

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

In re Application of	)	
	)	
Broad Street Television, L.P.	)	
(Assignor)	)	
	)	
and	)	File No. BALCT-950809KG
	)	
Young Broadcasting of Davenport, Inc.	)	
(Assignee)	)	
	)	
	)	
For Assignment of License of	)	
Station KWQC-TV, Davenport, Iowa	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 12, 1996**

**Released: March 12, 1996**

**By the Commission: Chairman Hundt and Commissioner Ness issuing a joint statement; Commissioner Barrett dissenting and issuing a statement.**

1. The Commission has before it for consideration the unopposed application of Broad Street Television, L.P. to assign the license of television station KWQC-TV, Channel 6 (NBC), Davenport, Iowa to Young Broadcasting of Davenport, Inc. ("Young"). Young is a wholly owned subsidiary of Young Broadcasting, Inc. ("YBI") which also controls Winnebago Television Corporation, licensee of WTVO(TV), Channel 17 (ABC), Rockford, Illinois. Because the Grade B contours of KWQC-TV and WTVO(TV) overlap, Young requests a temporary six-month waiver of Section 73.3555(b), the Commission's duopoly rule, which generally prohibits common ownership and/or control of television stations with overlapping Grade B contours.<sup>1</sup>

2. In adopting the duopoly rule's fixed standard of prohibiting overlap of Grade B service contours, the Commission also acknowledged the need for "flexibility" in that rule's application, noting that waivers should be granted where rigid conformance to the rule would be

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<sup>1</sup> Young originally requested a twelve-month waiver period but filed letters on February 7 and 8, 1996, and an amendment on February 14, 1996, that expressed its willingness to dispose of WTVO(TV) within six months. Additionally, Young expanded its commitment to enhance the public interest programming of KWQC-TV.

"inappropriate."— Multiple Ownership of Standard, FM and Television Broadcast Stations (Multiple Ownership), 45 FCC 2d 1476 n.1, recon. granted in part, 3 RR 2d 1554 (1964). To that end, the Commission has developed a set of factors to be considered when evaluating an applicant's request for waiver of the duopoly rule, including the extent of the overlap, the number of media voices available in the overlap area, the distinctness of the respective markets, the independence of the stations' operations, and the concentration of economic power resulting from the combination. See Iowa State University Broadcasting Corporation, 9 FCC Rcd 481, 487-88 (1993), aff'd sub nom. Iowans for WOI-TV, Inc. v. FCC, 50 F.3d 1096 (D.C. Cir. 1995); H&C Communications, Inc., 9 FCC Rcd 144, 146 (1993). After weighing the factors, the Commission considers any public interest benefits proposed by the applicant to determine whether, in light of the overlap, the benefits outweigh any detriment which may occur from grant of the waiver. See, e.g., Iowa State University, 9 FCC Rcd at 487-88. As with any waiver, it will only be granted if the Commission concludes that the waiver is in the public interest. It is against this standard that we will evaluate Young's request for a temporary waiver.

3. In support of its temporary waiver request, Young has submitted an engineering statement showing that the proposed Grade B contour overlap area encompasses 1,868 square kilometers and 75,535 people. This represents 4.7% of the land area and 5.9% of the population within KWQC's Grade B service contour and 16.6% of the area and 11.1% of the population within WTVO's Grade B service contour. Although these overlap areas are not de minimis, the Commission noted in Telemundo Group Inc., Debtor in Possession, 10 FCC Rcd 1104, 1106 (1994) (quoting Family Television Corp., 59 RR 2d 1344, 1348 (1986)), that the size of the proposed overlap is of "more critical concern" in cases involving requests for a permanent waiver of our rules and we are not constrained from granting a temporary waiver where circumstances "will not significantly frustrate the policies underlying the multiple ownership rules." Moreover, this overlap, which does not include Grade A contour overlap, is not so large as to require a finding that the stations serve substantially the same area.

4. Regarding diversity within the proposed overlap area, Young demonstrates that the area is well served by other media voices. According to Young, eight other television stations serve all or part of the overlap area, and all viewers receive at least four of these stations. Furthermore, Young pledges that KWQC-TV and WTVO(TV) will be operated independently with regard to management and programming. Each station will have separate programming staffs and separate non-network programming. We also note Young's representation that although the two stations were both NBC network affiliates, WTVO(TV) recently became an ABC network affiliate, thereby increasing the diversity of available programming. This level of alternative media ensures that viewers within the overlap area will continue to enjoy a diversity of voices.

5. In response to our concerns regarding diminution of competition and concentration of economic power, Young shows that the stations serve separate and distinct markets in cities located approximately 80 miles apart. KWQC-TV competes with the six other television stations that serve the Davenport, Iowa/Rock Island-Moline, Illinois DMA, the nation's 88th largest market. WTVO(TV) competes with the three other television stations that serve the Rockford,

Illinois DMA, the nation's 137th largest market.<sup>2</sup> Thus, Young reports, KWQC-TV and WTVO(TV) are not direct competitors. To further decrease the likelihood of an undue concentration of economic power, Young pledges that each station will have its own local sales staff and be represented by a different national sales representative. Additionally, Young pledges that stations will not compete for advertisers in the overlap area. Thus, Young has shown that temporary common ownership of these two stations will not diminish economic competition or result in a concentration of economic power inconsistent with the public interest.

6. Young also delineates the public interest benefits that will result from this proposed transaction. Immediately upon acquisition of KWQC-TV, Young pledges to enhance the station's children's programming and to improve its local news and public affairs programming.<sup>3</sup> These programming commitments are public interest benefits which the Commission has found to tilt the balance in favor of granting a duopoly waiver. H&C Communications, 9 FCC Rcd 144, 146 (1993).

7. Finally, Young contends that a temporary waiver will allow it to purchase KWQC-TV, a station in a larger market, and dispose of WTVO(TV) in an "orderly manner." Young asserts that without a waiver, minority controlled entities or local groups that may not have immediate access to capital may be excluded from bidding on the station. To illustrate its commitment to disposing

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<sup>2</sup> In our past waiver cases, the applicants submitted market statistics using Arbitron's Area of Dominant Influence ("ADI"). However we will accept Young's showing using A.C. Nielsen's DMA statistics since Arbitron no longer updates its ADI lists. See Media/Communications Partners Limited Partnership, 10 FCC Rcd 8116, 8116 n. 3 (1995).

<sup>3</sup> Specifically, with respect to children's programming, Young pledges to: (1) "[c]onduct a specific, comprehensive ascertainment study . . . to determine what needs and interests of the children's audience are not presently being served;" (2) "[d]evelop new programming ideas directly responsive to newly ascertained needs and interests in the form of monthly specials, regular features, or a combination of both;" and (3) "[i]mmediately initiate and implement a new KWQC-TV children's project combining on-air programming with specific community outreach efforts that will match or exceed a project Young Broadcasting is currently undertaking at its Knoxville, Tennessee station, WATE-TV. In conjunction with United Way (or similar community service organization(s)), the goal of this initiative will be to educate KWQC-TV's viewers to the importance of early intervention and to create a community where all children by the age of six have the mental, physical, social and emotional foundation needed to start school and grow into healthy and productive citizens. To ensure maximum impact, this project will be multi-faceted and extend over a one to two year period."

With respect to local news and public affairs, Young states that it has identified the Dubuque area (located about 60 miles north of Davenport) as one that is particularly underserved. Young pledges to "establis[h] a news bureau and ongoing news presence in the community," and to "add a mobile up-link satellite truck to the KWQC-TV news operation capable of feeding news stories not only throughout the market but, via the NBC Network, throughout the nation."

of WTVO(TV), Young certifies that it has entered into an agreement with a nationally recognized TV broker, and intends to "begin the process of accepting formal bids or offers within two months of completing the listing--i.e. no later than April 15, 1996." Young anticipates filing an assignment of license application for WTVO(TV) not later than six months following the acquisition of KWQC-TV.

8. In light of the relatively modest Grade B overlap, the absence of a Grade A contour overlap, the number of media voices available in the overlap area, the separate and distinct markets involved, Young's pledge that each station will operate separately with respect to advertising, the brief duration of the waiver, and the public interest benefits in terms of improved local news, public affairs, and children's programming, we grant Young's request for a temporary waiver of the Commission's duopoly rule.

9. Accordingly, IT IS ORDERED that the request for temporary waiver of the television duopoly rule, Section 73.3555(b) of the Commission's rules, to permit the common ownership by Young Broadcasting, Inc. of television station KWQC-TV, Davenport, Iowa, and WTVO(TV), Rockville, Illinois, IS GRANTED, subject to the condition that, within six months of the consummation of the instant transaction, Young Broadcasting, Inc. files an application for Commission consent to assign the license of WTVO(TV).

10. The applicant is qualified in all respects, and grant of this assignment will serve the public interest, convenience and necessity. Accordingly, IT IS FURTHER ORDERED that the application for assignment of the license of KWQC-TV, Davenport, Iowa (File No. BALCT-950809KG), from Broad Street Television, L.P. to Young Broadcasting of Davenport, Inc. IS GRANTED.

#### FEDERAL COMMUNICATIONS COMMISSION

William F. Caton  
Acting Secretary