

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

In the Matter of	)	
	)	
Mercury Broadcasting Company, Inc., Licensee of	)	FRN: 0004995882
Full Power Television Station KMTW, Hutchinson,	)	Facility ID No. 77063
Kansas	)	LMS File No. 0000183206
	)	
	)	<i>Cunningham Broadcasting Corp., et al.,</i>
	)	Forfeiture Order, FCC 24-88 (2024) ¹

ORDER

Adopted: July 22, 2025

Released: July 22, 2025

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Mercury Broadcasting Company, Inc. (Licensee), the licensee of full power broadcast television station KMTW, Hutchinson, Kansas (Station). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensee's compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.² We find that through adoption of this Consent Decree, grant of the above-captioned application for renewal of license (Renewal Application) is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensee agrees, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.³ After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Station and described in paragraph 1,⁴ and granting the Renewal Application.⁵ The Bureau finds that the Station has served the public interest, convenience, and necessity during the subject license term and that grant of the Renewal Application is

¹ The only station licensed to Mercury Broadcasting Company, Inc. that is subject to the above-captioned forfeiture proceeding is KMTW, Hutchinson, Kansas. The Commission also found that multiple other stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). See *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. See Consent Decree at n.1; see also *Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

² 47 CFR § 73.670(a); see 47 U.S.C. § 303a(b).

³ 47 CFR §§ 73.670(a).

⁴ See also Consent Decree at paras. 4-5.

⁵ 47 CFR §§ 73.670(a).

warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.⁶ We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to hold or remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,⁷ and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,⁸ the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the *NAL* and *FORFEITURE ORDER*, as applied to full power television station KMTW, Hutchinson, Kansas, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,⁹ the application for renewal of license for full power television station KMTW, Hutchinson, Kansas (LMS File No. 0000183206) **IS GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to Mercury Broadcasting Company, Inc., 4040 Broadway Suite 518, San Antonio, TX 78209 and by e-mail to chiparcher@att.net. A copy shall also be sent to counsel for the licensee at Daniel Kirkpatrick, Esq., Baker & Hostetler LLP, 1050 Connecticut Avenue, NW, Suite 1100, Washington D.C. 20036 and by e-mail to dkirkpatrick@bakerlaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

⁶ 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse. 47 U.S.C. § 309(k)(1).

⁷ 47 U.S.C. § 154(i).

⁸ 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

⁹ 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
Mercury Broadcasting Company, Inc., Licensee of	)	FRN: 0004995882
Full Power Television Station KMTW, Hutchinson,	)	Facility ID No. 77063
Kansas	)	LMS File No. 0000183206
	)	
	)	<i>Cunningham Broadcasting Corp., et al.,</i>
	)	Forfeiture Order, FCC 24-88 (2024) ¹

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and Mercury Broadcasting Company, Inc. (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending Renewal Application (as defined below) involving full-power television station KMTW, Hutchinson, Kansas (hereafter Station, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Station and the Licensee's compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of commercial matter that commercial television stations may air during children's programming.²

2. To resolve these matters, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.670(a) of the Rules.³ In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order* in accordance with the terms herein, and grant the Renewal Application in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq.*
 - (b) "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Bureau" means the Media Bureau of the Federal Communications Commission.

¹ The only station licensed to the Mercury Broadcasting Company, Inc. that is subject to the above-captioned forfeiture proceeding is KMTW, Hutchinson, Kansas. The Commission also found that multiple other stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). See *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. See Adopting Order at n.1; *infra* note 11; see also *Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

² 47 CFR § 73.670(a); see 47 U.S.C. § 303a(b).

³ *Id.*

- (d) “Children’s Programming” shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.
- (e) “Commercial Limits Certification” means the records placed in a station’s OPIF, as required by 47 CFR § 73.3526(e)(11)(ii), sufficient to permit substantiation of the station’s certification in its license renewal application of compliance with 47 CFR § 73.670.
- (f) “Commercial Limits Rule” means the requirements, time limits, and restrictions on Commercial Matter during Children’s Programming contained in 47 CFR § 73.670(a), including the Commission’s policies related to host-selling and program-length commercials.
- (g) “Commercial Matter” shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.
- (h) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
- (i) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).
- (j) “Complaint” means any communication that the Licensee receives, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensee, or the Station concerning issues related to compliance with 47 CFR § 73.670(a).
- (k) “Compliance Officer” means a responsible party employed by the Licensee to be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree, as described in paragraph 15.
- (l) “Compliance Plan” means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.
- (m) “Covered Employees” means all master control, traffic, and programming employees at the Station who materially participate in scheduling Programming and monitoring such programming to ensure it is broadcast, each of which is a “Covered Employee.”
- (n) “Division” means the Video Division of the Media Bureau of the Commission.
- (o) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (p) “*Forfeiture Order*” means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).
- (q) “Investigation” means the examination of the Licensee’s compliance with 47 CFR § 73.670(a).
- (r) “Joint Petition for Reconsideration” means the Joint Petition for Reconsideration of *Cunningham Broadcasting Corp., et al.*, NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).
- (s) “Licensee” means Mercury Broadcasting Company, Inc., the licensee of full power broadcast television station KMTW, Hutchinson, Kansas (Facility ID No. 77063), as

well as its parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest.

- (t) “LMS” means the Commission’s Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.
- (u) “NAL” means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).
- (v) “OPIF” means a commercial broadcast television station’s online public inspection file as defined by 47 CFR § 73.3526.
- (w) “Parties” means the Licensee and the Bureau, each of which is a “Party.”
- (x) “Point of Contact” means a management or supervisory level employee of KMTW to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.
- (y) “Renewal Application” means the application for renewal of license of KMTW, Hutchinson, Kansas (Facility ID No. 77063), LMS File No. 0000183206, as amended.
- (z) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (aa) “Sinclair” means Sinclair Broadcast Group, LLC.
- (bb) “Station” or “KMTW” means KMTW, Hutchinson, Kansas (Facility ID No. 77063).

II. BACKGROUND

4. *Team Hot Wheels Children’s Programming Commercial Limits Matter.* As part of the Children’s Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during Children’s Programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.⁴ Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children’s Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.*, the entire program would be counted as commercial time).⁵ In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF an annual Commercial Limits Certification.⁶ In addition, as part of a station’s license renewal application, a licensee must certify that “[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission’s commercial limit policies related to host-selling and program-length commercials.”⁷

⁴ Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

⁵ *Policies and Rules Concerning Children’s Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order, 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

⁶ Such records must be retained until final action has been taken on a station’s next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

⁷ See FCC Form 2100, Schedule 303-S, <https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf>.

5. Between November 10, 2018, and December 16, 2018, a commercial for the “Hot Wheels Super Ultimate Garage” toy was inadvertently aired by the Station on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.⁸ The program and commercial were distributed by Sinclair under a programming block entitled “KidsClick.”⁹ The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.¹⁰ The Commission subsequently released the *NAL* finding that the Station was apparently liable for forfeiture in the amount of \$20,000 in total, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.¹¹ On October 7, 2024, the Licensee and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion.* The Bureau and the Licensee have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order*, and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

III. TERMS OF AGREEMENT

7. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be incorporated by reference by the Bureau in an Adopting Order without change, addition, deletion, or modification.

8. **Jurisdiction.** The Licensee agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **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 Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

10. **Violations.** The Parties agree that any violation of the Adopting Order or the terms of this Consent Decree, in whole or in part, by the Licensee 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.

11. **Admission of Facts.** The Licensee admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 12 herein, that paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order*.** In express reliance on the covenants and representations in this Consent Decree and to avoid further

⁸ See *NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

⁹ The “KidsClick” program block contained animated and short form programming targeted at children viewers, including programming that met the definition of “Children’s Programming” under 47 CFR § 73.670. See also *supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

¹⁰ See *NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

¹¹ The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations, violated the Commercial Limits Rule. See *NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only the Station is subject to the actions that we undertake herein. The Bureau will address all non-Licensee stations subject to the forfeiture proceeding by separate action. See Adopting Order at n.1; *supra* note 1.

expenditure of public resources, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order*, and to take the action specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, or the existence of this Consent Decree to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding (formal or informal), or take any action on its own motion or recommend any such action by the Commission against the Licensee concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensee in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding (formal or informal) to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.¹²

13. **Subsequent Investigations.** This Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Licensee with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against the Licensee for alleged violations of the Communications Laws or for any alleged misconduct, regardless of when such misconduct took place. Further, except as expressly provided herein, the Licensee acknowledges that the Commission retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeiture, for any apparent willful and/or repeated violation by the Licensee of the Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Application.** In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Application for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. The Compliance Officer must be provided all necessary corporate and organizational authority to ensure they are able to discharge their duties. The Compliance Officer shall report directly to the Licensee's Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws and this Consent Decree, prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station and shall contain, at a minimum, the following elements:

¹² See 47 CFR § 1.93(b).

- (a) **Compliance Manual.** Within thirty (30) calendar days after the Effective Date, the Licensee shall develop and distribute a “Compliance Manual” to all Covered Employees. The Compliance Officer shall distribute a Compliance Manual that it has personally prepared or one that has been prepared by the Licensee’s in-house legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:
- i. thoroughly explain the requirements embodied in the Commercial Limits Rule;
 - ii. establish “Operating Procedures” that Covered Employees must follow to help ensure the Station’s compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station monitors the Children’s Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and
 - iii. be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective. The Compliance Officer shall distribute any revisions to the Compliance Manual within five (5) business days of any updates to all Covered Employees.
- (b) **Compliance Training Program.** The Licensee will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.
- (c) **Complaint Coordination.** Within thirty (30) calendar days of the Effective Date, the Licensee shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Station in coordination with the Compliance Officer. The Licensee shall maintain on the Station’s public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.
- (d) **Reporting Noncompliance.** The Licensee shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted to VideoCompliance@fcc.gov.

The Licensee must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date.** The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF.** Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 17.¹³

19. **Withdrawal as a Party to the Joint Petition for Reconsideration.** The Licensee agrees to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Station within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grant of the Renewal Application. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

20. **Computation of Time.** The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s).** The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensee understands that it is fully responsible for the programming that it transmits over the Station, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve a licensee from its obligations and noncompliance can independently subject the Licensee to enforcement action.

22. **Waivers.** As of the Effective Date, the Licensee 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. The Licensee shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither the Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensee shall waive any statutory right to a trial *de*

¹³ See 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

novus. The Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act¹⁴ relating to the matters addressed in this Consent Decree.

23. **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.

24. **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.

25. **Subsequent Rule or Order**. The Parties agree that if any provision of this 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 the Licensee does not expressly consent) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Station, as applicable, unless otherwise agreed to by the Commission.

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

28. **Modifications**. This Consent Decree cannot be modified without the advance written consent of each Party.

29. **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.

30. **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.

31. **Counterparts**. This Consent Decree may be signed in counterparts (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.

¹⁴ See 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

Federal Communications Commission

By:

Erin Boone
Acting Chief
Media Bureau

Date

Mercury Broadcasting Company, Inc.

By:

Van H. Archer, III
President

Date