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Re: Requests to Defer Mandatory Carriage of KVNV(TV), Middletown Township, New Jersey

Dear Counsel:

By letter dated July 25, 2014, the Media Bureau (the "Bureau") waived Section 76.64(f)(4) of the Commission's rules to allow Cablevision Systems Corporation, Time Warner Cable Inc. and Comcast Cable Communications,

LLC (the “MVPDs”) to defer implementing the must-carry request and channel position election of PMCM TV, LLC (“PMCM”) for television station WJLP (formerly KVNV(TV)), Middletown Township, New Jersey (“WJLP”) until 90 days from the date of a final decision by the Bureau on WJLP’s virtual channel.¹ The Bureau determined that deferral was warranted to minimize disruption for consumers and the accompanying confusion and channel line-up disruption for the MVPDs to accommodate WJLP’s request to be placed on cable channel 3 at a time when it was possible—in view of a pending dispute between PMCM and the licensee of an incumbent station already using Program System and Information Protocol (“PSIP”)² virtual channel 3 in a service area overlapping WJLP’s—that the Bureau would soon assign WJLP a different virtual channel.³ Concurrent with this Letter Order, the Bureau is releasing its decision on the appropriate PSIP virtual channel for television station WJLP.⁴ That decision removes the uncertainty regarding WJLP’s PSIP virtual channel number that necessitated the *Deferral Letter Order*.⁵ Accordingly, PMCM’s initial must-carry request and channel position election is effective 90 days from today (September 3, 2015). If the MVPDs do not implement PMCM’s original must-carry request or channel position election within that time, PMCM may choose to invoke the cable carriage enforcement procedures set forth in 47 U.S.C. § 534(d) and 47 C.F.R. § 76.61. Alternatively, if PMCM should now wish to pursue carriage for WJLP on cable channel 33—the virtual channel the Bureau has assigned WJLP in the *PMCM PSIP Declaratory Ruling*—we see good cause to again waive Section 76.64(f)(4) of the Commission’s rules to the extent necessary to permit PMCM to expeditiously assert that carriage election for WJLP.⁶ Accordingly, we **HEREBY WAIVE** Section 76.64(f)(4) of the rules to permit PMCM to newly **ELECT CARRIAGE AND CHANNEL POSITION** for WJLP,

¹ See *Tara M. Corvo, Esq., Frederick W. Giroux, Esq., Seth A. Davidson, Esq., Donald J. Evans, Esq.*, 29 FCC Rcd 9102 (MB 2014) (“*Deferral Letter Order*”).

² PSIP channels are also commonly referred to as “virtual” or “major” channels.

³ *Deferral Letter Order*, 29 FCC Rcd at 9102.

⁴ *Request for Declaratory Ruling by Meredith Corporation and “Alternative PSIP Proposal by PMCM TV, LLC for WJLP (Formerly KVNV(TV)), Middletown Township, New Jersey*, MB Docket No. 14-150, Declaratory Ruling (DA 15-662, rel. June 5, 2015, MB) (“*PMCM PSIP Declaratory Ruling*”).

⁵ PMCM has argued in its pending Application for Review of the *Deferral Letter Order* that the Bureau deferred the MVPDs’ must-carry obligations until 90 days from the time the full Commission issues a final order resolving the virtual channel issue and “any and all appeals” are exhausted. Application for Review at 15. Notwithstanding the use of the phrase “final decision,” however, the *Deferral Letter Order* merely granted Cablevision’s request to defer its must-carry obligations until 90 days after “the Media Bureau issues a final decision” resolving the virtual channel issue. Letter from Tara M. Corvo, Counsel for Cablevision Systems Corporation (Cablevision) to Marlene H. Dortch, FCC Secretary (June 12, 2014) in *Application of PMCM TV, LLC; File No. BPCDT-20130528AJP; Facility ID No. 86537* (Cablevision Deferral Request) (emphasis added). Taking the order’s references to a “final decision” in proper context, it is clear that the relief the Bureau granted was no more expansive than what Cablevision requested. See *Deferral Letter Order*, 29 FCC Rcd at 9105 (referencing “our decision on [the appropriate] virtual channel number” for WJLP and stating, “The Bureau anticipates that it will be able to issue *its decision* without lengthy delay.” (emphasis added)).

⁶ See 47 C.F.R. § 1.3 (“Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”); see also *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, Declaratory Order, 23 FCC Rcd 14254, 14259, paras. 15-16 (2008) (clarifying that in the digital era, a “cable operator can identify the correct channel location by reference to the PSIP,” and “any station carried pursuant to mandatory carriage may demand carriage on its major channel number as broadcast in [its] PSIP”); *KSQA, LLC v. Cox Cable Commc’ns, Inc.*, Memorandum Opinion and Order, 27 FCC Rcd 13185, 13186–87, para. 4 (Media Bur. Policy Div. 2012) (holding that, in the digital era, a station asserting must-carry rights on its over-the-air channel does not have the option to elect carriage on its radio frequency channel rather than on its major channel).”

Middletown Township, New Jersey on the MVPDs within thirty (30) days of the release of this Letter Order. In accordance with Section 76.64(f), any such election shall take effect ninety (90) days after it is made.⁷

Sincerely,

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⁷ 47 C.F.R. § 76.64(f)(4).