

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

LETTER  
August 11, 1993

Released: August 12, 1993

Mr. John Schmidt  
330 Minnesota, Apartment 2  
Lawrence, Kansas 66044

In Reply Refer to:  
1800B3-KEH

In re: WHB, Kansas City, Missouri  
Assignments of License  
BAL-930510GE

Dear Mr. Schmidt:

This is in reference to the letter of June 21, 1993 that you wrote to Ms. Edythe Wise, Chief of the Complaints and Investigations Branch, Enforcement Division, within the Federal Communications Commission. Since the nature of your complaint concerns issues that come under the purview of the FM Branch in the processing of the above-captioned assignment applications, Ms. Wise has referred your letter to our office.<sup>1</sup>

In the objection, you indicate that you are concerned that the station's new owners will alter its current format and that "Kansas City has simply got too many country radio stations." With respect to your concern regarding the proposed assignee's programming plans, please be advised that the Commission does not scrutinize or regulate programming formats, nor does it take programming format into consideration in making its licensing decisions. In 1976, the Commission issued a Policy Statement in which it concluded that review of program formats was not required by the Communications Act, would not benefit the public, and would deter innovation, as well as impose substantial administrative burdens on the Commission. *Entertainment Formats*, 60 FCC 2d 858 (1976), *reconsideration denied*, 66 FCC 2d 78 (1977). The Supreme Court of the United States has upheld this policy and the Commission's determination that "the public interest is best served by promoting diversity in entertainment formats through market forces and competition among broadcasters ...." *FCC v. WNCN Listeners Guild*, 450 U.S. 582, 585 (1981). *See also*, *Riverside Broadcasting Co., Inc.*, 53 RR 2d 1154 (1983), *reconsideration denied*, 56 RR 2d 618 (1984), *remanded on other grounds sub nom.*, *Citizens for Jazz on WRVR, Inc. v. FCC*, 775 F.2d 392 (D.C. Cir. 1985).

Accordingly, your letter of June 21, 1993, objecting to the applications for assignment of license of WHB IS HEREBY DENIED. Furthermore, we hereby find that the assignment of license for Station WHB, Kansas City, Missouri from Shamrock Broadcasting, Inc. to Apollo Radio of

Kansas City, Inc. (File No. BAL-930510GE) and would serve the public interest, convenience and necessity, and IS HEREBY GRANTED.<sup>2</sup>

Sincerely,

Larry D. Eads, Chief  
Audio Services Division  
Mass Media Bureau

cc:  
William L. Stakelin  
Karen Merrell  
Barbara Gardner, Esq.  
Kevin Boyle, Esq.

<sup>1</sup> We note that there is currently pending an application to assign station WHB from Apollo Radio of Kansas City, Inc. to KANZA, Inc., File No. BAL-930602EA.

<sup>2</sup> The concomitant application to assign the license and sell the

assets of Station KUDL(FM) from Shamrock Broadcasting, Inc. to Apollo Radio of Kansas City, Inc. (File No. BALH-930510GF) is being granted simultaneously herewith.