

STATEMENT OF MEDIA BUREAU CHIEF WILLIAM T. LAKE REGARDING
ADOPTION OF CONSENT DECREE WITH THE UNIVERSITY OF SAN
FRANCISCO AND CLASSICAL PUBLIC RADIO NETWORK LLC

June 7, 2012

I would like to thank the University of San Francisco and Classical Public Radio Network LLC for their cooperation with our investigation of this proposed transaction and the negotiation of this Consent Decree. The violations addressed in the Consent Decree involve two serious matters: (1) monthly payments for program time, in violation of 47 C.F.R. § 73.503(c) (which forbids such payments to NCE radio stations unless they are limited to reimbursement of operating expenses); and (2) the parties' unintentionally false certifications that the transaction complied with the Commission's rules and policies.

We found that the parties violated Section 73.503(c) of the Commission's rules in connection with a Public Service Operating Agreement ("PSOA") for the pre-closing period. In this PSOA, the licensee agreed to allow the programmer to provide substantially all of the programming for the station in return for a monthly payment that exceeded the station's expenses. Importantly, this case does not involve any attempt to hide this brokerage arrangement from us. The parties properly submitted the PSOA as part of the assignment application. Moreover, we acknowledge that they were following a practice that developed in past NCE radio transactions, in apparent violation of the rule, without our knowledge.

The point of the rule is straightforward: it prevents NCE radio stations from selling program time at a profit. (Section 73.621(d) is the corollary rule for NCE television stations.) I hope that our Consent Decree in this case will remind NCE licensees that they cannot monetize their licenses by selling program time for a profit. I do wish to note that the relevant rules only apply to payments for program time and do not limit the ability of NCE stations to enter into other types of contracts such as a sale agreement, an option to buy or sell a station, a right of first refusal to buy a station, etc. I would like to emphasize that if an NCE licensee or programmer is not certain about how the relevant rule might apply to a particular transaction, they should contact the Audio Division or the Video Division, as appropriate, to discuss it in advance.

The issue of the parties' erroneous certifications is also noteworthy. As the Commission has stated many times in the past, we depend on our licensees and applicants to provide correct and complete information. We found no intent to deceive by the parties because they submitted the PSOA to us with their application, but they have acknowledged that they violated Section 73.503(c) and therefore that their unqualified certification that the transaction complied with our rules and policies was false. Our application review process relies on applicants to fully disclose all relevant information related to the required certifications. I hope our action in this case will serve as a reminder of the need for complete accuracy in all application filings.