licensee is unreasonable or discriminatory in its selection of issues that it believes are of concern to the local community or if it offers such nominal levels of issue-responsive programming so as to as effectively defaulted on its obligation).

<sup>7</sup> The Commission does, however, enforce the statutory prohibition on the broadcast of obscene, indecent and profane material. 18 U.S.C. § 1464.

<sup>8</sup> *See, e.g., KFBK(AM), Sacramento and KSTE(AM), Rancho Cordova, California*, Letter, 22 FCC Rcd 4804, 4805 (MB 2007) (informal objections against license renewals arguing that the stations aired "heavily-biased . . . programming amount[ing] to the use of the airwaves as a relentless political pulpit, presenting only one-sided, predictable opinion on most issues, and even blatantly endorsing one political party" denied as outside the scope of Commission authority); *KUYI(FM), Hotevilla, Arizona*, Letter, 22 FCC Rcd 17305, 17308 (MB 2007) (denying programming objections that the station broadcasted "biased political public service programming"); *WYLL(AM), Chicago, Illinois*, Letter, 22 FCC Rcd 5579, 5580 (MB 2007) (denying an informal objection based on perceived political bias due to limits on Commission authority and objector's failure to provide any specific examples of objectionable programming).

<sup>9</sup> *Objection at 1. See Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1989) (stating that an informal objection must contain specific factual allegations sufficient to warrant the relief requested).

inappropriate content in his Objection, he has not shown that the licensee committed violations of the Act, the Commission's rules, or otherwise abused its discretion in determining the programming it believes serves the needs of its audience. Raymond thus has failed to meet the showing required by Section 309(e) of the Act to warrant further Commission action.

**Conclusions/Actions.** Accordingly, IT IS ORDERED that the Informal Objection filed on September 12, 2011 by Kevin M. Raymond is DENIED.

IT IS FURTHER ORDERED that pursuant to Section 309(k) of the Communications Act of 1934, as amended, that the license renewal application of Radio License Holding VII, LLC for WMAL(AM), Washington, DC (File No. BR-201105031ANB) IS GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau