



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

December 3, 2019

The Honorable Frank Pallone  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Pallone:

Thank you for your letter regarding the Media Bureau's (Bureau) recent decision to grant an application that assigns broadcast television licenses from Red River Broadcast Co., LLC to Gray Television Group, Inc. in the Sioux Falls, South Dakota (Mitchell) Nielsen Designated Market Area (DMA).

As that decision explains, the Bureau concluded that the transaction was in the public interest because it would likely expand and improve local news programming, provide more accurate weather forecasting, and broaden over-the-air distribution of broadcast television in the Sioux Falls market. The Bureau further concluded that its decision fully complied with the Commission's media ownership rules, for two independent reasons. First, the decision complied with the rules set forth in the Commission's 2017 *Reconsideration Order*—rules which were in effect at the time because the United States Court of Appeals for the Third Circuit (Court) had not yet issued its mandate in the litigation regarding that order. And second, the Bureau independently concluded that the transaction would have qualified for a waiver under the Commission's prior 2016 rules, which would have been in effect had the court's mandate already been issued, based on the unique circumstances present in the Sioux Falls market. These rationales are set forth at length in the Bureau's order, a copy of which is attached for your reference.

Because the Bureau's action is plainly lawful and supported by substantial record evidence, there is no need to, much less plan to, reconsider it, and the parties consummated the transaction on September 25, 2019. Indeed, the time for reconsideration or review of that decision under the Commission's rules has passed, and no party has requested such action.

Per normal processes, the Office of General Counsel (OGC) conducted a thorough legal review of the Bureau's decision prior to its release. The Commission did not confer with any court prior to release of this item; that is not our practice, as we rely on our career attorneys to review items for legality. Additionally, we are not aware of any mechanism to obtain a court's advisory opinion on a pending item. Consistent with Commission practice in responding to Congressional document requests, including the Commission during the previous Administration, we cannot submit any internal legal analysis conducted by OGC and any internal

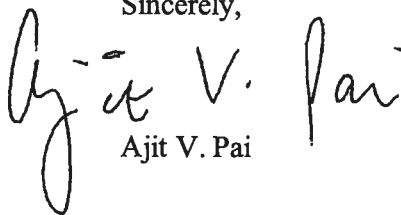
communications seeking OGC's opinion. To depart from this prior practice would prejudice the Commission and chill the ability of attorneys to provide candid legal advice and guidance to me, the other Commissioners, and career FCC staff.

The Media Bureau staff is aware of two pending transactions that could be impacted by the Third Circuit's decision. The first is an application that seeks consent to assign the license of KCPM(DT), Grand Forks, North Dakota from G.I.G. of North Dakota, LLC, to Gray Television, which has been pending since February 9, 2018. This application does not comply with the Eight Voices Test, but the applicant has not yet requested a waiver of the rule or otherwise addressed this issue. The Media Bureau staff is also aware of a separate application for consent to assign the license of WYCI(DT), Saranac Lake, New York, from Cross Hill Communications, LLC to Gray Television, which also does not comply with the Eight Voices Test. Gray has requested a waiver of the ownership rules pursuant to the failing station policy. That application was accepted for filing on October 29, 2019. The Commission has not yet taken action on either application and does not currently have a timetable for when it might do so.

We are evaluating our options for seeking further review of the Third Circuit's decision. We also will continue to evaluate the record developed as part of our 2018 Quadrennial Review, as required by Congress. I continue to believe that the Commission has an obligation to modernize our rules so they more accurately reflect the realities of today's dynamic and evolving media marketplace.

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Ajit V. Pai". The signature is written in a cursive, flowing style. The first name "Ajit" is written with a large, stylized 'A' that loops around. The middle initial "V." is written in a smaller, simpler script. The last name "Pai" is written with a long, sweeping tail that extends to the right.

Ajit V. Pai



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The Honorable Mike Doyle  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

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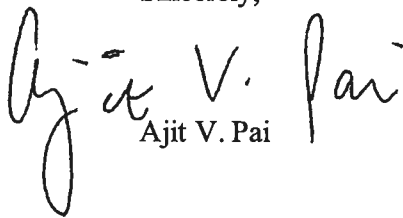
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