

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Mountain Broadcasting Corporation
Application for Renewal of License for Digital
Television Station WMBC-TV
Newton, New Jersey
Facility ID No. 43952
FRN No. 0003746450
Acct. No. 201741420007
File No. BRC DT-20150126ABD

ORDER

Adopted: August 2, 2017

Released: August 2, 2017

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered between the Media Bureau and Mountain Broadcasting Corporation (Mountain Broadcasting). The Consent Decree resolves issues raised in our review of the above-captioned License Renewal Application for commercial full power television station WMBC-TV, Newton, New Jersey (Station), specifically regarding Mountain Broadcasting’s compliance at the Station with: (1) Section 73.671(c)(5) of the Commission’s rules (Rules), which requires commercial broadcast television licensees to display the “E/I” symbol throughout the duration of all Core Programming;¹ (2) Section 73.673 of the Rules, which requires commercial broadcast television licensees to provide publishers of program guides information relating to Core Programming specifically designed to educate and inform children (i.e., Core Programming);² (3) Section 73.3526(e)(11)(iii) of the Rules, which requires each licensee to prepare and place in its public inspection file a Children’s Television Programming Report (FCC Form 398) for each calendar quarter reflecting, among other things, the efforts it made during that quarter to serve the educational and informational needs of children;³ and (4) Section 73.3514(a) of the Rules for failing to disclose its noncompliance with the aforementioned rules in its License Renewal Application and to provide complete and accurate information in its quarterly Children’s Television Programming Reports.⁴

2. After reviewing its terms, we find that adopting the Consent Decree would serve the public interest. We conclude that there are no substantial or material questions of fact regarding Mountain Broadcasting’s qualifications to remain a Commission licensee. We also conclude that the Consent Decree contains appropriate terms and conditions, including a Compliance Plan to ensure the Licensee’s ongoing compliance with Sections 73.671(c)(5), 73.673, 73.3526(e)(11)(iii), and 73.3514(a) of the Rules.⁵ Therefore, the Media Bureau instructs its staff to grant the license renewal application, File

1 47 CFR § 73.671(c)(5).

2 47 CFR § 73.673.

3 47 CFR § 73.3526(e)(11)(iii).

4 47 CFR § 73.3514(a).

5 Section 309(k)(1) of the Act states that the Commission shall grant a license renewal application “if it finds, with respect to that station, during the preceding term of its license – (a) the station has served the public interest, convenience, and necessity; (b) there have been no other violations by the licensee of the Act or Commission Rules or regulations; and (c) there have been no other violations by the licensee of the Act or Commission rules or regulations, which, taken together, would constitute a pattern of abuse.” 47 U.S.C. § 309(k)(1). Section 309(k)(2) of the Act states, however, that if the licensee fails to meet this three-part standard, the Commission may deny the application – after notice and comment, and opportunity for hearing under Section 309(e) of the Act – “. . . or grant

No. BRC DT-20150126ABD, pursuant to Section 309(k)(2) of the Communications Act of 1934, as amended (Act). Grant shall be conditioned upon Mountain Broadcasting fully and timely satisfying its obligation to make the Settlement payment as called for by paragraph 13 of the Consent Decree and in the manner set forth by paragraph 15 of the Consent Decree. Thus, we need not determine whether Mountain Broadcasting committed “serious violations” of our rules or violations that constituted a “pattern of abuse” for purposes of Section 309(k)(1).⁶

3. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,⁷ and by the authority delegated by Sections 0.61 and 0.283 of the Commission’s rules,⁸ the Consent Decree hereto **IS ADOPTED**.

4. **IT IS FURTHER ORDERED** that the investigation by the Commission into the matters discussed above and in connection with this station **IS TERMINATED**.

5. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First-Class mail and Certified Mail, Return Receipt Requested, to Mountain Broadcasting Corporation, 99 Clinton Road, West Caldwell, NJ 07006 and to its counsel, Arthur H. Harding, Esq., Garvey Shubert Barer, 1000 Potomac Street, Suite 200, Washington, D.C. 20007.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief, Media Bureau

the application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.” 47 U.S.C. § 309(k)(2).

⁶ See *Shareholders of Univision Communications Inc. et al.*, Memorandum Opinion and Order, 22 FCC Rcd 5842, 5859, n.113 (2007) (“Given our finding that the grant of the renewal application is warranted under Section 309(k)(2) of the Act because the consent decree contains appropriate terms and conditions, we need not determine whether Univision committed ‘serious violations’ of our rules or violations that constituted ‘a pattern of abuse’ for purposes of Section 309(k)(1).”)

⁷ 47 U.S.C. § 154(i).

⁸ 47 CFR §§ 0.61, 0.283.

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In the Matter of
Mountain Broadcasting Corporation
Application for Renewal of License for Digital
Television Station WMBC-TV
Newton, New Jersey
Facility ID No. 43952
FRN No. 0003746450
Acct. No. 201741420007
File No. BRC DT-20150126ABD

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission (Bureau) and Mountain Broadcasting Corporation (Mountain Broadcasting or Licensee), licensee of full power station WMBC-TV, Newton, New Jersey, hereby enter into this Consent Decree for the purposes of: (i) resolving the Bureau’s investigation of Mountain Broadcasting’s compliance with Sections 73.671(c)(5), 73.673, 73.3526(e)(11)(iii), and 73.3514(a) of the Commission’s rules (Rules);¹ and (ii) facilitating the grant of Mountain Broadcasting’s above-captioned pending license renewal application.

I. DEFINITIONS

2. For the purposes of this Consent Decree and Compliance Plan, the following definitions shall apply:

- a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 et seq.
b) “Adopting Order” means the Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
c) “Bureau” means the Media Bureau of the Federal Communication Commission.
d) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
e) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission including, but not limited to, 47 CFR §§ 73.671(c)(5), 73.673, 73.3514(a), 73.3526(e)(11)(iii).
f) “Core Programming” means programming specifically designed to serve the educational and informational needs of children and used for the purposes of demonstrating compliance with the CTA, as implemented by 47 CFR 73.671.
g) “CTA” means 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.
h) “Division” means the Video Division of the Media Bureau.
i) “Effective Date” means the date on which the Commission releases the Adopting Order.
j) “Investigation” means the Media Bureau’s investigation of Mountain Broadcasting’s potential violations of the CTA and 47 CFR. §§ 73.671(c)(5), 73.673, 73.3514(a), 73.3526(e)(11)(iii).
k) “License Renewal Application” means the license renewal application of station WMBC-

¹ 47 CFR §§ 73.671(c)(5), 73.673, 73.3514(a), 73.3526(e)(11)(iii).

TV, Newton, New Jersey, File No. BRCDT-20150126ABD.

- l) “Parties” means Mountain Broadcasting Corporation and the Commission, each of which is a “Party.”
- m) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- n) “Station” means the broadcast television station WMBC-TV, Newton, New Jersey.
- o) “Mountain Broadcasting” means Mountain Broadcasting Corporation and its subsidiaries, affiliates, successors, assigns, and/or transferees.

II. BACKGROUND

3. On January 7, 2015, the Commission accepted for filing Mountain Broadcasting’s License Renewal Application for WMBC-TV, Newton, New Jersey (Station). Upon reviewing documents filed by Mountain Broadcasting during the preceding license term,² Division staff discovered that the Station’s Q2 2010 Children’s Television Programming Report (FCC Form 398), in identifying Core Programming in response to Question 10, on its face reported that certain such programming failed to display the “E/I” symbol. This discovery prompted the Division to send an informal inquiry to Mountain Broadcasting’s counsel requesting an explanation for the Station’s failure to display the “E/I” symbol on some of its Core Programming. As a result of this inquiry, Mountain Broadcasting voluntarily offered to undertake a comprehensive review of all its Form 398 filings during the period covered by its license renewal application. Following a series of communications with Division staff, Mountain Broadcasting amended its License Renewal Application on February 6, 2016. The amended License Renewal Application revealed that the Station: (1) failed to display the “E/I” symbol during certain Core Programming aired on its supplemental digital streams in violation of Section 73.671(c)(5) of the rules; (2) voluntarily disclosed that it had failed, in certain quarterly periods, to provide the publishers of program guides the necessary children’s programming information, including the program’s targeted age group, in violation of 73.673 of the Rules; (3) failed to disclose the aforementioned violations upon filing its License Renewal Application in violation of Section 73.3514(a) of the Rules; and (4) failed to comply with Section 73.3526(e)(11)(iii) of the Rules by filing Children’s Television Program Reports (Form 398) containing various substantive errors.³ The amended License Renewal Application also reported certain remedial measures voluntarily implemented by Mountain Broadcasting to address the compliance issues described above.

A. Failure to Properly Identify Children’s Television Programming

4. Section 73.671(c)(5) of the Rules requires a commercial broadcast television licensee to identify Core Programming by displaying the “E/I” symbol on the television screen throughout the duration of a program. In its License Renewal Application, Mountain Broadcasting admitted that it was not compliant with the Rules because it failed to display the “E/I” symbol when airing certain Core Programming in its supplemental digital streams from Q4 2009 through Q2 2015.⁴ According to Mountain Broadcasting, the Christian Global Network (CGN) provided much of the Station’s Core

² The Station’s preceding license term commenced on February 6, 2016, the date of grant of the Station’s previous license renewal application, *see* File No. BRCT-20070126AAF, and remains open. Although the current license for the Station bears an expiration date of June 1, 2015, by operation of Section 307(c)(3) of the Act, the preceding license term will continue until the Bureau grants the Station’s License Renewal Application by final action, at which time a new license term will commence. 47 U.S.C. § 307(c)(3).

³ License Renewal Application at Exhibits 26 and 28.

⁴ *See* License Renewal Application at Exhibit 28.

Programming on one of its supplemental digital streams.⁵ Mountain Broadcasting states that “[t]he fact that CGN is a worldwide network that supplies programming to countries that may not follow the FCC’s model for identifying children’s programming, coupled with the inherent obstacles posed by programming in a foreign language, may have contributed to the failure of certain children’s programs on CGN to properly display the [‘]E/I[’] symbol.”⁶ However, the fact that CGN may have failed to display the “E/I” symbol on the programming that it supplied to the Station does not relieve the Station or the Licensee of the responsibility for complying with the Rules.⁷

5. Section 73.673 of the Rules requires a commercial broadcast television licensee to provide the publishers of program guides with “information identifying programming specifically designated to educate and inform children,” which includes information indicating the age group of children for whom the program is intended.⁸ In its amended License Renewal Application, Mountain Broadcasting revealed that it failed to provide the publishers of program guides with some or all of the necessary children’s programming information for the Station’s main and/or supplemental digital streams from Q2 2007 through Q3 2016.⁹ Therefore, Mountain Broadcasting was not compliant with Section 73.673 of the Rules.¹⁰

B. Failure to Report Violations

6. Section 73.3514(a) of the Rules requires each applicant to include all information that is requested by the FCC License Renewal Application Form (FCC Form 303-S).¹¹ Here, Mountain Broadcasting failed to properly answer Questions 7, 8, and 9 in Section IV of FCC Form 303-S upon filing its License Renewal Application for the Station and failed to correct such errors until being requested to do so by Division staff following its voluntarily review of its Form 398 filings. Section IV, Question 7 of Form 303-S requires applicants to certify that “the average number of hours of Core Programming per week broadcast by the station totaled 3 hours or more,” as averaged over a six-month period; Section IV, Question 8 requires applicants to certify that it identified each “Core Program aired at the beginning of the airing of each program as required by 47 C.F.R. § 73.673;” and Section IV, Question 9 requires applicants to certify that it “provide[d] information identifying each Core Program aired on its station, including an indication of the target child audience, to publishers of program guides as required by 47 C.F.R. § 73.673.”¹² In its originally filed License Renewal Application, Mountain Broadcasting incorrectly answered the aforementioned questions in the affirmative in violation of Section 73.3514(a).

⁵ *See Id.*

⁶ *Id.*

⁷ *Lincoln Broadcasting Company*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 69 (Vid. Div. Jan. 7, 2015) (“The fact that the Station believed that identification of children’s programming using the ‘E/I’ symbol would not make sense to its Korean speaking viewers does not relieve the Licensee of its duty to comply with Section 73.671 of the Rules”).

⁸ 47 CFR § 73.673.

⁹ License Renewal Application at Exhibits 26 and 28.

¹⁰ *See Blue Mountain Broadcasting Assoc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 17883 (Vid. Div. Dec. 19, 2008) (“The Licensee’s failure . . . to provide to publishers of program guides information identifying the age group for which its core programming is intended constitutes apparent willful and repeated violations of Sections 73.3526(e)(11)(iii) and 73.673”).

¹¹ “Each applicant shall include all information called for by the particular form on which the application is required to be filed, unless the information called for is inapplicable, in which case this fact shall be indicated.” 47 C.F.R. § 73.3514(a).

¹² *See e.g.* FCC Form 303-S available at: <https://transition.fcc.gov/Forms/Form303-S/303s.pdf>.

7. Section 73.3526(e)(11)(iii) of the Rules requires each licensee to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, among other things, the efforts that it made during that quarter to serve the educational and informational needs of children.¹³ As part of each report, the Licensee must disclose certain information concerning the children's television programming aired by the station, including the average number of weekly Core hours aired on both its main and supplemental digital streams, average amount of total weekly programming aired on its supplemental stream, length of each children's program aired, whether the Station notified the publishers of guides as required by Section 73.673 of the rules, and whether the station properly displayed the "E/I" symbol.¹⁴ As discussed above, Mountain Broadcasting failed to provide complete and accurate information in its Children's Television Programming Reports from Q2 2007 through Q4 2016, almost the entire original preceding license term.¹⁵

C. Conclusion

8. The Bureau and Mountain Broadcasting have negotiated the terms of the Consent Decree that terminates all investigations into the matters raised in this proceeding. As part of the Consent Decree, Mountain Broadcasting has agreed: (1) to make a settlement payment of Seventeen Thousand Five Hundred Dollars (\$17,500) to the U.S. Treasury; (2) to implement and maintain a Compliance Plan designed to ensure its future compliance with the children's programming requirements and the Commission's public file obligations; and (3) as part of the Compliance Plan, to implement a consumer education program on the meaning of the "E/I" symbol for their foreign language viewers.

III. TERMS OF THE AGREEMENT

9. Adopting Order. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau, which approval shall be evidenced by incorporation of the Consent Decree by reference in the Adopting Order.

10. Jurisdiction. Mountain Broadcasting agrees that the Commission has jurisdiction over it and the matters contained in this Consent Decree, and that the Commission has the authority to enter into and adopt this Consent Decree.

11. Effective Date. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission.

12. Violations. The Parties agree that any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

13. Termination of Investigation; Grant of Renewal Application. In express reliance on the covenants and representations in this Consent Decree, and to avoid further expenditure of public resources, the Bureau agrees to terminate the investigation. In consideration for the termination of the investigation, Mountain Broadcasting agrees to the terms and conditions contained herein. The Bureau further agrees to grant, absent any other restrictions, in conjunction with the adoption of this Consent Decree, the License Renewal Application. Grant of the License Renewal Application is conditioned on Mountain Broadcasting fully and timely satisfying its obligation to make a total Settlement Payment in the amount of \$17,500 in the manner specified in paragraph 15 of this Consent Decree. In exchange,

¹³ 47 CFR § 73.3526(e)(11)(iii). Note: Licensees must file the reports with the Commission and place them in their public files by the tenth day of the succeeding calendar quarter. Copies of these documents must be retained until final action has been taken on the station's next license renewal application.

¹⁴ See 47 CFR §§ 73.671(c), 73.673.

¹⁵ We find that Mountain Broadcasting did not intend to deceive or mislead the Commission.

Mountain Broadcasting agrees to implement and maintain the Compliance Plan, outlined below. The Bureau further agrees that in the absence of new material evidence or failure by Mountain Broadcasting to satisfy the terms and conditions set forth in paragraphs 15 and 18 of the Consent Decree, it will not use the facts developed, in whole or in part, from the investigation through the Effective Date, or the existence of this Consent Decree to institute on its own motion any inquiries, investigations, forfeiture proceedings, hearings, or other sanctions or actions against Mountain Broadcasting concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Mountain Broadcasting with respect to Mountain Broadcasting's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

14. Subsequent Investigations. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Mountain Broadcasting with the Communications Laws. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against Mountain Broadcasting for alleged violations of the Act or the Commission's rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints or pleadings will be based solely on the record developed in that proceeding.

15. Settlement Payment. Mountain Broadcasting agrees to make a total settlement payment to the United States Treasury in the amount of Seventeen Thousand Five Hundred Dollars (\$17,500) due within thirty (30) calendar days after the Effective Date. Mountain Broadcasting acknowledges and agrees that upon execution of this Consent Decree, the Settlement Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).¹⁶ Mountain Broadcasting shall send electronic notification of payment to Darren Fernandez at darren.fernandez@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the FRN captioned above. An FCC Form 159 (Remittance Advice) must be submitted with payment unless payment is made online at the Commission's Fee Filer website.¹⁷ When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that Mountain Broadcasting should follow based on the form of payment it selects:¹⁸

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure

¹⁶ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

¹⁷ Payment may be made online at the Commission's Fee Filer website: <https://www.fcc.gov/encyclopedia/fee-filer>. Online payments do not require payors to submit FCC Form 159. Alternatively, payment may be made using FCC Form 159; detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁸ Should Mountain Broadcasting have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e mail at ARINQUIRIES@fcc.gov.

appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

16. Waivers. Mountain Broadcasting waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Mountain Broadcasting shall retain the right to challenge the Bureau's interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Mountain Broadcasting nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Mountain Broadcasting shall waive any statutory right to a trial *de novo*. Mountain Broadcasting hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 CFR § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree. Notwithstanding any provision of this Consent Decree or the Adopting Order, this Consent Decree shall be void and of no further force and effect if the condition specified in paragraph 15 is not fully and timely satisfied by Mountain Broadcasting.

17. Admission of Liability. Mountain Broadcasting admits to the facts discussed in paragraphs 3-7 regarding its failure to meet the requirements of Sections 73.671(c)(5), 73.673, 73.3514(a), and 73.3526(e)(11)(iii) of the Rules. By entering into this Consent Decree, Mountain Broadcasting makes no other admission of liability or violation of any law, regulation or policy, and the Commission makes no finding of any such liability or violation. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 13 hereof, or both, are breached by the Commission, or are invalidated or modified to the signatories' prejudice by the Commission or any court, then, and in that event, the provisions of the immediately-preceding sentences shall be of no force or effect.

18. Compliance Plan. In recognition that Mountain Broadcasting's policies and practices regarding compliance with Sections 73.671(c)(5), 73.673, 73.3514(a), and 73.3526(e)(11)(iii) of the Rules can be enhanced to ensure compliance in the future, Mountain Broadcasting agrees that it will adopt and implement a compliance plan at the Station, and at any Station acquired by Mountain Broadcasting as well as any Station licensed to Mountain Broadcasting that becomes newly subject to the requirements of the CTA or Sections 73.671(c)(5), 73.673, 73.3514(a), and 73.3526(e)(11)(iii) of the Rules while the Compliance Plan remains in effect. Additionally, Mountain Broadcasting agrees to implement a consumer education program on the meaning of the "E/I" symbol for their foreign language viewers and report to the Bureau regarding its efforts. A copy of the plan is set forth below. Mountain Broadcasting agrees, to the extent that it has not already done so, to implement the Compliance Plan upon issuance of the Adopting Order and to keep such Compliance Plan in effect for a period of three years.

19. Invalidity. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

20. Subsequent Rule or Order. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of the Consent Decree to which Mountain Broadcasting expressly consents), that provision will be superseded by such rule or Commission order. The Parties agree that nothing

herein shall be deemed to preclude Mountain Broadcasting from seeking Bureau approval to modify the Compliance Plan described in paragraph 18 of the Consent Decree.

21. Successors and Assigns. Mountain Broadcasting agrees that the provisions of this Consent Decree shall be binding on its subsidiaries, affiliates, successors, assigns, and/or transferees.

22. Final Settlement. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

23. Modifications. This Consent Decree cannot be modified without the advance written consent of all Parties.

24. Paragraph Headings. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

25. Authorized Representative. The individual signing this Consent Decree on behalf of Mountain Broadcasting represents and warrants that he is authorized by Mountain Broadcasting to execute this Consent Decree and to bind Mountain Broadcasting to the obligations set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

26. Counterparts. This Consent Decree may be signed in any number of counterparts, each of which, when executed and delivered (including by pdf or facsimile), shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

FEDERAL COMMUNICATIONS COMMISSION

By:

Michelle M. Carey
Chief, Media Bureau

Date

MOUNTAIN BROADCASTING CORPORATION

By:

Joon S. Joo
President

Date

COMPLIANCE PLAN OF MOUNTAIN BROADCASTING CORPORATION

In order to ensure future compliance with the CTA, Rules, and the Act, Mountain Broadcasting will institute the following procedures for any television broadcast station that is licensed, controlled, or subsequently acquired by it. This Compliance Plan is meant to cover, but is not limited to, WMBC-TV, Newton, New Jersey. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan. The terms of this Compliance Plan shall remain in effect for a period of three years.

1. Mountain Broadcasting will designate a Compliance Officer responsible for responding to employee questions, consulting with FCC counsel regarding compliance matters, and ensuring all stations operate in compliance with the Rules and the Act, including but not limited to the CTA and Sections 73.671(c)(5), 73.673, 73.3514(a), and 73.3526(e)(11)(iii) of the Rules. The name and contact information for the Compliance Officer shall be listed in a document and placed in the Station's electronic public file under the folder entitled "FCC Investigations or Complaints."

2. The Compliance Officer will oversee the dissemination of children's programming information to the publishers of programming guides, the preparation and filing of all Children's Television Programming Reports (FCC Form 398), the maintenance of the Station's local public inspection file, and the preparation and filing of all other required FCC forms, applications, and documents in order to ensure compliance with the FCC's rules and policies.

3. The Compliance Officer will work with Station staff and, as necessary, with third-party program suppliers to ensure that the "E/I" symbol is properly displayed on all Core Programming aired on the Station's main and supplemental digital streams for the entire duration of all Core Programming.

4. The Compliance Officer will work with appropriate Station staff and, as necessary, with third-party program suppliers to implement a consumer education program on the meaning of the "E/I" symbol for their foreign language viewers. Additionally, the Station will file with the Commission a written description of its consumer education program on the meaning of the "E/I" symbol within sixty (60) days of the Effective Date. The consumer education program may include public service announcements broadcast on the Station's main and supplemental channels,¹ direct community outreach, and content on its website. The descriptive filing should be addressed to David Brown, Deputy Chief, Video Division, Media Bureau and an electronic copy should be sent via electronic mail to david.brown@fcc.gov.²

5. The Compliance Officer will conduct training for all Station employees and management at least once every twelve (12) months on compliance with FCC Rules applicable to his or her duties at the Station. The first training shall occur within thirty (30) days of the Effective Date. A certification that the

¹ To the extent the Station does not have insertion capabilities during some of its foreign language programming, the Station should disclose such information to the Bureau in its filing and explain how the Station will integrate those viewers into its consumer education program.

² If the Station determines that its proposed consumer education program is not effectively communicating to its foreign language viewers the meaning of the "E/I" symbol, Mountain Broadcasting may file with the Commission a request for waiver of Section 73.671(e)(5) of the Rules. Such a waiver request should include why the waiver is appropriate and propose an on-screen solution that will allow viewers of foreign-language programming to identify, in a meaningful way that is consistent with the underlying purpose of the "E/I" symbol requirement, programming that is been specifically designed to educate and inform children. See *KTVU, LLC*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 11693 (Vid. Div. Oct. 1, 2014). Absent the grant of such a request, Mountain Broadcasting acknowledges that it is required to display the "E/I" symbol in the manner specified by Commission rules and precedent. Furthermore, absent the express written consent of the Bureau, Mountain Broadcasting shall maintain the consumer education program concerning the "E/I" symbol outlined above while the Compliance Plan remains in effect.

aforementioned training has occurred shall be placed in the online electronic local public inspection file for the Station within five (5) business days after completion thereof.

6. The Compliance Officer will be responsible for remaining knowledgeable on all developments in communications law that are applicable to the Station and its operations. This may include consultation with an outside third-party, such as legal counsel, in order to obtain guidance on FCC compliance issues and to review all applications, documents, and reports prior to filing with the FCC. With regard to the last matter, Mountain Broadcasting recognizes and acknowledges that any and all information provided to the FCC must completely and candidly set forth all relevant facts and circumstances regardless of whether such submission may disclose a violation of the Rules or the Act.