

Citizens for Responsible Media, LLC

Protect Our Children and Young Adults

April 16, 2014

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

Attention: Media Bureau

Subject: FCC File No. BRCDT - 20130603BEU – Response
to “WBNS Supplement Regarding Renewal of the Operating
License for WBNS-TV, Columbus, Ohio, Facility ID 71217”

Citizens for Responsible Media, LLC (Citizens) has been a Party in the above-mentioned license renewal proceeding since August 2013. On March 18, 2014 Counsel for WBNS-TV filed the above-mentioned “Supplement” with the Commission.

In its “Supplement,” WBNS-TV references a November 15th, 2013 “Tolling Agreement” between WBNS-TV and the Commission regarding “...pending indecency complaints against the Station.” Since indecency complaints were part of Citizens for Responsible Media, LLC’s “Petition to Deny WBNS-TV’s License Renewal”, we are concerned that we were not provided with a copy of the “Tolling Agreement” in November 2013. We reserve the right to file further complaints with the Commission or other legal bodies concerning this matter.

After becoming aware of the “Tolling Agreement” in March of 2014, we asked Counsel for WBNS-TV to provide us with a copy of the “Tolling Agreement.” Subsequently, WBNS-TV has declined to provide us with a copy. In addition, the Commission staff has indicated that the Enforcement Division does not make “Tolling Agreements” public, and therefore a copy can not be provided to us.

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Since a key document mentioned several times in the WBNS-TV "Supplement" is not available for public review, Citizens is requesting that the Commission declare paragraphs 3, 5 and 6 of WBNS-TV's "Supplement," which make reference to the secret "Tolling Agreement," null and void for decision making purposes by the Commission in the above mentioned proceeding. Documents hidden from the public cannot be used to support a public interest finding.

With regard to the remaining parts of the WBNS-TV "Supplement," Citizens has the following comments:

A. WBNS-TV's Self Laudatory Statements Do NOT Equal the Public Interest or the True Facts

In paragraph 2 of the "Supplement," WBNS-TV states that "...WBNS has amply met the standard for renewal of a broadcast license." A similar allegation was made in WBNS's "Opposition to 'Petition to Deny' in Section I of that filing. These allegations largely ignore the following facts – which Citizens has presented in its filing on this matter and which directly challenges WBNS-TV's statement with facts and data.

WBNS-TV Statements	The True Facts
"WBNS has amply met the standard for renewal of its broadcast license." (Paragraph 2 of "Supplement" for example.)	<p>In its "Reply to Opposition" filed with the Commission on October 22, 2013, Citizens provided data which showed that WBNS-TV had repeatedly and willfully violated the FCC prohibition on indecent material being aired between 6 AM and 10 PM.</p> <p>A sample of 16 different episodes of "2 Broke Girls" indicate that there were 28 cases of sexual organs being mentioned or sexual activities being aired by WBNS-TV during</p>

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(Repeated for Reference) -
"WBNS has amply met the
standard for renewal of its
broadcast license." (Paragraph 2
of "Supplement" for example.)

the FCC's prohibited time for
indecent material. These are not
"fleeting" or momentary lapses in
broadcasting, but rather
deliberate violations of the FCC's
policy as outlined in Citizens'
filing. If the Commission or the
Commission staff has any
doubts about WBNS-TV
intentions, one has only to
review the January 2013
statement of CBS Entertainment
President Nina Tassler
documented in our October 22,
2013 filing in which she said that
*"2 Broke Girls...It's an adult
comedy"* or in other words a "sex
comedy" in the evening hours -
something that violates the
FCC's policy on indecent
material. In view of the
thousands of children and young
adults estimated to have
watched each week, **WBNS-
TV's allegation of having
"amply met the standard" is
contradicted by CBS's own
Entertainment President who
says a sex comedy is being
presented weekly to children
and young adults.**

Finally, the Commission should
note that throughout this
proceeding, **WBNS-TV has not
challenged the specific
programs, times or detailed
content of the indecent
material which Citizens has**

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brought to the attention of the FCC. As an example, does WBNS-TV expect us to believe that its "2 Broke Girls" segment *on female and male masturbation* which it broadcasted on November 13, 2012 at 9pm to over 4,000 Central Ohio children and young adults is not indecent? Does the simulation of female masturbation in this segment meet WBNS-TV's definition of "actionably indecent" material. If not, what about the dialog later in this episode where Caroline's boyfriend says, "Come over to my place and watch me masturbate?"

B. WBNS-TV's Statements about Citizens' Failing to Establish a Broadcast Standard Is Erroneous as Are WBNS-TV's Statements about "Subjective Determination" and "Subjective Value Judgments."

While TV programs may come and go, management of broadcast facilities and networks may change, and technology will certainly change and evolve, Citizens for Responsible Media, LLC believes that the "Gold Standard" for evaluating broadcasters is the "Public Interest Standard."

In its August 12, 2013 "Petition to Deny", Citizens showed the following regarding the Public Interest:

- The United States of America has one of the highest Teen pregnancy rates in the industrialized world.

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- Because of the excessive teen pregnancy rate and the impact these pregnancies have on the American public in terms of social and economic costs, the **U.S. Center for Disease Control and Prevention (CDC)** has established a national goal to reduce teen-pregnancies.
- Two independent studies, one by the Rand Corporation, and another by The Henry J. Kaiser Foundation, came to important conclusions: (see our August 2013 filing for more details) as follows -

*Quotes from the Rand study published in the Journal **"Pediatrics"** on November 1, 2008 and from an earlier study in 2004 (highlighting and underlining ours):*

- "...that frequent exposure to sexual content on television predicts early pregnancy..."
- "Our results suggest that television may have a substantial role in the high rate of teen pregnancy in the United States."
- "... that talk about sex on TV had virtually the same effect on teen behavior as depictions of sexual activity."

Quotes from The Henry J. Kaiser Foundation's Report "Sex on TV 4" in 2005:

- "Both parents and teens say they believe that sexual content on TV influences the sexual behavior of young people."
- "Eighty-three percent of parents say exposure to sex on TV contributes to children becoming involved in sexual situations before they're ready, and more than half (53%) say it contributes 'a lot.'"

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- "... a third (34%) of young women still become pregnant at least once before they reach the age of 20 - 820,000 per year ..."

Citizens believes that the CDC's National Goal of reducing teen pregnancies, and the linkage of teen pregnancies to sexual talk and material on TV demonstrated by the Rand and Kaiser independent scientific studies, **shows that regular and persistent talk about sexual organs and sexual activities on television is not in the public interest due to the social and economic costs of teen pregnancy.** The FCC has already recognized the need to protect children and young adults from harmful sexual material, and has established rules restricting the broadcast of sexual material between 6am and 10pm.

WBNS-TV has repeatedly violated the public interest by airing numerous programs about sexual organs and sexual activities - see for example Attachment B of Citizens' October 2013 "Opposition" filing where a sample of 16 different episodes of "How I Met Your Mother" and "2 Broke Girls" had 28 cases of sex organs or sexual activities being broadcast by WBNS-TV early in the evening while children are watching – in violation of the FCC's existing indecency policy.

In addition to its erroneous statements about Citizens' "failure to establish a broadcast standard", WBNS-TV also erroneously refers to Citizens' "subjective determination of a listener group" ("Supplement", page 3) and "subjective value judgments" ("Supplement", page 4). While Citizens has filed a few complaints with the FCC regarding WBNS-TV's programming, the vast majority of Citizens' original filing in August 2013, and its subsequent filings in this proceeding, have focused on the following: the CDC's view of the United States' teen pregnancy rate, the CDC's goal of reducing the this rate, and the results of two scientific studies done by well-known and independent organizations – The RAND Corporation and the Henry J. Kaiser Foundation. **The views exhibited by the CDC and the two independent organization are NOT subjective at all – rather they are the result of rational analysis and scientific study. WBNS-TV erroneously refers to facts such as these as being "subjective".**

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C. WBNS-TV's Programs in Question Were "Actionably Indecent" From Multiple Viewpoints

(1) From the Central Ohio Viewpoint: Children and Young Adults Harmed

In its original "Petition to Deny," Citizens estimated that between 4,000 and 8,000 children and young adults watched "**How I Met Your Mother**" and "**2 Broke Girls**" each week. WBNS-TV has not challenged these estimates in any of its filings on this matter.

Here are samples of *some of the dialog* on these two programs which Citizens believes are "actionably indecent" for the estimated 4,000 to 8,000 children and young adults that are watching because they suggest sexual experimentation, trials and actions far too early in their lives, and thus are harmful to children and young adults in Central Ohio.:

"How I Met Your Mother"

8/6/12 Barney says, "I love my **penis**. I would love to kiss it. Let's have sex right now."

9/3/12 Eyes closed and lying down, Lily **simulates a sex dream**. She says, "Oh, yea, Oh, yea. Hurry up before Marshall (her husband) gets home."

10/12/12 Barney says, "Going to have **sex in the kitchen**. I already **took her bra off**. (He shows a blue bra.)

"2 Broke Girls"

9/3/12 Sophie, Max and Caroline discuss Oleg's "**Giant Penis**" and how Sophie can buy a "**Giant Penis**" on-line for \$47.00."

11/12/12 Max and Caroline's boyfriend find **Caroline masturbating in the bath tub**. Caroline appears in her robe and says, **"It is not like I am the only person in the world who masturbates!"**

12/3/12 Three young girls are in the restaurant talking. When Max, the waitress approaches. Girl #1 says, **"Then he said to me, dude, your vagina is weird."** Girl# 2 says, **"Dude that is insane. It is not weird. Your vagina is awesome."**

"

(2) From the National Viewpoint: The Center for Disease Controls' (CDC') – National Goal to Reduce Teen Pregnancy – Not Followed by WBNS-TV

The examples above, and in Citizens' previous filings in this proceeding, show that the material in question and broadcast by WBNS-TV on Monday evenings as "How I Met Your Mother" and "2 Broke Girls" are in conflict with the CDC's national goal of reducing teen pregnancy rates.

These programs and segments shown by WBNS-TV on Monday evenings are **"actionably indecent"**. They send messages to impressionable children and young adults suggesting that they try or experiment with indecent sexual activities long before they are adults. The net result is a series of sexual activities by the immature – that often results in teen pregnancies. Thus, it is clear that these two programs broadcast by WBNS-TV on Monday evenings are in conflict with the CDC's goal of reducing teen pregnancies, and therefore WBNS-TV's action not in the public interest of the United States of America.

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For all the reasons set forth above, and in Citizens' other filings in this proceeding, we ask the Commission to set aside the fallacious arguments set forth by WBNS-TV in its recent "Supplement".

Respectfully submitted by

CITIZENS FOR RESPONSIBLE MEDIA, LLC

 President

Scott F. Williamson

4/16/14

Date

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