



Carr Statement on FCC's Denial of WADL TV's Application

WASHINGTON, DC, April 23, 2024—FCC Commissioner Brendan Carr issued the following statement:

Nearly a year ago, Adell Broadcasting Corporation, which owns WADL, a broadcast TV station that serves the Detroit, Michigan area, filed an application seeking FCC approval to sell the station to Mission Broadcasting. A diverse group of local and national leaders have urged the FCC to approve this transaction.¹ Today, after a long delay, the FCC's Media Bureau issued an Order that denies the deal that Adell and Mission asked the FCC to approve. To be sure, the Bureau styles its decision as a “conditional approval,” but it is no such thing.

The Media Bureau's decision requires these private parties to abandon the deal that they had negotiated and decide whether to accept an entirely different deal on entirely different terms. The Bureau decision requires the parties to change the terms and nature of the deal financing, the amount of programming that can be provided to Mission, the percentage of advertising revenue retained by Mission, the monthly Performance Bonus that Mission can pay to Nexstar or its affiliates, the terms of Mission's approach to its retransmission consent negotiations, and Mission's future ownership decision.

The FCC's decision to redline the terms of a deal like this plainly exceeds the agency's statutory authority. In Section 309 of the Communications Act, Congress imposed limits on the FCC's jurisdiction over transactions like this one. The law specifies that the FCC shall either grant the application, if the FCC determines that doing so serves the public interest, or alternatively it shall designate the application for hearing.

Here, the FCC chooses neither of the two options Congress authorized. It is not approving the application on terms agreed upon by the parties. Nor is it designating the application for hearing. It is instead taking the application the FCC received and substituting it for a new one drafted by the agency. That's not the FCC's job or role.

The legal flaws only compound from there. For instance, the Media Bureau rests its entire decision on a Notice of Apparent Liability that the full Commission adopted on March 20, 2024.² As I stated at the time, I did not vote to approve of that Commission decision—I concurred instead—due to concerns I had with the FCC's approach.³ But more fundamentally, NALs are not final agency actions.

So the agency is doing one of two things. It is either prejudging the outcome of that Commission-level proceeding. Or it is making new and novel decisions without authorization from the

¹ See Letter from Coe Ramsey, Counsel to Adell Broadcasting Corporation to Marlene H. Dortch, FCC Secretary (Dec. 18, 2023), <https://enterpriseefiling.fcc.gov/dataentry/api/download/pleading/attachment/25076f918c46c9b3018c7d7f6cec318c>.

² See *Notice of Apparent Liability for Forfeiture in the Matter of Mission Broadcasting, Inc. Licensee of Station WPIX, New York, NY*, FCC 24-34 (Mar. 21, 2024), <https://docs.fcc.gov/public/attachments/FCC-24-34A1.pdf>.

³ See *id.* at Concurring Statement of Commissioner Brendan Carr.

full Commission. The Bureau does not have the authority to do either one of those things.⁴ Indeed, these are the types of decisions that should be made by the Commission itself.

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As I have said recently, we are at a break glass moment for America’s broadcasters. They are facing unprecedented headwinds and competition, including from their largely unregulated Big Tech competitors. The FCC should be focused on decisions that will make it easier for broadcasters to attract the capital necessary for them to invest, compete, and serve their local communities.

Once again, the FCC does the opposite today.

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⁴ See 47 C.F.R § 0.283 (“The Chief, Media Bureau, is delegated authority to perform all functions of the Bureau, described in §0.61, provided that the following matters shall be referred to the Commission en banc for disposition: . . . Matters that present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines.”).