FCC Makes Clear It Doesn't Regulate Formats - Rejects Petition Against Sale of Noncommercial Station

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The sale of a noncommercial radio station is often controversial, especially when it's clear that the format of the station will change after the transfer. In a decision released last week denying a Petition to Deny challenging the application for the sale of KTRU, the noncommercial radio station owned by Rice University, the FCC again made clear that **they are not in the business of regulating the formats of broadcast stations**. For 30 years, the FCC has held firm to its position that the marketplace is best for deciding on what format a station should broadcast. Thus, when Rice University students argued that the sale of their station and the loss of the diverse format that the station had programmed would harm localism and diversity, the FCC rejected the argument. Seemingly, that decision makes sense, as we don't want a government agency becoming a czar of the programming offered by broadcast stations. When we see decisions from the regulatory bodies in the United Kingdom or Canada sanctioning stations that don't stick to their legally proscribed formats, we wonder how such a system could possibly function in the US. Can you imagine the FCC fining a station because it played too many hits on an alternative station? Of too much rock on an Adult Contemporary station? Once the FCC or any government agency gets into regulating formats, these sorts of decisions will follow. Luckily, based on this decision and the prior 30 years of precedent, we won't have to worry about such an eventuality.

The Commission also rejected other objections to the sale of KTRU. The Petitioners had challenged the **noncommercial purpose and educational plan** of the buyer - an argument summarily rejected as the buyer was already the licensee of another noncommercial station in the market. The ownership of that station led to another argument - that the sale would violate ownership limits by concentrating too many noncommercial stations in the hands of one operator. But the FCC made clear that there are **no ownership limitations on how many noncommercial stations one company can own**.

The Commission also rejected arguments that the buyer was missing an ownership report in its public file, an objection not deemed to be sufficiently serious so as to warrant a denial of the sale. An objection as to whether the sale met the requirements of the Texas Open Meetings Act was also rejected - as the FCC stated that it has no jurisdiction over the enforcement of local laws. This is also in line with prior FCC cases where it does not get involved in the adjudication of state law issues. Finally, the FCC rejected an argument that the sales price of the station was artificially deflated and thus did not serve the public interest. Second guessing sales prices is another area that the FCC avoids.

In short, while the loyal audiences that the niche formats often programmed by noncommercial stations can feel strongly about the sale of a station and the potential end of the format, the FCC will rarely if ever intervene. The FCC is reluctant to deny the sale of almost any station - and seemingly less likely to intervene in a sale of a noncommercial station. As in this case, where the students will apparently start an Internet radio station to continue their programming after the sale, perhaps the best thing to do is look for alternative outlets when a sale of your favorite station is announced.