

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of )
The Marconi Broadcasting Foundation ) File No.: EB-IHD-17-00023527
Licensee of Low Power FM Station ) CD Acct. No.: 202032080032
WWRI-LP, Coventry, Rhode Island ) FRN: 0017029463
) Facility ID No.: 193137

ORDER

Adopted: October 6, 2020

Released: October 6, 2020

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission (Commission or FCC) has entered into a Consent Decree to resolve the Commission’s investigation into whether The Marconi Broadcasting Foundation (Marconi), licensee of low power FM (LPFM) station WWRI-LP, Coventry, Rhode Island, violated the Commission’s underwriting laws by broadcasting announcements on behalf of for-profit entities in exchange for consideration. The Consent Decree also resolves questions about whether Marconi violated Commission rules that (i) prohibit a party from holding an attributable interest in an LPFM station if it also holds an interest in a broadcast radio station; (ii) prohibit a party from assigning or transferring an LPFM station license within three years of the date of issuance; and (iii) impose filing requirements in connection with the transfer of an LPFM station. The Commission adopted such rules and procedures to preserve the unique non-profit and locally oriented nature of LPFM stations. To settle this matter, Marconi admits that it broadcast commercial announcements for consideration, and that a member of Marconi’s Board held an attributable interest in another broadcast station. Marconi also admits that Marconi underwent a pro forma transfer of control effectuated by a 100% change in its board of directors, approximately 14 months after the date on which WWRI-LP’s license was issued, and for which Marconi failed to timely submit the required FCC form. Marconi agrees to implement a compliance plan and pay a \$15,000 civil penalty.<sup>1</sup>

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation regarding Marconi’s compliance with sections 310(d) and 399B of the Communications Act of 1934, as amended (Act)<sup>2</sup> and sections 73.503(d), 73.860(d), 73.865(c), and 73.865(e) of the Commission’s rules.<sup>3</sup>

<sup>1</sup> Marconi submitted financial documentation to the Enforcement Bureau, including federal tax returns for 2016 - 2018, to support a reduction of the Consent Decree’s civil penalty, based upon Marconi’s inability to pay. The \$15,000 civil penalty set forth in the Consent Decree reflects consideration of Marconi’s demonstrated inability to pay.

<sup>2</sup> 47 U.S.C. §§ 310(d), 399b.

<sup>3</sup> 47 CFR §§ 73.503(d), 73.860(d), 73.865(c), (e).

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Marconi's basic qualifications to hold or obtain any Commission license or authorization.<sup>4</sup>

4. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act<sup>5</sup> and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,<sup>6</sup> the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

6. **IT IS FURTHER ORDERED** that any third-party complaints and allegations against Marconi and/or its station related to the above-captioned investigation that are pending before the Enforcement Bureau as of the date of this Consent Decree **ARE DISMISSED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent via e-mail to Steven Karneeb, President, The Marconi Broadcasting Foundation, at [Sconti@3gbroadcasting.com](mailto:Sconti@3gbroadcasting.com), and to counsel for The Marconi Broadcasting Foundation, Dan J. Alpert, at [dja@commlaw.tv](mailto:dja@commlaw.tv).

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold  
Chief  
Enforcement Bureau

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<sup>4</sup> See 47 CFR § 1.93(b).

<sup>5</sup> 47 U.S.C. § 154(i).

<sup>6</sup> 47 CFR §§ 0.111, 0.311.

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) FRN: 0017029463
Licensee of Low Power FM Station )
WWRI-LP, Coventry, Rhode Island ) Facility ID No. 193137

CONSENT DECREE

1. Noncommercial educational (NCE) stations, including low power FM (LPFM) stations, provide a unique service to the public. LPFM stations in particular allow the public to enjoy a radio service that is both commercial free and distinctly oriented to the local communities of the stations' listeners. Because of their unique and non-profit nature, the Federal Communications Commission (Commission or FCC) has given special regulatory consideration to NCE and LPFM stations, reserving spectrum for NCE stations, imposing fewer regulatory requirements, and exempting them from annual regulatory fees. That flexibility, however, is not unlimited. Accordingly, the FCC has long prohibited NCE stations from airing commercial advertisements. To help preserve the unique nature of LPFM stations, the FCC also prohibits LPFM licensees from ownership of other stations, unauthorized transfers of control of LPFM stations, and LPFM license transfers or assignments within three years of the date of issue.

2. As part of the Commission's obligation to prevent such violations, the Enforcement Bureau and The Marconi Broadcasting Foundation (Marconi or Licensee), licensee of LPFM station WWRI-LP, Coventry, Rhode Island (Station or WWRI-LP), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether Marconi violated section 399B of the Communications Act, as amended (Act) and section 73.503(d) of the Commission's rules,1 by airing commercial advertisements. This Consent Decree also resolves questions regarding ownership interests of a member of Licensee's board in another radio station in violation of section 73.860(d) of the Commission's rules,2 the unauthorized transfer of control of WWRI-LP in violation of section 310(d) of the Act and section 73.865(e) of the Commission's rules,3 and the transfer of the Station's license within the three-year holding period in violation of section 73.865(c) of the Commission's rules.4 As set forth herein, Marconi agrees to implement a compliance plan and pay a \$15,000 civil penalty. This action will spare Commission resources and help ensure Licensee's compliance with the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule.

1 47 U.S.C. § 399b, 47 CFR § 73.503(d).

2 47 CFR § 73.860(d).

3 47 U.S.C. § 310(d), 47 CFR § 73.865(e).

4 47 CFR § 73.865(c).

**I. DEFINITIONS**

3. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended.<sup>5</sup>
  - (b) “Adopting Order” means an order of the Enforcement Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
  - (d) “CD Acct. No.” means account number 202032080032, associated with payment obligations described in Paragraph 21 of this Consent Decree.
  - (e) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Marconi is subject by virtue of its being a Commission licensee, including but not limited to the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule.
  - (f) “Complaint” or “Complaints” means the third-party submissions received by, or in the possession of, the Enforcement Bureau, dated May 2016, October 2016, October 2018, and January 2020, on file in EB-IHD-17-00023527, alleging violations of the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule.
  - (g) “Compliance Officer” means the individual designated in Paragraph 16 of this Consent Decree as the person responsible for administration of the Compliance Plan.
  - (h) “Compliance Plan” means the compliance obligations, programs, and procedures described in this Consent Decree at Paragraph 17.
  - (i) “Covered Employee” means all Licensee employees and agents, including but not limited to volunteers, who perform, or supervise, oversee, or manage the performance of duties related to Licensee’s responsibilities under the Communications Laws.
  - (j) “Cross-Ownership Rule” means 47 CFR § 73.860(d).
  - (k) “Effective Date” means the date by which both the Enforcement Bureau and Marconi have signed the Consent Decree.
  - (l) “Holding Period Rule” means 47 CFR § 73.865(c).
  - (m) “Investigation” means the investigation commenced by the Enforcement Bureau in EB-IHD-17-00023527, regarding Marconi’s compliance with the Communications Laws, including the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule.
  - (n) “LPFM Assignment and Transfer of Control Laws” means, individually or collectively, section 310(d) of the Act and section 73.865(e) of the Rules,<sup>6</sup> and the decisions and orders of the Commission interpreting these provisions.
  - (o) “Marconi” or “Licensee” means The Marconi Broadcasting Foundation and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

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<sup>5</sup> 47 U.S.C. § 151 *et seq.*

<sup>6</sup> 47 U.S.C. § 310(d); 47 CFR § 73.865(e).

- (p) “Underwriting Operating Procedures” means the standard, internal operating procedures and compliance policies established by Marconi to implement the Compliance Plan.
- (q) “Parties” means Marconi and the Enforcement Bureau, each of which is a “Party.”
- (r) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (s) “Station” means WWRI-LP.
- (t) “Underwriting Announcement” means any announcement, message, or other program material, broadcast over the Station licensed to Marconi, or by any of its successors, assigns, or transferees, made in exchange for consideration, on behalf of any for-profit entity.
- (u) “Underwriting Compliance Checklist” means the obligation under Paragraph 17(d) that describes the steps that a Covered Employee must follow to ensure that all material approved for broadcast is consistent with relevant past Commission precedent regarding the Underwriting Laws.
- (v) “Underwriting Laws” means, individually or collectively, section 399B of the Act, and section 73.503(d) of the Commission’s rules,<sup>7</sup> and the decisions and orders of the Commission interpreting these provisions.
- (w) “WWRI-LP” means low power FM station WWRI-LP, Coventry, Rhode Island (Facility Identification Number 193137), licensed to The Marconi Broadcast Foundation.

## II. BACKGROUND

4. *Legal Framework.* The Underwriting Laws define an advertisement as programming material broadcast “in exchange for any remuneration” and intended to “promote any service, facility, or product” of for-profit entities.<sup>8</sup> Section 399B(b)(2) of the Act specifically provides that noncommercial educational stations may not broadcast advertisements.<sup>9</sup> Although contributors of funds to such stations may receive on-air acknowledgements of their support, the Commission has held that such acknowledgements are for identification purposes only and must not promote the contributors’ products, services, or businesses.<sup>10</sup> Specifically, such announcements must not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent, or lease.<sup>11</sup>

5. The Cross-Ownership Rule provides that a party with an attributable interest in a broadcast radio station must divest such interest prior to the commencement of operations of a LPFM station in which the party also holds an interest.<sup>12</sup>

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<sup>7</sup> 47 U.S.C. § 399b; 47 CFR § 73.503(d).

<sup>8</sup> 47 U.S.C. § 399b(a).

<sup>9</sup> 47 U.S.C. § 399b(b)(2); *see also* 47 CFR § 73.503(d); 73.801 (applying 73.503(d) to low power FM stations).

<sup>10</sup> *See* Noncommercial Educational Broadcasting Service; Clarification of Underwriting Guidelines, 51 Fed. Reg. 21800 (June 16, 1986), *republished*, *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice, 7 FCC Rcd 827 (1992).

<sup>11</sup> *Id.*; *see Xavier University*, Memorandum Opinion and Order, 5 FCC Rcd 4920, 4921, para. 6 (1990) (citing *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Memorandum Opinion and Order, 90 FCC 2d 895 (1982)).

<sup>12</sup> 47 CFR § 73.860(d).

6. The LPFM Assignment and Transfer of Control Laws provide that transfers of control involving a sudden change of more than 50% of an LPFM's governing board require the filing of an FCC Form 316.<sup>13</sup> In establishing this rule, the Commission determined that a "sudden change of a [LPFM's] governing board's majority" is an "insubstantial transfer for which approval must be sought on an FCC Form 316 ('short form') broadcast application."<sup>14</sup>

7. Under the Holding Period Rule in effect prior to February 12, 2020, an LPFM license could not be transferred or assigned for three years from the date of issue, and the licensee was required to operate the station during the three-year holding period.<sup>15</sup>

8. *Factual Background.* The Commission received Complaints in May 2016, October 2016, October 2018, and January 2020, alleging that Marconi broadcast prohibited advertisements on WWRI-LP, in violation of the Underwriting Laws, and raising concerns regarding Marconi's compliance with the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule.<sup>16</sup> The Enforcement Bureau sent letters of inquiry to Marconi in April 2018 and February 2019 to inquire about the allegations and questions raised in the May 2016, October 2016, and October 2018, Complaints.<sup>17</sup>

9. Marconi submitted replies to the letters of inquiry in May 2018 and April 2019, respectively, whereby Marconi provided detailed information about its underwriting practices, ownership structure, and corporate operations.<sup>18</sup> The information submitted by Marconi revealed that WWRI-LP

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<sup>13</sup> 47 U.S.C. § 310(d); 47 CFR § 73.865(e).

<sup>14</sup> *Creation of a Low Power Radio Service*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 21912, 21920-21 (2007). See also *Samuel L. Cilone, Jr.*, 24 FCC Rcd 14617, 14619 (MB 2009), *Donald E. Martin, Esq.*, 28 FCC Rcd 411, 413 (MB 2013) (holding that new LPFM licensee was required to report the changes in its governing board).

<sup>15</sup> 47 CFR § 73.865(c); see also *Casa De Oracion Getsemani Ephese, et al.*, Memorandum Opinion and Order, 26 FCC Rcd 9190, 9194, para. 9 at n.29 (MB 2011) (noting that LPFM licenses may be transferred or assigned to another local entity, but not for three years from the date of issue). Although the Commission modified the Holding Period Rule on December 11, 2019, the revised rule, when effective, will continue to require, among other things, that an original LPFM owner not transfer or assign its license within the first 18 months of grant of the initial construction permit. See *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Station*, 85 Fed. Reg. 7880-01 (Feb. 12, 2020); MB Docket No. 19-3, Report and Order, 34 FCC Rcd 12519, 12546-47, para. 68 (2019).

<sup>16</sup> See Complaint No. 951635-1 (May 5, 2016) (on file in EB-IHD-17-00023527), Complaint No. 1243922-1 (Oct. 7, 2016) (on file in EB-IHD-17-00023527), Complaint No. 2832341 (Oct. 10, 2018) (on file in EB-IHD-17-00023527), and E-mail Complaint (Jan. 7, 2020) (on file in EB-IHD-17-00023527). The complainants contacted the Commission in January 2017, February 2017, and July 2017 to supplement Complaints with additional recordings and transcripts of Underwriting Announcements (supplements on file in EB-IHD-17-00023527).

<sup>17</sup> Letter of Inquiry from Matthew L. Conaty, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to Michael Cardillo, President and General Manager, The Marconi Broadcasting Foundation (Apr. 13, 2018) (on file in EB-IHD-17-00023527); Letter of Inquiry from Matthew L. Conaty, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to Jamie DiPaola, President, The Marconi Broadcasting Foundation (Apr. 13, 2018) (on file in EB-IHD-17-00023527) (LOI); Failure to Respond and Follow-up Letter of Inquiry from Christopher J. Sova, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to Christopher T. DiPaola, President, The Marconi Broadcasting Foundation, Inc. (Feb. 28, 2019) (on file in EB-IHD-17-00023527) (Supplemental LOI).

<sup>18</sup> Letter of Inquiry Response from Christopher DiPaola to Jennifer A. Lewis, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, FCC (May 14, 2018) (on file in EB-IHD-17-00023527) (LOI Response); Failure to Respond Letter of Inquiry Response from Dan J. Alpert, Counsel for The Marconi Broadcasting Foundation, Inc., to Marlene Dortch, Secretary, Federal Communications Commission (Apr. 3, 2019) (on file in EB-IHD-17-00023527) (Supplemental LOI Response).

broadcast at least 17 announcements on behalf of for-profit entities, in exchange for consideration, at various times, over a period of at least 16 months. These announcements included, at various points, comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent, or lease.<sup>19</sup> Marconi disclosed that its director, Christopher DiPaola, was previously a board member of Marconi while serving as sole proprietor of DiPonti Communications, licensee of Station WBLQ(AM) in Westerly, RI.<sup>20</sup> The information provided by Licensee also revealed that Marconi underwent a *pro forma* transfer of control effectuated by a 100% change in its board of directors on March 21, 2016,<sup>21</sup> approximately 14 months after the issuance of WWRI-LP's license on January 8, 2015,<sup>22</sup> for which Marconi failed to file an FCC Form 316 until March 14, 2019 (File No. BTCL-20190314AAP).

10. To resolve the Enforcement Bureau's Investigation, the Parties agreed to enter into this Consent Decree. On February 7, 2020, Marconi submitted financial documentation to the Enforcement Bureau, including federal tax returns for 2016-2018, to support a reduction of the Consent Decree's civil penalty based upon Marconi's inability to pay.<sup>23</sup> The civil penalty set forth in this Consent Decree reflects consideration of Marconi's documented inability to pay.

### III. TERMS OF AGREEMENT

11. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Enforcement Bureau in an Adopting Order without change, addition, deletion, or modification.

12. **Jurisdiction.** Marconi agrees that the Enforcement Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Enforcement Bureau has the authority to enter into and adopt this Consent Decree.

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

14. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Enforcement Bureau agrees to terminate the Investigation and dismiss the Complaints. In consideration for the termination of the Investigation and dismissal of the Complaints, Marconi agrees to the terms, conditions, and procedures contained herein. The Enforcement Bureau further 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 new proceeding, formal or informal, or take any action on its own motion against Marconi concerning the matters that were the subject of the Investigation. The Enforcement 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 Marconi with respect to its basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission licenses or authorizations concerning those matters.

15. **Admission of Liability.** Marconi admits, in express reliance on the provisions of Paragraph 14 herein, that its actions referenced in the Complaints and described in Paragraphs 8-9 herein

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<sup>19</sup> See Supplemental LOI Response at 6-18.

<sup>20</sup> See Supplemental LOI Response at 2, 20. Marconi did not cure this cross-ownership violation until March 19, 2019, after the Enforcement Bureau issued the LOI. See Supplemental LOI Response at 1-2.

<sup>21</sup> See Supplemental LOI Response at 2-4. Marconi did not file to reflect these corporate changes until March 14, 2019, after the Enforcement Bureau, issued the LOI. See File No. BTCL-20190314AAP.

<sup>22</sup> See Supplemental LOI Response at 2-3, 20-24.

<sup>23</sup> E-mail from Dan J. Alpert, Counsel to Marconi, to Jennifer Lewis, Attorney Advisor, FCC Enforcement Bureau (Feb. 7, 2020, 13:35 EDT) (on file in EB-IHD-17-00023527).

violated the Commission's Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule.

16. **Compliance Officer.** Within fourteen (14) calendar days after the Effective Date, Marconi shall designate an FCC regulatory counsel or other party with the requisite corporate and organizational authority and knowledge to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Marconi complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule before assuming his/her duties.

17. **Compliance Plan.** Marconi shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure its immediate compliance with the Communications Laws and with the terms and conditions of this Consent Decree.

- (a) **Consultation with Counsel.** If the Compliance Officer is not an FCC regulatory counsel, Marconi shall consult with outside FCC regulatory counsel regarding Marconi's overall compliance with the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule. Such consultations shall occur on a biannual basis, or more frequently to ensure Marconi's compliance with the terms of this Consent Decree.
- (b) **Ownership and Transactional Compliance.** The Compliance Officer, or a management-level employee of Marconi directly supervised by the Compliance Officer shall, commencing with the Effective Date, review all proposed Licensee and Station transactions to ensure Marconi's compliance with the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule, and to ensure that:
  - i. correct Commission transactional applications and forms are filed in a timely manner; and
  - ii. proper Licensee ownership structures are maintained, and the Commission is notified properly of all regulatory and corporate ownership changes to the Licensee.
  - iii. Licensee shall provide notice to Enforcement Bureau within 15 calendar days after the date on which any required transactional application or form is filed or should have been filed, in accordance with Paragraph 19(d).
- (c) **Underwriting Compliance Notification.** Within five (5) business days of the Effective Date, Marconi shall immediately notify and distribute to Covered Employees at the Station, notice of the requirements of this Paragraph 17. The Notification shall explain the Underwriting Laws that the Covered Employees shall follow.
  - i. Marconi shall provide a copy of such Compliance Notification to the Enforcement Bureau within seven (7) business days from the Effective Date.
  - ii. Every thirty (30) days from the Effective Date, Marconi shall review its Compliance Notification, and provide any updates or amendments thereto, to all Covered Employees.



- (d) **Underwriting Operating Procedures.** Within sixty (60) calendar days of the Effective Date, Marconi shall establish Operating Procedures that all Covered Employees must follow to help ensure Marconi's compliance with the Communications Laws, including the Underwriting Laws. Marconi's Underwriting Operating Procedures shall include internal procedures and policies specifically designed to ensure that Marconi complies with the Underwriting Laws.
- i. Marconi shall use a multi-level review procedure for underwriting content to be aired on the Station. The Compliance Officer, or a management-level employee of Marconi directly supervised by the Compliance Officer, shall review all scripts of Underwriting Announcements prior to broadcast.
  - ii. Marconi shall develop an Underwriting Compliance Checklist that describes the steps that a Covered Employee must follow to ensure that all material approved for broadcast is consistent with relevant past Commission precedent regarding the Underwriting Laws.
- (e) **Underwriting Compliance Manual.** Within sixty (60) calendar days of the Effective Date, Marconi shall develop and distribute a Compliance Manual to all Covered Employees.
- i. The Underwriting Compliance Manual shall explain the Underwriting Laws, and set forth the Underwriting Operating Procedures that the Covered Employees shall follow to help ensure Marconi's compliance with the Communications Laws.
  - ii. Marconi shall periodically review and revise the Underwriting Compliance Manual as necessary to ensure the information set forth therein remains current and accurate.
  - iii. Marconi shall distribute any revisions to the Underwriting Compliance Manual to all Covered Employees within three (3) business days of any updated revisions.
- (f) **Underwriting Compliance Training Program.** Within sixty (60) calendar days of the Effective Date, Marconi shall establish an Underwriting Compliance Training Program in compliance with the Underwriting Laws and the Underwriting Operating Procedures that Marconi will follow immediately following the Compliance Plan as stated in this Paragraph 17.
- i. Covered Employees shall be advised of Marconi's obligation to report any noncompliance with the Underwriting Laws, under Paragraph 18 of this Consent Decree, and shall be instructed on how to disclose noncompliance to the Compliance Officer.
  - ii. All Covered Employees shall be trained pursuant to the Underwriting Compliance Training Program within ninety (90) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Underwriting Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee.
  - iii. Marconi shall repeat compliance training on an annual basis and shall periodically review and revise the Underwriting Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

- (g) **Underwriting Compliance Education Program.** Within sixty (60) calendar days of the Effective Date, Marconi shall implement and maintain a plan to educate prospective for-profit underwriters about appropriate underwriting content and about how Marconi incorporates such underwriting content in the announcements that it prepares for underwriter approval and eventual broadcast over the Station. To that end, Marconi shall summarize the Underwriting Laws for each prospective for-profit client before accepting any contract with a prospective for-profit client to air Underwriting Announcements over the Station and shall prepare the Underwriting Announcement for the underwriter's review. Marconi shall not broadcast over the Station any announcement that does not comply with the Underwriting Laws.

18. **Reporting Noncompliance.** Commencing as of the Effective Date, Marconi shall report any noncompliance with the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule, and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that Marconi has taken or will take to address such noncompliance; (iii) the schedule on which such actions will be taken; and (iv) the steps that Marconi has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Christopher J. Sova at [Christopher.Sova@fcc.gov](mailto:Christopher.Sova@fcc.gov), Frederick Giroux at [Frederick.Giroux@fcc.gov](mailto:Frederick.Giroux@fcc.gov), and Jennifer A. Lewis at [Jennifer.Lewis@fcc.gov](mailto:Jennifer.Lewis@fcc.gov).

19. **Compliance Reports.** Marconi shall file Compliance Reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, thirty-six (36) months after the Effective Date, forty-eight (48) months after the Effective Date, and sixty (60) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Marconi's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Underwriting Laws, the Cross-Ownership Rule, the LPFM Assignment and Transfer of Control Laws, and the Holding Period Rule. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent and on behalf of Marconi, stating that the Compliance Officer has personal knowledge that Marconi: (i) has established and implemented the Compliance Plan; (ii) has utilized the Underwriting Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in Paragraphs 17 and 18 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>24</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent and on behalf of Marconi, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that Marconi has taken or will take to address such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Marconi has taken or will take to prevent the

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<sup>24</sup> See 47 CFR § 1.16.

recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.

- (d) All Compliance Reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Christopher J. Sova at [Christopher.Sova@fcc.gov](mailto:Christopher.Sova@fcc.gov), Frederick Giroux at [Frederick.Giroux@fcc.gov](mailto:Frederick.Giroux@fcc.gov), and Jennifer A. Lewis at [Jennifer.Lewis@fcc.gov](mailto:Jennifer.Lewis@fcc.gov).

20. **Termination Date.** Unless stated otherwise, the requirements set forth in Paragraphs 16 through 19 of this Consent Decree shall expire sixty (60) months after the Effective Date.

21. **Civil Penalty.** Marconi shall pay a civil penalty to the United States Treasury in the amount of fifteen thousand dollars (\$15,000). Such payment shall be made in monthly installments (each an Installment Payment). The first Installment Payment in the amount of \$2,500 is due within ten business days after the Effective Date. Thereafter, subsequent Installment Payments of \$500 will be due on the first day of each subsequent month thereafter, until the civil penalty has been paid in full. Marconi acknowledges and agrees that upon execution of this Consent Decree, the civil penalty and each Installment Payment shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).<sup>25</sup> Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. Marconi shall send electronic notification of payment on the date said payment is made to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Jeffrey J. Gee at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), Christopher J. Sova at [Christopher.Sova@fcc.gov](mailto:Christopher.Sova@fcc.gov), Frederick Giroux at [Frederick.Giroux@fcc.gov](mailto:Frederick.Giroux@fcc.gov), and Jennifer A. Lewis at [Jennifer.Lewis@fcc.gov](mailto:Jennifer.Lewis@fcc.gov). Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission’s Fee Filer (the Commission’s online payment system),<sup>26</sup> or by wire transfer. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>27</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>28</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the CD Account No. – the bill number is the CD Account No. with the first two digits excluded –

<sup>25</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>26</sup> Payments made using the Commission’s Fee Filer system do not require the submission of an FCC Form 159.

<sup>27</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

<sup>28</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

and then choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.

- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated to the CD Account No. – the bill number is the CD Account No. with the first two digits excluded – and choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

22. **Event of Default.** Marconi agrees that an Event of Default shall occur upon the failure by Marconi to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree.

23. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the civil penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the civil penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Marconi.

24. **Subsequent Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to the Underwriting Laws, the LPFM Assignment and Transfer of Control Laws, the Cross-Ownership Rule, and the Holding Period Rule against Marconi or its affiliates for alleged violations of the Act or the Rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission’s adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Licensee with the Act or the Rules.

25. **Waivers.** As of the Effective Date, Marconi 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. Marconi shall retain the right to challenge Commission 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 Consent Decree or the Adopting Order, neither Marconi nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Marconi shall waive any statutory right to a trial *de novo*. Marconi hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>29</sup> relating to the matters addressed in this Consent Decree.

26. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

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<sup>29</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

27. **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.

28. **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 this Consent Decree to which Marconi does not expressly consent) that provision will be superseded by such Rule or order.

29. **Successors, Assigns, and Transferees.** Marconi agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees for the duration of the agreement.

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

31. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

32. **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.

33. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

34. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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Rosemary C. Harold  
Chief  
Enforcement Bureau

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Date

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Steven Karneeb  
President  
The Marconi Broadcasting Foundation

\_\_\_\_\_  
Date