

United States Senate

WASHINGTON, DC 20510

August 22, 2018

The Honorable Gene L. Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

We write today to request that the Government Accountability Office (GAO) examine the process by which the Federal Communications Commission (FCC) renews broadcast television licenses to determine if the current renewal process adequately meets the obligations of the Communications Act of 1934. In particular, we ask that you examine the process as it relates to stations that have special statutory obligations to serve their local communities, including those licensed pursuant to Section 331.

We are growing increasingly concerned that the FCC's license renewal process may not in fact comply with the obligations of the Communications Act. As you may know, Section 309(k)(1) of the Communications Act requires all broadcast licensees to "serve[] the public interest, convenience, and necessity."¹ It should be the responsibility of the licensee itself to prove that it is operating in compliance with these obligations, and the FCC should take seriously complaints that a licensee had failed to meet its responsibilities under the statute.

We think the most recent decision by the FCC to renew the license for WWOR-TV (licensed to Secaucus, New Jersey) suggests that there are problems with the license renewal process. Carrying out a law passed in 1982 and codified in Section 331 of the Communications Act, the FCC stipulated that any license holder for WWOR "devote itself to meeting the special needs of its new community (and the needs of the Northern New Jersey area in general)."² The WWOR-TV license makes clear – and the FCC has confirmed on multiple occasions – that WWOR has special obligations to serve North Jersey. Unfortunately, for over a decade WWOR has failed to do just that and the FCC has turned a blind eye. Consequently, we believe that the FCC is derelict in its duties and continuously fails to engage in the type of meaningful review necessary under Section 309(k)(1) when it considers broadcast license renewal applications.

Given these concerns, we ask the GAO to examine the following issues:

1. To what extent does the current FCC license renewal process examine the needs of the local community the broadcast station is required to serve?

¹ 47 U.S.C. Sec. 309(k)(1).

² Channel 9 Reallocation (WOR-TV), 53 RR 2d 469 (1983)

2. To what extent does the FCC consider and weigh any evidence presented showing the station's failure to meet its legal obligations?
3. The FCC has made clear that it will not second-guess a licensee's editorial judgments, as to do so would run afoul of the First Amendment. At the same time, it is incumbent upon the FCC to make an affirmative determination that a licensee has complied with Sections 309(k)(1) and 331 (as applicable), and any attendant license obligations. Given that:
 - a. Has the FCC made clear the types of evidence that a concerned local citizen must demonstrate for the FCC to deny a license renewal based upon the inability or refusal of a station to serve its local community consistent with its license obligations?
 - b. Has the FCC made clear the types of evidence a broadcast outlet like WWOR must present to prove that it is meeting the obligations of its license?
 - c. Has the FCC made clear the circumstances under which the agency will take a hard look at the evidence presented by a licensee to confirm that the station in fact is complying with Sections 309(k)(1) and 331, as applicable?
 - d. Has the FCC made clear the circumstances under which the agency will revoke the license of a station operating under special obligations pursuant to Section 331 or its license?
4. What, if any, enforcement actions or other investigations does the FCC take in order to ensure that broadcast stations meet their obligations under the public interest standard of the Communications Act?
5. What impact could the elimination of the main studio rule have on the special obligations of stations under Section 331? Has the FCC indicated how it will enforce the obligations of Sections 309(k)(1) or 331 in light of the fact that it has allowed TV station owners to eliminate their main studio in the community of license?

Thank you for your assistance in this matter. To discuss this request further, please contact Shelby Boxenbaum of Senator Menendez's staff at (202) 224-4744.

Sincerely,



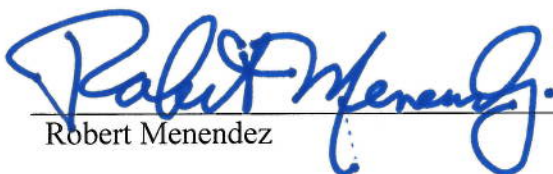
Robert Menendez

Cory A. Booker

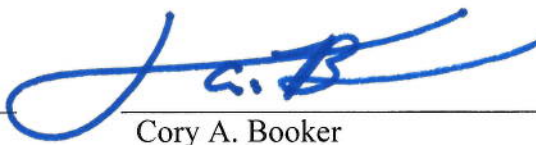
2. To what extent does the FCC consider and weigh any evidence presented showing the station's failure to meet its legal obligations?
3. The FCC has made clear that it will not second-guess a licensee's editorial judgments, as to do so would run afoul of the First Amendment. At the same time, it is incumbent upon the FCC to make an affirmative determination that a licensee has complied with Sections 309(k)(1) and 331 (as applicable), and any attendant license obligations. Given that:
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