



Federal Communications Commission  
Washington, D.C. 20554

July 13, 2007

**DA 07-3209**  
Released: July 13, 2007  
*In Reply Refer to:*  
1800B3-TSN

Creative Educational Media Corporation, Inc.  
P.O. Box 1924  
Tulsa, OK 74101

Mr. William Crozier  
P.O. Box 222  
One Twelve Oak Street  
Union City, OK 73090-0222

In re: **Creative Educational Media  
Corporation, Inc.**  
KMSI(FM), Moore, Oklahoma  
Facility ID No. 14436  
File No. BRED-20050124AER

**Application for Renewal of NCE  
Radio Station License**

**Informal Objection**

Dear Applicant and Objector:

We have before us the above-referenced application ("Application") filed by Creative Educational Media Corporation, Inc. ("Creative") for renewal of the license of Station KMSI(FM), Moore, Oklahoma. We also have before us an informal objection to the Application, filed on April 29, 2005, by Mr. William Crozier ("Crozier"). For the reasons set forth below, we deny the informal objection and grant the Application.

**Background.** Creative timely filed an application to renew the KMSI(FM) license on January 24, 2005.<sup>1</sup> On April 29, 2005, Crozier filed a letter titled "Informal Objection for License Renewal of KMSI-FM – Moore, Oklahoma" (the "Objection"). While Mr. Crozier states that he is a "long time listener to KMSI,"<sup>2</sup> and his Objection was filed within the requisite time period for petitions to deny the Application,<sup>3</sup> Crozier does state that his filing "is an Informal Objection" (emphasis in original), and thus

---

<sup>1</sup> Renewal applications for stations in Oklahoma were to be filed by February 1, 2005, and licenses expired June 1, 2005.

<sup>2</sup> Objection at 1.

<sup>3</sup> Under 47 C.F.R. § 73.3516(e), petitions to deny the Application were due by May 1, 2005.

we will so consider it. Creative filed an Opposition to Informal Objection on May 12, 2005 (“Creative Opposition”).

**Discussion.** *Complaints Regarding Programming.* Crozier lodges a number of complaints concerning what he believes is Creative’s lack of local programming. According to Crozier, the only programming offered on KMSI(FM) that is local to Moore is an hourly weather forecast, which is combined with the forecasts for other communities served by other Creative stations.<sup>4</sup> Crozier likewise complains that KMSI(FM) provided virtually no programming covering the aftermath of two tornadoes that struck its community of license, Moore, despite the fact that “all of the radio and TV stations devoted continuous coverage and information” regarding the tornadoes.<sup>5</sup> Crozier also alleges that Creative’s management “refused” to air a local program on KMSI(FM) featuring interviews with Moore’s Member of Congress.<sup>6</sup> Further, Crozier contends that music composed by Mr. David Ingles, Creative’s President, dominates KMSI(FM)’s daily musical program time.<sup>7</sup> Finally, Crozier alleges that KMSI(FM), a noncommercial educational (“NCE”) station, broadcasts promotional announcements for commercial companies, such as the Sky Angel Network and Harbor Financial, that are beyond that which is allowed under the Commission’s Rules.<sup>8</sup>

Creative denies that it has violated the strictures against promotional announcements for commercial enterprises, stating that any such announcements (including those for the two entities named in the Objection) are for non-profit entities, and thus that the restrictions on such announcements are inapplicable.<sup>9</sup> As to the remainder of Crozier’s program-based objections, Creative does not deny their substance, but submits that it “provides a religious and instructional ‘niche’ format that is not comparable to those provided by the other 29 radio stations or 14 television stations serving the same area.”<sup>10</sup> As such, Creative argues that it has in good faith exercised its editorial judgment in determining the educational and spiritual needs of the community served by KMSI(FM), and that while its program judgment may differ from Crozier’s expectations for local programming, Creative nonetheless fulfills its mission to provide for the religious and educational needs of the community.<sup>11</sup>

---

<sup>4</sup> Objection at 1.

<sup>5</sup> *Id.* at 1-2.

<sup>6</sup> *Id.* at 1.

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.*

<sup>9</sup> Creative Opposition at 3, 5 n.2. *See also* Sworn Declaration of Gerald David Ingles (“Ingles Declaration”), attached to Creative Opposition, paragraph 7.

<sup>10</sup> Creative Opposition at 6.

<sup>11</sup> *Id.* at 4-7. With regard to the alleged predominance of musical selections composed by David Ingles, and offered for sale on KMSI(FM) by David Ingles Ministries, Creative states that Rev. Ingles’s music stylings are “spiritual and largely instructional by design.” Objection at 2.

A petition to deny a renewal application (as well as an informal objection) must, pursuant to Section 309(d) of the Communications Act of 1934, as amended (the “Act”),<sup>12</sup> provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,<sup>13</sup> which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application 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 Rules; and (3) there have been no other violations that, taken together, constitute a pattern of abuse.<sup>14</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application, after notice and opportunity for a hearing under Section 309(d) 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>15</sup>

Turning specifically to Crozier’s allegations, we generally defer to a licensee’s editorial judgment as to what constitutes “educational” programming, unless that judgment is arbitrary or unreasonable.<sup>16</sup> Crozier’s allegations do not demonstrate that Creative’s program judgment with regard to KMSI(FM) is arbitrary or unreasonable. Creative states that it does, contrary to Crozier’s assertion, consider local input for the “moral, ethical, religious and patriotic programming that is broadcast on KMSI-FM [sic].”<sup>17</sup> Moreover, Creative is correct that the restrictions placed on promotional announcements over NCE stations do not apply to non-profit entities,<sup>18</sup> and Crozier has not refuted Creative’s assertion that the businesses Crozier names or references (including David Ingles Ministries) are non-profit in nature. Ultimately, Crozier’s objections amount to little more than a difference of opinion with Creative over what types of programming best serve the needs of the community of Moore, Oklahoma. Given KMSI(FM)’s noncommercial, educational nature and mission, we cannot conclude from this record that Creative has violated the Act or the Rules, or has failed to serve the needs of its community or the public interest generally, and thus do not find that Crozier’s allegations raise a substantial and material question of fact that grant of the Application would be *prima facie* inconsistent with the Act.

---

<sup>12</sup> 47 U.S.C. § 309(d).

<sup>13</sup> *Id.*, § 309(k). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff’d sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *reh’g denied* (D.C. Cir. Sept. 10, 1993).

<sup>14</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described in the text 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).

<sup>15</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>16</sup> *WQED Pittsburgh and Cornerstone Television, Inc.*, Order on Reconsideration, 15 FCC Rcd 2534, 2535 (2000).

<sup>17</sup> Objection at 2; Ingles Declaration, paragraph 2.

<sup>18</sup> See, e.g., *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Memorandum Opinion and Order, 90 FCC2d 895, 901, 903 (1982) (“[P]ublic broadcasters may broadcast . . . announcements which promote the goods, services or activities of non-profit organizations, whether or not consideration is received.”).

*Complaints Regarding Non-profit Nature of Creative.* Crozier also raises objections concerning the nature of Creative's enterprises, suggesting that Creative is "misleading" or even "fraudulent" as a non-profit educational corporation, that Creative may be in violation of an (unspecified) Oklahoma statute requiring all funds raised by an Oklahoma non-profit corporation to be spent within the state, and finally that Creative does not qualify as a licensee of NCE Station KMSI(FM), due to the aforementioned challenges to its non-profit status.<sup>19</sup> Creative disputes these allegations.

Crozier's allegations in this regard pertain exclusively to Creative's compliance with Oklahoma corporate and tax law. Such complaints are beyond the scope of Commission review. The Commission has traditionally declined to consider issues of a licensee's compliance with the requirements of state corporate law where no challenge has been made in state court and the determination is one that is more appropriately a matter of state resolution.<sup>20</sup> Moreover, Crozier's allegations are general in nature, and lack the specificity necessary to raise a substantial and material question of fact regarding Creative's qualifications as a licensee of an NCE radio station. We therefore conclude that Crozier's objections to Creative's corporate status or its programming policies are not sufficient to challenge Creative's Application.

**Conclusion.** As discussed above, we find no evidence of rule violations by Creative that would warrant conditioning or denying its Application to renew the license for Station KMSI(FM). Further, we find that Station KMSI(FM) served the public interest, convenience, and necessity during the subject license term. Accordingly, the Objection filed by Mr. William Crozier IS DENIED. IT IS ORDERED that, pursuant to Section 309(k) of the Communications Act of 1934, as amended, the license renewal application of Creative Educational Media Corporation, Inc., for Station KMSI(FM), Moore, Oklahoma (File No. BRED-20050124AER) IS GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Cary S. Tepper, Esq., Counsel for Creative Educational Media Corporation, Inc.

---

<sup>19</sup> Objection at 2.

<sup>20</sup> See *North American Broadcasting Co., Inc.*, Memorandum Opinion and Order, 15 FCC2d 979, 983 (Rev. Bd. 1969); *Fatima Response, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 18543, 18544 (1999); *Abundant Life, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 4972, 4974 (2001).