

Jim Condit Jr.
Jim Condit Jr. for Congress
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September 30, 2020

Via LMS / CORE in the FCC online system
(FRN 0030044804 for "Jim Condit Jr. for Congress", Jim Condit Jr.
federal congressional candidate for that Committee)

FCC (Federal Communications Commission)
Policy Division, Media Bureau
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WLW (700 AM License Renewal Application information)

File Number: 0000115405 Submit Date: 06/01/2020 Call Sign: WLW Facility ID: 29733 FRN:
0018273367 State: Ohio City: CINCINNATI Service: AM Purpose: Renewal of License Status:
Pending Status Date: 06/01/2020 Filing Status: Active

Applicant / Legal Representative:

CITICASTERS LICENSES, INC.

Doing Business As: CITICASTERS LICENSES, INC.

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(Citicasters is a subsidiary of iHeart Media according to the SEC)

Here are the reasons we are making an informal objection to the renewal of the FCC license to WLW (700 AM)

1. Violating Reasonable Access Law against Jim Condit Jr. for Congress, Jim Condit Jr. federal congressional candidate running in 2nd District of Ohio

In the last week, beginning on 9-24-20, iHeart Media broke its WKRC and WLW contracts, -- contracts with contract numbers assigned by iHeart (WKRC contract # is 1518049345; WLW contract # is 1518049348) and posted on their public media file on the internet circa 9-3-20 -- again, broke these contracts with Jim Condit Jr. for Congress Committee after iHeart:

Here is the sequence:

a) iHeart verified Jim Condit Jr. was a qualified write-in candidate with the Hamilton County Board of Elections;

b) received all the items it had asked for (yard signs, bumper stickers, brochures, etc.) regarding, in their mindset, the legitimacy of the Jim Condit Jr. for Congress Committee to qualify to buy ads on FCC-licensed stations, and Jim Condit Jr. for Congress Committee has an affidavit from Mr. Jason Miller who witnessed the transfer of all campaign items and all bank checks to iHeart, without objection from iHeart until 9-21-20, circa 19 days after they had accepted the campaign items;

c) THEN iHeart drew up the contracts -- with contract numbers for each WLW and WKRC assigned by iHEART, and signed by both parties (see above for contract numbers);

d) THEN iHeart accepted \$11,230.20 as payment for nine weeks of radio ads on WLW and 9 weeks of radio shows on WKRC, running from 9-4-20 to 11-1-20;

e) THEN iHeart cashed all the certified checks, which we have proof of from fifth third bank;

f) THEN iHeart ran 3 weeks of Jim Condit Jr. for Congress Radio ads and Radio shows on WKRC and WLW from 9-4-20 to 9-20-20.

g) THEN iHeart, on 9-21-20 because they didn't like the content of Condit's radio ads and radio show, asked for MORE proof that Condit was running a campaign outside the radio ads, which Condit provided, including upcoming media appearances;

h) THEN iHeart wrote a letter through their attorney Ari Meltzer at Wiley Law Firm to Jim Condit Jr. for Congress Committee, stating that iHeart did not accept that Jim Condit Jr. for Congress qualified anymore to buy time on WLW and WKRC, while giving no reason for the sudden decision not to recognize the Jim Condit Jr. for Congress Committee as worthy to buy time on WLW and WKRC -- this emphasizes how weak the iHeart position is.

i) THEN iHeart censored/did not run the Condit for Congress ads on 9-24-20 and the Condit for Congress radio show on 9-27-20 (we have recordings of the time slots the ads and radio show were to be played – and they were NOT aired. This is the most total and blatant violation of the Reasonable Access Law in its history, with the radio station and their owners, iHeart, clearly making itself the arbiter of who is a "worthy" legally qualified candidate, AFTER they had already accepted Jim Condit Jr. as a "worthy" legally qualified candidate as proven above in items a through g, but then, after that, making itself the arbiter of what content that candidate can put in his or her radio ads, in direct contradiction to the Reasonable Access Law and Becker v. FCC, 1996.

In addition, the Jim Condit Jr. for Congress Radio ads and Radio Show, after being played from 9-4-20 to 9-20-20, were censored on 9-24-20 and 9-27-20, i.e., not played on WLW and WKRC, even though said ads were paid for and covered by the iHeart contracts which Jim Condit Jr. for Congress and iHeart completed in early September, on 9-3-20;; and after iHeart had received all the items it asked (yard signs, bumper stickers, brochures, etc.) by the morning of 9-4-20, a few hours before the first radio ads ran on WLW. And these ads and radio show was censored after iHeart had assigned contract numbers for both stations with both parties signing, and after iHeart had green-lighted Jim Condit for Congress to buy radio time on WKRC and WLW from 9-4-20 to 9-20-20.

The above is the first reason we are making an informal objection to the renewal of WLW's license.

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Here is the 2nd reason:

iHeart's non-compliance with section 315(e)(3) of the Act and section 73.1943(c) of the Rules, regarding timely uploading of their public and political files, thus harming the right of federal candidates to enjoy "equal access" if other federal candidates in their race are given time unrelated to urgent news items.

Here is the exact section from the July 22, 2020 ruling from the FCC decision regarding iHeart's failure to comply with timely uploading of their public and political files:

In the Matter of Online Political Files of

iHeartMedia, Inc.

Licensee of Various Commercial Radio Stations

File No.: MB/POL-07072020-D

FRN: 0019970417

From: **Federal Communications Commission DA 20-773**

“3. It is crucial that stations maintain political files that are complete and up to date because the information in them directly affects, among other things, the statutory rights of opposing candidates to request equal opportunities pursuant to section 315(a) of the Act⁸ and present their positions to the public prior to an election.⁹ In addition, as the Commission has stated, “the disclosures included in the political file further the First Amendment’s goal of an informed electorate that is able to evaluate the validity of messages and hold accountable the interests that disseminate political advocacy.”¹⁰”

Also:

“The Commission first adopted rules requiring broadcast stations to maintain public files documenting requests for political advertising time more than 80 years ago,¹ and political file obligations have been embodied in section 315(e) of the Act since 2002.² Section 315(e)(1) requires radio station licensees, among other regulatees, to maintain and make available for public inspection information about each request for the purchase of broadcast time that is made: (a) by or on behalf of a legally qualified candidate for public office,³ or (b) by an issue advertiser whose advertisement communicates a message relating to a political matter of national importance.⁴ Section 315(e)(3) of the Act requires stations to upload information about such requests to their online political files “as soon as possible.”⁵ Section 73.1943(a) of the Commission’s Rules requires stations to maintain and make available for public inspection information about all requests for broadcast time made by or on behalf of candidates for public office,⁶ and section 73.1943(c) requires stations to upload such information to their online political files “as soon as possible,” meaning “immediately absent unusual circumstances.”⁷ ” (end quote of language)

Also:

4. iHeart is the licensee of various commercial radio stations across the country. In February 2020, iHeart voluntarily informed the Bureau that many of its stations had not uploaded records of requests for the purchase of political broadcast time in a timely manner. iHeart’s disclosure was consistent with the information that it provided in multiple license renewal applications filed with the Commission during the current license renewal cycle.

This FCC ruling from which the above was quoted -- was Adopted: July 22, 2020.

For all the reasons above, we send this Informal Objection that WLW’s license should not be renewed.

Here is the 3rd reason:

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3. Foreign Ownership

Section 310 of Communications Act of 1934 limits foreign ownership to 20% or 25% depending on the category of ownership.

But the FCC Document “ ” found here: <https://www.fcc.gov/general/foreign-ownership-rules-and-policies-common-carrier-aeronautical-en-route-and-aeronautical>

begins to make allowances for greater ownership, even up to envision making allowances for up to 100% of the stock by foreign owners.

iHeart listed “Yes” on the foreign ownership question, and they should have said, “No” since they admitted elsewhere that they already and over 25% foreign ownership.

25% foreign ownership limits under 310 of the Communications Act limits foreign ownership to 20%, or at the most 25%, depending on the category and circumstances. Yet iHeart admits already having over 25% foreign ownership, and is seeking 100% foreign ownership. They should have answered “No” to the foreign ownership question, with attachments explaining.

Petition for declaratory ruling under section 310 (b) (4) of the Communications Act of 1934 as amended. ruling date July 25, 2019:

“In connection with its foreign ownership monitoring efforts following emergence from bankruptcy, iHeart learned of an unforeseen and unforeseeable development with respect to an iHeart Class A shareholder that occurred due to matters wholly outside of iHeart’s control. Specifically, iHeart learned of a transaction in which Invesco Ltd. (“Invesco”), a limited company organized under the laws of Bermuda with exempted status, acquired OppenheimerFunds, Inc. (“Oppenheimer”), the ultimate parent company of the investment adviser of various U.S.-organized mutual funds that collectively received approximately 9.4 percent of iHeart’s Class A Common Stock at emergence. Those funds had been properly treated as having 0 percent foreign voting and 0 percent foreign equity at iHeart’s emergence date based on certifications submitted in the bankruptcy. iHeart has been informed that (1) in connection with Invesco’s acquisition of Oppenheimer, the investment adviser of the Oppenheimer funds holding iHeart stock became Invesco Advisers, Inc. (“IAI”), a Delaware corporation; (2) as the investment adviser, IAI makes the investment decisions for the funds and votes the shares held by the funds; (3) IAI’s ultimate parent is Invesco, a limited company organized under the laws of Bermuda with exempted status; and (4) this unforeseen change in the investment adviser to the Oppenheimer funds did not involve a change in the funds’ equity
12 See EAM § B.5(c).

. . . ownership. iHeart was not informed of the Invesco/Oppenheimer transaction prior to its occurrence, was not otherwise aware of that transaction, and would not have had any ability to prevent it from occurring under any circumstances.¹³ Promptly after learning and confirming occurrence of the transaction, iHeart informed the FCC of this development by letter dated July 3, 2019.¹⁴ The FCC responded on July 9, 2019, indicating that it had not determined that the change in the Oppenheimer funds' investment adviser is contrary to the public interest and deeming iHeart to be in compliance with the FCC's foreign ownership reporting rules pending receipt and processing of the instant Petition.¹⁵

Based on information concerning the ownership of its common stock and warrants as of emergence and taking into account the Invesco/Oppenheimer transaction, iHeart estimates that, if all Special Warrants were exercised, iHeart's aggregate foreign voting percentage would reach approximately 70.5 percent, and its foreign equity percentage would reach approximately 63.9 percent.¹⁶ Because the Special Warrants (as well as iHeart's common stock) are subject to 13 See 47 C.F.R. § 1.5004(f)(3)(ii).

¹⁴ See *id.* § 1.5004(f)(3)(i). ¹⁵ Based upon this exchange of letters and Section 1.5004(f)(3)(iii) of the Commission's rules, iHeart has not taken remedial action pursuant to its Certificate of Incorporation with respect to the Invesco holdings. See *supra* n.9; see also 47 C.F.R. 1.5004(f)(3)(iii).

. . . These percentages were calculated by iHeart's advisors. The percentage for foreign voting differs from the percentage for foreign equity for three reasons. *First*, certain holders received Class B Common Stock, which is non-voting for FCC purposes and is included only in the total equity percentage, in lieu of Class A Common Stock (which is included in both the voting and equity percentage), to ensure that they remained non-attributable under the FCC's media ownership rules and that iHeart's aggregate foreign voting percentage did not exceed 22.5 percent at emergence. *Second*, as noted above, iHeart has been informed that the Invesco/Oppenheimer transaction impacted iHeart's aggregate foreign voting percentage, but not its foreign equity percentage. *Third*, at iHeart's emergence, one of its wholly owned indirect subsidiaries, iHeartOperations, Inc., issued preferred stock carrying no current voting rights and intended to represent approximately 2 percent of the total equity of iHeartOperations, Inc. at that ongoing trading, however, iHeart does not have full visibility into the identities of its warrant holders prior to the Exchange, and thus iHeart's aggregate foreign equity and voting percentages upon completion of the Exchange could vary from its current estimate.¹⁷ In addition, iHeart seeks flexibility to take on additional foreign investment in order to maximize its access to capital and to promote the free transferability of its stock. iHeart is, accordingly, filing the instant Petition requesting a declaratory ruling to authorize up to 100 percent aggregate foreign investment (voting and equity) in iHeart.

In exhibit E, iHeart admits it has more than 25% foreign ownership, in violation of the 1934 communication act. And Then Seeks an ruling from the FCC that they can have 100% foreign ownership. !!!! See Exhibit:

EXHIBIT E

Estimate of Aggregate Foreign Ownership

(47 C.F.R. § 1.5001(h)(1))

iHeartMedia, Inc. (“iHeart”) estimates that foreign ownership of its capital stock following a grant of this Petition which would permit such ownership would, on a direct and/or indirect basis, be approximately 70.5 percent as to voting and 63.9 percent as to equity. These estimates are based upon certifications obtained by iHeart from holders of claims which were entitled to receive distributions of Class A Common Stock, Class B Common Stock, and/or Special Warrants at its emergence from bankruptcy, as well as additional information obtained from certain of iHeart’s stockholders and calculations performed by iHeart’s advisors. These estimates also assume the exchange of all Special Warrants for common stock pursuant to the Warrant Agreement that governs the Special Warrants. The Warrant Agreement provides for new certifications prior to such exchanges becoming effective.” (end of quote)

Also, how is 60% to 100% of foreign ownership of iHeart, -- largest owner of radio stations in the USA BY FAR at about 843 radio stations, -- not a security breach and danger for the United States of America?

In light of all the above evidence in FCC and/or iHeart communications, and in light of iHeart answering “Yes” on the “Foreign ownership question on the request for renewal of WLW, when they should have answered “No” with attachments, we are making an informal objection to the renewal of the WLW (700 am) license.

Here is the 4th reason:

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4. Character

iHeart did not disclose character issues in reference to FCC Licensee renewal application; i.e., about a character problem on FCC Question, which follows:

“Licensee certifies that neither the licensee nor any party to the application has or has had any interest in, or connection with, any broadcast application in any proceeding where character issues were left unresolved, or were resolved adversely against the applicant or any party to the application; . . .”

IHeart said “Yes” when they should have said “No” because they filed bankruptcy and stiffed / failed to pay \$10 billion in money they owed to deserving creditors, while simultaneously requesting and being granted a \$9 million bonus for their CEO. The character issue will be obvious to the public in the coming propaganda and public issue battle, if not to the “impartial” judges who are making such rulings.

From the website of iHeart Lawyers, Kirkland and Ellis:

“A multidisciplinary team of Kirkland attorneys guided audio giant iHeartMedia, Inc. to one of the first significant Chapter 11 confirmations of 2019. iHeart’s Chapter 11 was the largest restructuring filed in 2018 based on outstanding debt. Fewer than 12 months later, the U.S. Bankruptcy Court for the Southern District of Texas confirmed the company’s plan, which reduced its debt from \$16.1 billion to \$5.75 billion and separated iHeart’s media business from its outdoor advertising business. Both businesses will trade publicly when the separation is completed later this year.”

Defaulting on \$10 billion in debt to legitimate creditors is a character problem by any standard. See:

<https://www.kirkland.com/marquee-stories/iheart-confirms-chapter-11-plan-debt-reduction>

Another aspect of the character issue, highlighted by Senator Sherrod Brown of Ohio, in a letter to Mr. Pittman of iHeart Media:

Dear Mr. Pittman:

“I write in response to iHeartMedia’s recent announcement that the company is laying off employees across the country, including dozens of employees at radio stations in Ohio. I am particularly concerned about these layoffs in light of additional news reports that the company significantly increased executive compensation the year before entering bankruptcy and have since asked the bankruptcy judge to approve more executive bonus pay. It is hard to understand why it is in the long-term interest of the company to significantly increase executive compensation while making significant job cuts.

“According to numerous news reports, iHeartMedia recently announced countrywide layoffs as part of the company’s new organizational structure. Although the company has not released the total number of workers who lost their jobs, it is reported that hundreds of workers were terminated and that the layoffs were concentrated in small and medium media markets. It is difficult enough to understand the decision to continue the hollowing out of local media outlets by laying off disc jockeys in smaller communities. But it is particularly difficult to make sense of this decision given that it came after a significant increase in the company’s executive compensation over the last few years.

“According to reporting by *The Wall Street Journal*, you received more than \$9 million in bonuses on top of your annual pay of \$1.25 million in 2017, the year before the company initiated bankruptcy proceedings. Other reports indicate that the bankruptcy judge approved the company’s restructuring plan in January 2019, which included another \$9.3 million incentive bonus for your 2018 work with the company. . .” – The entire letter is on Senator Sherrod Brown’s website.

End of section on Ohio Senator Sherrod Brown

And here is the criteria for radio and TV station license renewal from Jdsupra.com – here is the exact link:

<https://www.jdsupra.com/legalnews/a-radio-broadcaster-s-guide-to-license-54382>

The License Renewal Process

The first point to note is that a license renewal application is just that—an application—and not a guarantee of a new license term. The Communications Act of 1934, as amended (the “Act”) requires all radio broadcasters to obtain from the FCC an authorization to operate. By filing Schedule 303-S, an applicant requests its authorization be extended for another eight years. The Act requires the FCC to grant such an application only if it finds that during the preceding license term: (1) the station has served the public interest, convenience, and necessity; (2) the licensee has not committed any serious violations; and (3) there have been no other violations by the licensee of the FCC’s rules and regulations which, taken together, would constitute a pattern of abuse. To this end, the FCC invites petitions to deny, informal objections, and comments from the public for every license renewal application, and will review the application and these other submissions to make a determination as to whether the station at issue is deserving of license renewal.

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For all the reasons above, Jim Condit Jr. for Congress Committee and Jim Condit Jr., federal candidate for Congress in the 2nd District of Ohio, for the November 2020 election cycle, places this informal objection to the renewal of the license for WLW radio (700 AM) on this date of September 30, 2020.