

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GRAY TELEVISION, INC., and
QUINCY MEDIA, INC.,

Defendants.

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated by and among the undersigned parties, subject to approval and entry of this Order by the Court, as follows.

I. DEFINITIONS

As used in this Hold Separate Stipulation and Order (“Stipulation and Order”):

A. “Acquirer” means Allen or another entity or entities to whom Defendants divest the Divestiture Assets.

B. “Gray” means Defendant Gray Television, Inc., a Georgia corporation with its headquarters in Atlanta, Georgia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. “Quincy” means Defendant Quincy Media, Inc., an Illinois corporation with its headquarters in Quincy, Illinois, its successors and assigns, and its subsidiaries, divisions,

groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. “Allen” means Allen Media Holdings, LLC, a Delaware limited liability company with its headquarters in Los Angeles, California; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. “Divestiture Assets” means all of Defendants’ rights, titles, and interests in and to all property and assets, tangible and intangible, wherever located, relating to or used in connection with the Divestiture Stations, including:

1. the KWWL main transmitter site located at 2698 Lucas Avenue, Rowley, IA 52329 and the KWWL main studio located at 511 East 5th Street, Waterloo, IA 50703;
2. the WAOW studio facility located at 1900-1908 Grand Avenue, Wausau, WI 55403 and the WAOW satellite location at 605 Kent Street East, Wausau, WI 55504;
3. the WKOW studio facility located at 5725 Tokay Boulevard, Madison, WI 53719;
4. the WQOW transmitter site located at 780th Avenue Rural Route 3, Colfax, WI 54730; the WQOW microwave repeater located at S17, T20N, R8W, Arcadia, WI; the WQOW studio facility located at 5545 Highway 93, Eau Claire, WI 54701; and the WQOW microwave tower located at S34, T24N, R9W, Albion Township, WI;
5. the WREX studio and transmitter facility located at 10322 Auburn Road, Rockford, IL 61101;

6. the WSIL studio and office located at 1416 Country Aire Drive, Carterville, IL 62918; the WSIL tower and transmitter building located at 1154 N Wagon Creek Road, Creal Springs, IL 62922; the WSIL tower located at 21 W Poplar Street, Harrisburg, IL 62946; and the WSIL tower and transmitter building located at 3690 Highway 67, Poplar Bluff, MO 63901;

7. the WXOW studio and transmitter facility located at 3705 County Road 25, La Crescent, MN 55947;

8. the KVOA studio facility located at 209 W. Elm Street, Tucson, AZ 85705;

9. all other real property, including fee simple interests and real property leasehold interests and renewal rights thereto, improvements to real property, and options to purchase any adjoining or other property, together with all buildings, facilities, and other structures;

10. all tangible personal property, including fixed assets, machinery and manufacturing equipment, tools, vehicles, inventory, materials, office equipment and furniture, computer hardware, and supplies;

11. all contracts, contractual rights, and customer relationships, and all other agreements, commitments, and understandings, including network affiliation agreements, supply agreements, teaming agreements, and leases, and all outstanding offers or solicitations to enter into a similar arrangement;

12. all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations issued or granted by the FCC or any other governmental organization, and all pending applications or renewals;

13. all records and data, including (a) customer lists, accounts, sales, and credit records, (b) production, repair, maintenance, and performance records, (c) manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees, (d) records and research data concerning historic and current research and development activities, including designs of experiments and the results of successful and unsuccessful designs and experiments, and (e) drawings, blueprints, and designs;

14. all intellectual property owned, licensed, or sublicensed, either as licensor or licensee, including (a) patents, patent applications, and inventions and discoveries that may be patentable, (b) registered and unregistered copyrights and copyright applications, and (c) registered and unregistered trademarks, trade dress, service marks, trade names, and trademark applications; and

15. all other intangible property, including (a) commercial names and d/b/a names, (b) technical information, (c) computer software and related documentation, know-how, trade secrets, design protocols, specifications for materials, specifications for parts, specifications for devices, safety procedures (e.g., for the handling of materials and substances), quality assurance and control procedures, (d) design tools and simulation capabilities, and (e) rights in internet web sites and internet domain names;

provided, however, that the assets specified in Paragraphs I(E)(1)-(15) above do not include the Excluded Assets.

F. “Divestiture Date” means the date the Divestiture Assets are divested to Acquirer.

G. “Divestiture Stations” means KPOB-TV, KVOA, KWWL, WAOW, WKOW, WMOW, WQOW, WREX, WSIL-TV, and WXOW.

H. “DMA” means Designated Market Area as defined by The Nielsen Company (US), LLC, based upon viewing patterns and used by BIA Advisory Services’ *Investing in Television Market Report 2020* (1st edition).

I. “Excluded Assets” means

1. the CW affiliation agreement and programming stream (including any syndicated programming), receiver, program logs and related materials, related intellectual property and domain names, relating in all cases to KWWL and/or the Cedar Rapids-Waterloo-Iowa City-Dubuque, Iowa, DMA;

2. the CW affiliation agreement and programming stream (including any syndicated programming), receiver, program logs and related materials, related intellectual property and domain names, relating in all cases to WMOW, WAOW and/or the Wausau-Rhineland, Wisconsin, DMA;

3. the CW affiliation agreement and programming stream (including any syndicated programming), receiver, program logs and related materials, related intellectual property and domain names, relating in all cases to WREX and/or the Rockford, Illinois, DMA;

4. the CW affiliation agreement and programming stream (including any syndicated programming), receiver, program logs and related materials, related intellectual

property and domain names, relating in all cases to WXOW, WQOW, and/or the La Crosse-Eau Claire, Wisconsin, DMA;

5. the MeTV affiliation agreement and programming stream (including any syndicated programming), receiver, program logs and related materials, related intellectual property and domain names, relating in all cases to WKOW and/or the Madison, Wisconsin, DMA;

6. the MeTV affiliation agreement and programming stream (including any syndicated programming), receiver, program logs and related materials, related intellectual property and domain names, relating in all cases to WXOW, WQOW, and/or the La Crosse-Eau Claire, Wisconsin, DMA.

7. satellite station WYOW, Eagle River, Wisconsin and transmitter facility located at 6425 Thunderlake Road in Rhinelander, Wisconsin 54501;

8. all real and tangible personal property owned by Quincy located at 501 and 513 Hampshire Street in Quincy, Illinois 62301;

9. all tangible personal property owned by Quincy at 130 South 5th Street, Quincy, Illinois 62301; and

10. all real and tangible personal property owned by Quincy at the Digital Realty Data Center, 350 East Cermak, Chicago, Illinois 60616.

J. “FCC” means the Federal Communications Commission.

K. “Overlap DMAs” means the following seven DMAs: Tucson, Arizona; Madison, Wisconsin; Rockford, Illinois; Paducah, Kentucky – Cape Girardeau, Missouri – Harrisburg-Mt.

Vernon, Illinois; Cedar Rapids-Waterloo-Iowa City-Dubuque, Iowa; La Crosse-Eau Claire, Wisconsin; and Wausau-Rhineland, Wisconsin.

L. “Relevant Personnel” means all full-time, part-time, or contract employees of Defendants, wherever located, whose job responsibilities primarily relate to the operation or management of the Divestiture Stations, at any time between February 1, 2021, and the Divestiture Date. The United States, in its sole discretion, will resolve any disagreement regarding which employees are Relevant Personnel.

M. “Transaction” means the proposed acquisition of Quincy by Gray.

N. “KPOB-TV” means the ABC-affiliated broadcast station bearing that call sign located in the Paducah, Kentucky – Cape Girardeau, Missouri – Harrisburg-Mt. Vernon, Illinois, DMA and owned by Quincy.

O. “KVOA” means the NBC-affiliated broadcast station bearing that call sign located in the Tucson, Arizona, DMA and owned by Quincy.

P. “KWVL” means the NBC-affiliated broadcast station bearing that call sign located in the Cedar Rapids-Waterloo-Iowa City-Dubuque, Iowa, DMA and owned by Quincy.

Q. “WAOW” means the ABC-affiliated broadcast station bearing that call sign located in the Wausau-Rhineland, Wisconsin, DMA and owned by Quincy.

R. “WKOW” means the ABC-affiliated broadcast station bearing that call sign located in the Madison, Wisconsin DMA and owned by Quincy.

S. “WMOW” means the ABC-affiliated broadcast station bearing that call sign located in the Wausau-Rhineland, Wisconsin, DMA and owned by Quincy.

T. “WREX” means the NBC-affiliated broadcast station bearing that call sign located in the Rockford, Illinois, DMA and owned by Quincy.

U. “WSIL-TV” means the ABC-affiliated broadcast station bearing that call sign located in the Paducah, Kentucky – Cape Girardeau, Missouri – Harrisburg-Mt. Vernon, Illinois, DMA and owned by Quincy.

V. “WQOW” means the ABC-affiliated broadcast station bearing that call sign located in the La Crosse-Eau Claire, Wisconsin, DMA and owned by Quincy.

W. “WXOW” means the ABC-affiliated broadcast station bearing that call sign located in the La Crosse-Eau Claire, Wisconsin, DMA and owned by Quincy.

X. “WYOW” means the satellite broadcast station bearing that call sign located in the Wausau-Rhineland, Wisconsin, DMA and owned by Quincy.

II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure Defendants’ prompt divestiture of the Divestiture Assets for the purpose of preserving competition in (a) licensing of NBC, CBS, ABC, and FOX television network content to multichannel video program distributors for distribution to their subscribers in the Overlap DMAs, and (b) the sale of broadcast television spot advertising in the Overlap DMAs, in order to remedy the anticompetitive effects that the United States alleges would otherwise result from the acquisition of Quincy by Gray. This Stipulation and Order ensures that, prior to divestiture, the Divestiture Assets remain independent, economically viable, competitive, and saleable; that Defendants will preserve and maintain the Divestiture Assets; and that the level of competition that existed

between Defendants prior to the Transaction is maintained during the pendency of the required divestiture of the Divestiture Assets.

III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over the parties to it. Venue for this action is proper in the United States District Court for the District of Columbia. Defendants waive service of summons of the Complaint.

IV. CONSUMMATION OF THE TRANSACTION

Defendants will not consummate the Transaction before the Court has signed this Stipulation and Order.

V. COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The proposed Final Judgment filed with this Stipulation and Order, or any amended proposed Final Judgment agreed upon in writing by the United States and Defendants, may be filed with and entered by the Court as the Final Judgment, upon the motion of the United States or upon the Court's own motion, after compliance with the requirements of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16, and without further notice to any party or any other proceeding, as long as the United States has not withdrawn its consent. The United States may withdraw its consent at any time before the entry of the Final Judgment by serving notice on Defendants and by filing that notice with the Court.

B. From the date of the signing of this Stipulation and Order by Defendants until the Final Judgment is entered by the Court, or until expiration of time for all appeals of any ruling declining entry of the proposed Final Judgment, Defendants will comply with all of the terms and provisions of the proposed Final Judgment.

C. From the date on which the Court enters this Stipulation and Order, the United States will have the full rights and enforcement powers set forth in the proposed Final Judgment as if the proposed Final Judgment were in full force and effect as a final order of the Court, and Section XIV of the proposed Final Judgment will also apply to violations of this Stipulation and Order.

D. Defendants agree to arrange, at their expense, publication of the newspaper notice required by the APPA, which will be drafted by the United States in its sole discretion. The publication must be arranged as quickly as possible and, in any event, no later than three (3) business days after Defendants' receipt of (1) the text of the notice from the United States and (2) the identity of the newspaper or newspapers within which the publication must be made. Defendants must promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged and (2) the certification of the publication prepared by the newspaper or newspapers within which the notice was published.

E. This Stipulation and Order applies with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the United States and Defendants and filed with the Court.

F. Defendants represent that the divestiture ordered by this Stipulation and Order and the proposed Final Judgment can and will be made and that Defendants will not later raise a claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any of its provisions.

VI. HOLD SEPARATE

From the date of the signing of this Stipulation and Order by Defendants and until the divestiture required by the proposed Final Judgment has been accomplished:

A. Defendants must, to the extent permitted by the terms and conditions of the FCC's Equity/Debt Plus rule (47 C.F.R. § 73.3555, note 2(i)), take all actions necessary to operate, preserve, and maintain the full economic viability, marketability, and competitiveness of each Divestiture Station including by (1) operating each Divestiture Station in the ordinary course of business and consistent with past practices and (2) providing each Divestiture Station with sufficient working capital and lines and sources of credit.

B. Defendants must use all reasonable efforts to maintain and increase the sales and revenues of the services provided by each Divestiture Station and must maintain at 2021 or previously approved levels for 2022, whichever are higher, all promotional, advertising, sales, technical assistance, customer support and service, and marketing for the Divestiture Stations.

C. Defendants must use all reasonable efforts to maintain and preserve existing relationships with customers, suppliers, governmental authorities, vendors, landlords, creditors, agents, and all others having business relationships relating to the Divestiture Stations (excluding any relationship with a supplier that is party to a contract that is an Excluded Asset).

D. Defendants must maintain, in accordance with sound accounting principles, separate, accurate, and complete financial ledgers, books, or other records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income of the Divestiture Stations.

E. Defendants must maintain the working conditions, staffing levels, and work force training and expertise of all Relevant Personnel. Relevant Personnel must not be transferred or reassigned except to Acquirer or via transfer bids initiated by employees pursuant to Defendants' regular, established job posting policy. Defendants must provide the United States with ten (10) calendar days' notice of the transfer of Relevant Personnel, and, upon objection by the United States to such transfer, Relevant Personnel may not be transferred or reassigned. Defendants must use all reasonable efforts, including by providing financial incentives, to encourage Relevant Personnel to continue in the positions held as of the date of the signing of this Stipulation and Order by Defendants, and financial incentives may not be structured so as to disincentivize employees from accepting employment with Acquirer.

F. Defendants must maintain all licenses, permits, approvals, authorizations, and certifications related to or necessary for the operation of the Divestiture Stations and must operate the Divestiture Stations in compliance with all regulatory obligations and requirements.

G. Defendants must take all steps necessary to ensure that the Divestiture Assets are fully maintained in operable condition at no less than their current capacity and level of sales, with the same level of quality, functionality, access, and customer support, and must, consistent with past practices, maintain and adhere to normal repair and maintenance schedules for the Divestiture Assets.

H. Except as approved by the United States in accordance with the terms of the proposed Final Judgment, Defendants must not remove, sell, lease, assign, transfer, pledge, encumber, or otherwise dispose of any of the Divestiture Assets.

I. Defendants must take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets.

J. Management, sales, and operations of the Divestiture Stations must be held entirely separate, distinct, and apart from Defendants' other operations. Defendants must not coordinate the marketing, or terms of sale of broadcast television spot advertising sold by the Divestiture Stations with the production, marketing, or terms of sale of broadcast television spot advertising sold by Defendants.

K. Defendants must appoint, subject to approval of the United States in its sole discretion, a person or persons to oversee the Divestiture Stations. Such person or persons will be responsible for Defendants' compliance with this Section VI, for managing the sales and operations of the Divestiture Stations separately from Defendants' other operations and for ensuring the preservation of the Divestiture Assets for the duration of this Stipulation and Order. In the event any such person is unable to perform his or her duties, Defendants must appoint, subject to the approval of the United States in its sole discretion, a replacement within ten (10) business days. Should Defendants fail to appoint a replacement acceptable to the United States within this time period, the United States will appoint a replacement.

L. Within twenty (20) calendar days after the entry of this Stipulation and Order, Defendants will inform the United States of the steps Defendants have taken to comply with this Stipulation and Order.

VII. DURATION OF OBLIGATIONS

Defendants' obligations under Section VI of this Stipulation and Order will expire upon the completion of the divestiture required by the proposed Final Judgment or until further order

of the Court. In the event that (1) the United States has withdrawn its consent, as provided in Paragraph V(A) of this Stipulation and Order; (2) the United States voluntarily dismisses the Complaint in this matter; or (3) the Court declines to enter the proposed Final Judgment, the time has expired for all appeals of any ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, Defendants are released from all further obligations under this Stipulation and Order, and the making of this Stipulation and Order will be without prejudice to any party in this or any other proceeding.

Dated: July 28, 2021

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA:

/s/ Brendan Sepulveda
Brendan Sepulveda
D.C. Bar # 1025074
United States Department of Justice
Antitrust Division
Media, Entertainment, & Communications Section
450 Fifth St. NW, Suite 7000
Washington, DC 20530
Telephone: 202-316-7258
Email: brendan.sepulveda@usdoj.gov

FOR DEFENDANT
GRAY TELEVISION, INC.:

/s/ J. Parker Erkmann
J. Parker Erkmann
D.C. Bar # 489965
Cooley LLP
1299 Pennsylvania Ave NW
Suite 700
Washington, DC 20004
Telephone: 202-776-2036
Email: perkemann@cooley.com

FOR DEFENDANT
QUINCY MEDIA, INC.:

/s/ Shana Fulton
Shana Fulton
D.C. Bar # 477642
Brooks, Pierce, McLendon,
Humphrey & Leonard, LLP
150 Fayetteville Street, Suite 1700 (27601)
Post Office Box 1800
Raleigh, NC 27602
Telephone: 919-839-0300
Email: sfulton@brookspierce.com

ORDER

IT IS SO ORDERED by the Court, this _____ day of _____, _____.

United States District Judge