

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

In the Matter of)
)
Tribune Company) File No. BTCCT-960801LJ
) FIN: 10203
Petition For Removal of Condition on Grant)
Of Application for Transfer of Control of)
Television Station WBZL(TV), Miami, Florida)

ORDER

Adopted: August 6, 2002

Released: August 9, 2002

By the Chief, Media Bureau:

1. We have before us a Petition for Removal of Condition on Grant of Application for Transfer of Control (Petition) filed by the Tribune Company (Tribune).¹ Tribune requests removal of the requirement imposed in the *Bureau Order*² that it operate its wholly-owned newspaper, the *Sun-Sentinel*, separately from its wholly-owned television station WBZL(TV), Miami, Florida. The Petition is unopposed. For the reasons set forth below, we grant Tribune's Petition and remove the "hold-separate" condition.

Background

2. In 1996, Tribune acquired Renaissance Communications Corporation, licensee of six television stations, including WBZL(TV). Because Tribune was the publisher of the *Sun-Sentinel* in Fort Lauderdale, a community that was wholly encompassed by the Grade A contour of WBZL(TV), common ownership of the *Sun-Sentinel* and WBZL(TV) would not have been permitted by the Commission's newspaper-television cross-ownership rule.³ Tribune therefore requested a permanent waiver of the rule to permit it to own both media properties. Knight-Ridder, Inc., opposed a permanent waiver. The Commission denied Tribune's request and gave Tribune twelve months to dispose of either WBZL(TV) or the *Sun-Sentinel*.⁴ No condition was imposed requiring separate operation of the two media properties.

¹ Tribune filed a supplement to its Petition on July 15, 2002.

² See *Order*, 13 FCC Rcd 4717 (MMB 1998) (*Bureau Order*).

³ See 47 C.F.R. § 73.3555(d).

⁴ *Shareholders of Renaissance Communications Corp.*, 12 FCC Rcd 11866 (1997), *aff'd*, *Tribune Co. v. FCC*, 133 F.3d 61 (D.C. Cir. 1998).

3. Tribune thereafter requested an extension of its temporary waiver until six months after completion of the Commission's 1998 biennial ownership review. In its extension request, Tribune proposed a condition that, for the duration of the expected waiver period, would require it to operate WBZL(TV) and the *Sun-Sentinel* separately in certain respects. Specifically, Tribune would not be permitted to "engage in any joint advertising sales or any joint promotions, marketing, news or other programming efforts between WBZL(TV) and the *Sun-Sentinel* nor . . . have overlapping personnel." Knight-Ridder supported Tribune's proposed condition. On March 6, 1998, the Mass Media Bureau granted Tribune's request and imposed the hold-separate condition.⁵

4. In June 2000, the Commission issued its biennial review report in which it stated that it would issue a notice of proposed rulemaking to consider modifications to the television-newspaper cross-ownership rule.⁶ The Commission also extended Tribune's temporary waiver until six months after completion of the proposed rulemaking, and it left undisturbed the hold-separate condition imposed by the Bureau.⁷

Tribune's Petition

5. Tribune argues that the hold separate requirement does not serve the public interest and should be eliminated. It maintains that, rather than enhance the diversity of viewpoints in over-the-air news programming in the Miami market, the hold-separate requirement has helped the local NBC and CBS owned-and-operated VHF television stations to dominate local television news.

6. Tribune points to a number of changes to the Miami marketplace that justify elimination of the requirement that it operate WBZL(TV) separately from the *Sun-Sentinel*. Tribune notes that, following imposition of the condition, it purchased a "turn-key" news broadcast for WBZL(TV) from WTVJ(TV), Miami, Florida, the NBC owned-and-operated station. Although "separately-branded" as the "WB39 News at Ten," the WBZL(TV) newscast is produced by WTVJ(TV), which uses its own anchors, reporters, and staff. Tribune states that it would have preferred to produce its own newscast for WBZL(TV), but that it was financially impractical for it to do so because – without access to the news resources of the *Sun-Sentinel* – the estimated start-up cost for a local news operation would be \$2.5 to \$3.0 million. Such an expenditure, maintains Tribune, could not be justified for WBZL(TV), a UHF station ranked seventh in the market.

⁵ See *Bureau Order*, 13 FCC Rcd at 4718-9.

⁶ See *Biennial Review Report*, 15 FCC Rcd 11058 (2000).

⁷ *Id.* at 11109-10.

7. Tribune also points out that WTVJ(TV) and a local Paxson television station – WPXM – have entered into joint sales and program-sharing agreements. As a result, the stations are now co-located and the WTVJ(TV) local newscasts are broadcast over WPXM. NBC also recently acquired WSCV(TV), Fort Lauderdale, from Telemundo and has a content-sharing agreement with the *Miami Herald*'s Spanish language edition – *El Nuevo Herald*. As a result, Tribune notes, WTVJ(TV) now produces the news for four Miami television stations – WTVJ(TV), WPXM(TV), WSCV(TV) and WBZL(TV). Tribune points to the fact that the *Miami Herald* is permitted to share video and print content with WTVJ(TV) while its own newspaper – the *Sun-Sentinel* shares such material with WFOR(TV) – the CBS owned and operated station. This creates an “absurd result,” Tribune contends, because the *Sun-Sentinel* must use its resources to support a local newscast that directly competes with the newscast of its commonly-owned station, WBZL(TV), which in turn is supported in part by the resources of the *Miami Herald*, through WTVJ(TV). Thus, although other entities are able to use a variety of contractual relationships, content-sharing arrangements, and cross promotions to share news, Tribune’s two media properties may not share content or engage in joint sales, cross promotions, or other joint efforts. Tribune concludes that these developments “stand the rationale underlying the hold-separate agreement on its head.”⁸

8. Tribune argues that, if the hold-separate condition were eliminated, it could produce a new thirty-minute newscast drawing on the extensive newsgathering resources of the *Sun-Sentinel*, rather than relying on recycled news programming from another television station. The newscast would not, however, be a mere re-hash of the *Sun-Sentinel*'s front page, Tribune contends, because television news programming must be new both to television viewers and to newspaper readers in the market in order to be successful.⁹

9. Finally, Tribune states that elimination of the hold-separate condition will not prejudice the outcome of the newspaper-television cross-ownership rulemaking proceeding because Tribune assumes the risk that the Commission may decide not to permit common ownership of WBZL(TV) and the *Sun-Sentinel*.

Discussion

10. We agree that, on these facts, elimination of the requirement that Tribune operate separately WBZL(TV) and the *Sun-Sentinel* pending the outcome of the Commission’s rulemaking proceeding will not have a negative impact on competition or diversity in the Miami market. Our principal purpose for imposing the hold-separate requirement was to ensure continued diversity of news programming. Market conditions have changed, however, since we imposed the condition, and we find that the hold-separate requirement no longer serves the public interest. Other entities are using permitted, contractual agreements and existing ownership combinations to share news content between print and electronic news media outlets

⁸ Petition at 6.

⁹ *Id.* at 8.

in the Miami market. The hold-separate requirement prevents Tribune from competing against these other entities on an equal footing by sharing its own news resources. Continued enforcement of the hold-separate provision under these circumstances would, therefore, be counterproductive. Indeed, based on Tribune's representations, elimination of the hold-separate requirement may result in greater diversity if Tribune is able to produce a new local newscast. On balance, therefore, we conclude that the hold-separate requirement advances no current public interest purpose.¹⁰

11. Elimination of the hold-separate requirement in this case does not prejudice the outcome of the pending newspaper-television cross-ownership rulemaking proceeding. Tribune may continue to own WBZL(TV) and the *Sun-Sentinel* pursuant to its current temporary waiver of the cross-ownership rule. Tribune, however, assumes the risk of an adverse final decision in the pending rulemaking proceeding and it will be required to come into compliance with any rules or policies adopted in that proceeding.

12. ACCORDINGLY, IT IS ORDERED, That the Petition for Removal of Condition on Grant of Application for Transfer of Control IS GRANTED and the condition imposed on the Tribune Company to operate WBZL(TV), Miami, Florida, separately from the *Sun-Sentinel* IS REMOVED.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief, Media Bureau

¹⁰ Knight-Ridder, which opposed the original waiver, no longer opposes either the permanent waiver requested by Tribune or Tribune's petition to remove the hold-separate condition. See Letter from Karen Stevenson, Vice President and General Counsel of Knight-Ridder, Inc., August 28, 2000.