

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

In the Matter of
Broadcasting Board of Governors
United States of America
For Authority to operate
UHF TV Channel 20

MEMORANDUM OPINION AND ORDER

Adopted: June 8, 2006

Released: June 9, 2006

By the Commission:

I. INTRODUCTION

1. This Order addresses a request by the Broadcasting Board of Governors (BBG) for modification of existing authorizations to use UHF TV channel 20 for the Television Marti (TV Marti) Service.

II. BACKGROUND

2. In the Television Broadcasting to Cuba Act (Broadcasting to Cuba Act), Congress determined that the national interest would be served by television broadcasts to Cuba.

1 Letter from Kenneth Y. Tomlinson, Chairman, Broadcasting Board of Governors, United States of America, to Kevin J. Martin, Chairman, Federal Communications Commission, dated March 1, 2006 (BBG letter).

2 22 U.S.C. § 1465aa(3). Television Broadcasting to Cuba Act, in Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, Part D of Title II, Pub. L. No. 101-246 Stat. 58, Section 242(3).

3 22 U.S.C. § 1465bb(d)(1).

4 The BBG is a nine-member, bipartisan, independent Government entity created in 1994 by the International Broadcasting Act, which also created the IBB. Like OCB, the IBB was initially part of the USIA until it was disbanded in October 1999, when both the IBB and BBG were established as independent federal government entities.

3. TV Marti has been operational for several years, initially broadcasting on a single very high frequency (VHF) TV channel and later on one of several ultrahigh frequency (UHF) TV Channels. The Commission originally granted to USIA authorization to use VHF TV Channel 13 for TV Marti facilities to broadcast television programming to Cuba in 1991.⁵ In 1995, the Commission modified the authorization to permit operations on UHF TV channels 18, 50, and 64 in addition to VHF TV channel 13. In modifying the original authorization, the Commission noted, *inter alia*, that USIA needed the three additional frequencies to resolve the problems caused by persistent Cuban jamming of USIA's VHF TV transmissions.⁶

4. OCB commissioned a comprehensive study by the Joint Spectrum Center (JSC) to identify available UHF TV channels from 19 through 49 that would not result in interference within the protected coverage areas of existing and planned UHF television in Florida or Cuba.⁷ BBG states that all of the proposed channels could be used without impacting the reception of registered Cuban UHF stations. Based on a review of relevant technical considerations, BBG determined that UHF TV channel 20 would best meet its needs. Accordingly, the BBG requested operational authority for UHF TV channel 20.

III. DISCUSSION

5. We find, as we did in the *1995 Order*, that there is no limitation on our granting additional frequencies for use by TV Marti. Moreover, we agree with BBG that it is necessary for it to use UHF TV channel 20 for TV Marti in order for BBG to be able to continue to accomplish its statutory mission efficiently. Again we note that:

While the Act, in Section 243(d)(1), 22 U.S.C. § 1465bb(d)(1), states that we shall assign “a suitable frequency,” it does not limit the Commission from assigning more than one frequency since the interpretive provision of 1 U.S.C. § 1, which applies to “any Act of Congress,” expressly states that “words importing the singular include and apply to several persons, parties, or things,” and as indicated herein, application of that rule “is necessary to carry out the evident intent of the statute.”⁸

6. Further, we find that the Consulting Report shows that granting operational authority for TV Marti to use UHF TV Channel 20 would not cause objectionable interference to domestic full-service or class A television stations. Section 243(e)(1) of the Broadcasting to Cuba Act provides that: “[t]he Television Marti Service shall be governed by the same standards regarding objectionable interference as any domestic licensee.”⁹ Section 248(3) of the Act states that “the term objectionable interference” shall be applied in the same manner as such term is applied under regulations of the Federal Communications

⁵ *Request of United States Information Agency*, 6 FCC Rcd 1714 (1991), as modified by Letter of Roy J. Stewart, Chief, Mass Media Bureau, to Joe Bruns, Acting Director, Voice of America, dated July 26, 1993, and 10 FCC Rcd 4514 (1995) (*Request of USIA*).

⁶ *Request of United States Information Agency*, 10 FCC Rcd 4514 (1995) (*1995 Order*).

⁷ *Evaluation of Aerromarti UHF TV and FM Radio Channels Consulting Report*, (“*Consulting Report*”), August 2004 at i/ii.

⁸ *1995 Order*, 10 FCC Rcd 4514 at 4514.

⁹ 22 U.S.C. § 1465bb(e)(1).

Commission to other domestic broadcasters.”¹⁰ We find that BBG has presented engineering studies that properly address these technical considerations.¹¹

7. Although the Commission generally does not assign frequencies to government stations, under section 243(d)(3) of the Broadcasting to Cuba Act, the Commission may assign a frequency for government station use.¹² Based on the directives of the Broadcasting to Cuba Act, and in response to BBG's request of March 1, 2006, the Commission is hereby modifying BBG's authorization for TV Marti service to permit operation on UHF TV Channel 20. Since no change is being made to the Table of Allotments, notice and comment rule making is unnecessary. In any event, since the change to the TV Marti authorization merely carries out the mandate of the Broadcasting to Cuba Act and reflects foreign policy determinations made by Congress and the President, we find for good cause that public notice and comment thereon is unnecessary.¹³

8. We will not accept applications for construction permits for new stations or modifications to existing stations or petitions for amendments to the Table of Allotments that would interfere with TV Marti's broadcasts to Cuba on UHF TV channel 20. In order for the Commission to ensure efficient utilization of the spectrum, BBG must advise the Commission of the status of its operation on Channels 18, 20, 50, and 64 on February 1, 2007, and at five year intervals thereafter. When BBG determines that it will permanently discontinue its operation on any of these channels, it should notify the Commission of such intent as soon as possible.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, that UHF TV Channel 20 IS hereby assigned to the BBG for use by its TV Marti facilities, pursuant to the directives of the Television Broadcasting to Cuba Act.

10. IT IS FURTHER ORDERED that TV Marti's operations on UHF TV Channel 20 be on a non-interference basis, and that such operations must cease if the Commission determines that they are causing harmful interference to any lawfully operating Commission licensee.

11. IT IS FURTHER ORDERED that this Order shall be effective immediately upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁰ 22 U.S.C. §1465ff(3).

¹¹ *Consulting Report*, August 2004.

¹² 22 U.S.C. § 1465bb(d)(3) ("For purposes of Section 305 of the Communications Act of 1934, a television broadcast station established for purposes of this [Act] shall be treated as a government station, but the Federal Communications Commission shall exercise the authority of the President under such section to assign a frequency to such station.").

¹³ See 5 U.S.C. § 553(a)(1), (b)(3)(B).