



Federal Communications Commission  
Washington, D.C. 20554

June 2, 2008

**DA 08-1289**

*In Reply Refer to:*

1800B3-MJW

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Mr. John Dunnegan  
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In re: KBUR, Burlington, Iowa  
Facility ID No. 39268  
File No. BAL-20071130BHW  
KBKB, Fort Madison, Iowa  
Facility ID No. 64567  
File No. BAL-20071130BHX  
KGRS, Burlington, Iowa  
Facility ID No. 39267  
File No. BAL-2007110BHU  
KBKB-FM, Fort Madison, Iowa  
Facility ID No. 64564  
File No. BAL-20071130BHV  
**Applications for  
Assignment of Licenses  
Informal Objection**

Dear Mr. Dunnegan and Counsel:

We have before us an Informal Objection ("Objection") filed by John Dunnegan ("Dunnegan") to the captioned applications which request Commission consent to the assignment of the licenses of Stations KBUR and KBKB from Citicasters Licenses L.P. ("Citicasters") to Pritchard Broadcasting Corporation ("Pritchard Broadcasting") and the assignment of the licenses of Stations KGRS and KBKB from Citicasters to Titan Broadcasting, LLC ("Titan").<sup>1</sup> We also have before us, an Opposition to Informal Objection ("Objection") and a Supplement to Opposition to Informal Objection ("Supplement") filed, jointly, by Pritchard Broadcasting and Titan. For the reasons set out below, we deny the Objection and grant the captioned applications.

Background. Pritchard Broadcasting is wholly owned by John T. Pritchard and Titan is wholly owned by John C. Pritchard, his adult son (collectively, the "Assignee Parties"). Dunnegan asserts that

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<sup>1</sup> KBUR, KBKB, KGRS and KBKB are collectively referred to herein as the "Stations."

the assignment of the licenses of KBUR and KBKB to Pritchard Broadcasting and the assignment of the licenses of KGRS and KBKB-FM to Titan “seems like a clever way to elude the FCC and bypass multiple ownership laws,”<sup>2</sup> because of the familial relationship of the Assignee Parties.

The Assignee Parties assert that familial relationship, alone, does not create an attributable interest within the meaning of Section 73.3555(a)(1)(iii) of the Commission’s Rules (“Rules”) (“Local Radio Ownership Rule”).<sup>3</sup> They claim that the proposed assignments of licenses comport with the non-attributable interest factors set out in the *Clarification of Commission Policies Regarding Spousal Attribution*, Policy Statement, 7 FCC Rcd 1920 (1992) (“*Policy Statement*”).<sup>4</sup> Specifically, the Assignee Parties state under penalty of perjury: (1) that Pritchard Broadcasting and Titan will not be subject to common influence or control; (2) they have no commingled interests in other media businesses; (3) they do not, and will not, participate in the financial affairs, programming or personnel decisions of media interests they hold in common; (4) that John C. Pritchard has prior experience in broadcasting; (5) that they are financially independent, notwithstanding John C. Pritchard’s grandfather, Allen Johnson, guaranteed a portion of a bank loan to Titan; (6) that, although Pritchard Broadcasting and Titan will share certain technical facilities and counsel, the technical facilities will be largely separated within a year; and (7) John C. Pritchard, was actively involved in the “contract negotiation and application process and Titan’s formation and operation,” and that his father’s involvement in the proposed transaction was limited to characterizing his son’s possible purchase of the stations as a “good opportunity.”<sup>5</sup>

Discussion. As an initial matter, Dunnegan’s claim is speculative and lacks any evidentiary support for the proposition that John T. Pritchard exercises control over his son, John C. Pritchard. It is well established that familial relationship, standing alone, does not create an attributable interest under Section 73.3555(a)(1)(iii) of the Rules.<sup>6</sup>

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

<sup>3</sup> 47 C.F.R. § 73.3555(a)(1)(iii).

<sup>4</sup> See Supplement at 1-2. The factors enumerated in the *Policy Statement* are:

- (1) Representations that the media interests of close family members will be independent and will not be subject to common influence or control;
- (2) Commingling of ownership or other interests in media businesses;
- (3) Participation by family members in the financial affairs, programming and personnel decisions of each other's media interests;
- (4) Prior broadcast experience of the individual seeking to establish independent interests;
- (5) Financial independence;
- (6) Sharing of personnel, equipment, contractors or information regarding programming;
- (7) Involvement by family members in the acquisition or application process.

*Policy Statement*, 7 FCC Rcd at 1923. The absence, or presence, of a particular factor is not dispositive, and the factors need not be given equal weight. See, *Sevier Valley Broadcasting, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 9795, 9796-9797 (1995) (“*Sevier Valley*”).

<sup>5</sup> See Supplement at 1-5. See also, Opposition, Statements of John T. Pritchard and John C. Pritchard; Supplement, Statements of John T. Pritchard and John C. Pritchard.

<sup>6</sup> See *Policy Statement*, 7 FCC Rcd at 1923. See also *KTRB Broadcasting Co., Inc.*, Memorandum Opinion and Order, 46 FCC 2d 605, 608 (1974), *recon. denied*, 48 FCC 2d 635 (1974). (“Under these circumstances, without more, the broadcast interests of one family member have not been attributed to another for purposes of applying the Multiple Ownership Rule (citations omitted); and petitioner’s allegations do not raise a substantial question concerning any control exercised by the fathers over the assignee corporation.”); *Pressly Enterprises, LLC*, Memorandum Opinion and Order, 17 FCC Rcd 14079, 14087 (2002). (“The existence of a familial relationship is not sufficient by itself to cause each affected family member to have an attributable interest in the media holdings of his or her relatives.”) See also, *Implementation of Section 309(j) of the Communications Act, Competitive Bidding for Commercial Broadcast and Instructional Fixed Service Licenses, Reexamination of the Policy Statement on Comparative Hearings, Proposals to Reform the Commission’s Comparative Hearing Process to Expedite the Resolution of Cases*, 14 FCC Rcd 8724, 8762, n.116 (1999), *recon. granted in part and denied in part*, 14 FCC Rcd 8724. (Applying broadcast attribution principles to bidders for spectrum, and finding that: “The spouse or other

Moreover, the Assignee Parties have established that their proposed acquisitions are consistent with the attributable interest factors articulated in the *Policy Statement*. Although John C. Pritchard gained his broadcast experience at Pritchard Broadcasting's stations,<sup>7</sup> the *Policy Statement* does not restrict where suitable broadcast experience may be attained.<sup>8</sup> Also, as the Assignee Parties point out, the Commission has previously found that a son's broadcast experience attained at his father's station was not indicative of the father having an attributable interest in the son's stations. Thus, we have taken John C. Pritchard's prior broadcast experience into account in our analysis of the Assignee Parties' claim of non-attributable interests in the Stations.<sup>9</sup> The loan guarantee by Allen Johnson does not imply that Pritchard Broadcasting has an attributable interest in Titan. Allen Johnson is neither an owner nor corporate official of either Pritchard Broadcasting or Titan. Although the stations use common studios and technical facilities, that use pre-dated the filing of the instant applications. Moreover, the Assignee Parties have committed to essentially separating the studio and technical facilities within a year of closing the proposed transactions. Accordingly, we find that the common use of facilities, in this instance, does not raise an issue as to the independence of Pritchard Broadcasting and Titan. Finally, John C. Pritchard's participation in the formation of Titan, the contract negotiations, etc., is indicative of his independent control of Titan, a finding not negated by John T. Pritchard's remark that the availability of Stations KGRS and KBKB represented a good opportunity for his son, John C. Pritchard, to acquire his own stations.

Decision/Action. Dunnegan has not established that the instant proposed transactions would violate the Local Radio Ownership Rule. The Assignee Parties have demonstrated that the proposed assignments of licenses comport with the attributable interest factors set out in the *Policy Statement* and related case law. We are, therefore, denying Dunnegan's Informal Objection and consenting to the proposed assignments of licenses.

Accordingly, IT IS ORDERED that the Informal Objection filed January 2, 2008, by John Dunnegan, IS DENIED. IT IS FURTHER ORDERED that the applications for consent to assignment of licenses, File Nos. BAL-20071130BHW, BAL-20071130BHX, BAL-2007110BHU and BAL-20071130BHV, ARE GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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close family members of an individual bidder would not automatically be regarded as having an attributable interest in the bidder, but the Commission would decide attribution issues in this context based on the factors traditionally considered to be relevant.") *Id.* (citing *Policy Statement*, 7 FCC Rcd at 1922); *Petroleum V. Nasby Corp.*, Memorandum Opinion and Order, 11 FCC Rcd. 3494, 3495 (1996). ("As we have long held, family relationship alone is insufficient to warrant an inference that family members are acting in concert.") *Id.* (citing *Merrimack Valley Broadcasting, Inc.*, 82 FCC 2d 166, 170 (1980)).

<sup>7</sup> See Supplement at 2.

<sup>8</sup> *Id.* (citing *Southern Indiana Broadcasters, Inc.* Memorandum Opinion and Order, 14 RR 117, 120 (1956)).

<sup>9</sup> We note that John C. Pritchard discontinued his employment with Pritchard Broadcasting once he established Titan. See Supplement at 2.