



CORPORATION FOR PUBLIC BROADCASTING

Richard H. Madden
Vice President, Radio

February 24, 1999

Ms. Lynn Chadwick
Executive Director
Pacifica Foundation
1929 Martin Luther King, Jr. Way
Berkeley, CA 94704

Dear Lynn,

I think it may be useful to summarize in writing our conversations since CPB's Sept. 14 letter to Pat Scott.

The Pacifica Foundation is welcome to operate with any board structure of its choosing. It is free at any time to shift board composition to one that it believes will best achieve successful public service programming to the listeners of its five stations. Because CPB has no interest in intruding in any process that may yield a change in structure or composition, we do not need to review board structure options.

We will, of course, examine closely the final structure and composition the Foundation may choose to adopt. CPB will do so to ensure compliance with Section 396(k)(8)(C) of the Communications Act of 1934 as amended which provides that "[t]he role of the [advisory] board shall be solely advisory in nature....," and the advisory board shall advise the governing body of the station and therefore must be distinct from and independent of the governing body. Our understanding is that Pacifica may have filed annual certifications with CPB stating it was in compliance with this portion of the law and our published guidelines when that may not have been true. Accepting Pacifica's representations on good faith, CPB made grants to Pacifica.

It is to Pat's credit that she brought Pacifica's non-compliance to our attention. It is to your credit that you seek a constructive solution, one that achieves what we both seek—a governance structure that meets Pacifica's needs and continued funding from CPB. The approach that Pat and you have pursued is absolutely consistent with the national leadership roles each of you has played over the years. Having served on multiple review panels, you both have dealt with CPB on a good faith basis and we have tried to respond in kind. That is why we are reluctant to take the position on this issue that you know we must.

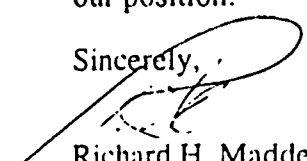
This is because CPB's obligation is to apply the law. Our legislation, sometimes broadly, sometimes specifically, dictates the circumstances under which we may fund a licensee. In this instance, the legislation is specific. It precludes funding of any licensee with the type of board composition now in place at Pacifica. Though I have not seen it, you have advised me that counsel to Pacifica concurs with CPB's opinion. If our mutual understanding is incorrect, please advise. If it is correct, then Pacifica is not in compliance with the law and our guidelines and, therefore, is not now eligible for CPB funding.

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You have asked about how flexible CPB might be. That was the purpose of our Sept. 14 letter. CPB made a first payment on Pacifica's FY 1999 grants on the assumption that Pacifica would resolve this issue promptly. It is now five months later and I am not aware that Pacifica has adopted a plan to achieve compliance. What CPB wrote then, I repeat now: "compliance with this portion of the law gives little wiggle room to CPB in its interpretation." If we are to comply with the law and apply it equitably—that is, as we have with other grantees—then CPB has no choice but to withhold Pacifica's second FY 1999 payments for each of its five stations, due for release in mid-March, unless the Pacifica board chooses to bring itself into compliance with the requirements of the law.

I know what I have stated here is consistent with our conversations. I hope this helps clarify our position.

Sincerely,



Richard H. Madden
Vice President, Radio