



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

**March 12, 2007**

**DA 07-1199**

In Reply Refer to:

1800B3-SS

Released: March 12, 2007

Mr. Edmund Beaulieu  
32 School Street  
Brewer, ME 04412

Dorann Bunkin, Esq.  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006

In re: WABI(AM), Bangor, Maine  
CC Licenses, LLC  
Facility ID No. 3670  
File No. BR-20051201BAO

Application for Renewal of License

**Informal Objection**

Dear Mr. Beaulieu and Ms. Bunkin:

This letter refers to the above-noted application filed on December 1, 2005, by CC Licenses, LLC, a wholly-owned subsidiary of Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), for renewal of license for Station WABI(AM), Bangor, Maine. On February 22, 2006, Mr. Beaulieu filed an Informal Objection to the WABI(AM) application. In that filing, Mr. Beaulieu objects to Clear Channel's changing of WABI(AM)'s programming format from music to talk. For the reasons set forth below, we deny the Informal Objection and grant the WABI(AM) license renewal application.

**Discussion.** In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k)(1) of the Communications Act of 1934, as amended (the "Act"). That section provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission's Rules (the "Rules"); and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.<sup>1</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a

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<sup>1</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”<sup>2</sup>

The role of the Commission in overseeing program content is limited. The First Amendment to the United States Constitution and Section 326 of the Act,<sup>3</sup> prohibit the Commission from censoring program material or interfering with broadcasters’ free speech rights. The Commission does regulate broadcast content where federal statutes direct it to do so. For example, the Commission enforces the statutory prohibition on the broadcast of obscene, indecent and profane material contained in the United States Criminal Code.<sup>4</sup> However, because the First Amendment and the Act do not authorize the Commission to do so, the Commission does not oversee a licensee’s format selection. Moreover, in 1977, the Commission issued a Policy Statement in which it concluded that review of program formats was not required by the Act, would not benefit the public, and would deter innovation, as well as impose substantial administrative burdens on the Commission.<sup>5</sup> The Supreme Court of the United States has upheld this policy, stating that “the public interest is best served by promoting diversity in entertainment formats through market forces and competition among broadcasters. . . .”<sup>6</sup> Because there is no legal basis for the action requested in the Informal Objection, we deny it.

**Conclusion/Actions.** We have evaluated the WABI(AM) license renewal application pursuant to Section 309(k) of the Act,<sup>7</sup> and we find that Station WABI(AM) has served the public interest, convenience, and necessity during the subject license term; there have been no serious violations of the Act or the Commission’s Rules; and there have been no other violations which, taken together, constitute a pattern of abuse.

In light of the above discussion, and pursuant to Section 309(k) of the Act and Sections 0.61 and 0.283 of the Commission’s Rules,<sup>8</sup> the Informal Objection filed on February 22, 2006, by Edmund

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<sup>2</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>3</sup> 47 U.S.C § 326.

<sup>4</sup> See 18 U.S.C. § 1464.

<sup>5</sup> See *Changes in the Entertainment Formats of Broadcast Stations*, Memorandum Opinion and Order, 60 FCC 2d 858 (1976); *Multicultural Radio Broadcasting, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 20630 (2000).

<sup>6</sup> See *WNCN Listeners Guild v. FCC*, 450 U.S. 582, 585 (1981); see also *Riverside Broadcasting Co., Inc.*, 53 RR 2d 1154, 1157 (1983), *recon denied*, 56 RR 2d 618 (1984), *remanded on other grounds sub nom., Citizens for Jazz on WRVR, Inc. v. FCC*, 775 F.2d 392 (D.C. Cir. 1985), and *Letter to Jeff Kost and Marian Martinez*, 21 FCC Rcd 6223 (MB 2006).

<sup>7</sup> 47 U.S.C § 309(k).

<sup>8</sup> 47 U.S.C. § 309(k); 47 C.F.R. §§ 0.61, 0.283.

Beaulieu IS DENIED, and the application (File No. BR-20051201BAO) of CC Licenses, LLC, for renewal of license for Station WABI(AM) IS GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: CC Licenses, LLC