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FCC rules against Friends of KUSF on proposed 90.3FM sale

SAN FRANCISCO -- September 17, 2015 – The five-member Federal Communications Commission today denied two “applications for review” of the transfer of the broadcast license for KUSF 90.3 FM from the University of San Francisco to Classical Public Radio Network (CPRN), an out-of-town corporation 90 percent owned by the University of Southern California. The FCC acknowledged that USF and CPRN violated rules in the proposed sale. However, it used circular logic to dismiss questions whether CPRN was even qualified to hold the license.

The ruling is the latest step in the 4 ½-year saga since USF announced the proposed sale in January, 2011. Friends of KUSF is considering its option to pursue the case in Federal court.

“The FCC has shown that it's ready to give up the non-commercial side of the dial to the highest bidder, without regard to its own rules and the public interest,” Friends of KUSF spokesman Irwin Swirnoff said. “While we're not surprised at this ruling, it's still very disappointing and disheartening. We will continue to explore other legal options and continue to fight for true community and independent media in San Francisco.”

Thursday's decision was specifically regarding “Applications for Review” (AFR) filed by Friends of KUSF and local listener Ted Hudacko in response to a “Consent Decree” that FCC staff negotiated in secret with USF and CPRN and announced in June, 2012. The Consent Decree allowed the proposed sale to go forward in exchange for a “voluntary” payment to the United States Treasury of \$50,000. Staff ruled USF and CPRN had violated rule 73.503c, which prevents non-commercial stations from accepting payments for programming – a major violation that USF and CPRN tried to deny.

Friends of KUSF had found multiple violations of FCC rules involved in the transfer of the license, including violations of the FCC's “Main Studio Rule,” a premature transfer of control, the legality of fund-raising on the station prior to approval of the sale, as well as whether CPRN was providing “educational” programming, since all it did was transfer the commercial programming of the former KDFC 102.1 to the non-commercial position on the dial.

The FCC downplayed and ignored the rules violations. On the biggest question – whether CPRN was even qualified to have a broadcast license – the FCC ruled that because an unopposed transfer announced on the same day as the proposed sale of KUSF 90.3 FM went through, CPRN became qualified to hold a non-commercial license despite no precedent allowing Limited Liability Corporations such a right.

USF announced on January 18, 2011 that it was proposing to sell KUSF 90.3 FM to CPRN. Since the announcement of the proposed sale, 90.3 FM has been rebroadcasting the formerly commercial programming heard on KDFC 102.1 FM. This has led to the decimation of listenership for classical radio in the Bay Area, cutting it by 75 percent.

KUSF 90.3 FM is an award-winning non-commercial educational station, broadcasting for over 33 years. KUSF 90.3 FM is world renowned for broadcasting groundbreaking music as well as cultural programs aimed at the diverse San Francisco community. Since the shutdown, San Francisco has been without those programs.

The proposed sale furthers a national trend of treating non-commercial educational licenses as commodities, part of a systemic crisis endangering the left side of the dial, which has traditionally stood for localism and the representation of diverse viewpoints. Several colleges and universities have put their licenses up for sale over the past few years, including KTRU (Rice University, Houston), WRVU (Vanderbilt University, Nashville, Tenn.) and WDUQ (Duquesne University, Pittsburgh).

Since being taken off the air, former KUSF DJs and volunteers as well as members of the community have worked to stop the sale of the license. Partnerships have been established, both locally and nationally. Former volunteers at KUSF 90.3 FM have created an IRS-recognized 501(c)(3) non-profit called San Francisco Community Radio, which is dedicated to returning community radio to the San Francisco airwaves. That organization (separate from Friends of KUSF) operates the KUSF-in-Exile Internet stream and has applied for a Low Power FM (LPFM) broadcast license in San Francisco. For more information, go to www.savekusf.org.

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