

# Wiley Rein Client Red Zebra Broadcasting Prevails in FCC First Amendment Case

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Yesterday, the Federal Communications Commission (FCC) released a decision dismissing challenges to Red Zebra Broadcasting's (Red Zebra) license renewal application for the group's Buckland, Virginia radio station. The FCC rejected petitions to deny WWXX(FM)'s license renewal based on the station's broadcast of the word "Redskins" to identify the Washington Redskins professional football team. In granting the station's license renewal application, the agency expressly rejected petitioners' arguments that use of the term "Redskins" contravenes the public interest or otherwise violates the FCC's rules, and dismissed claims that Red Zebra lacks the character qualifications required to hold an FCC license. Consistent with the arguments made by Red Zebra in response to the license renewal challenges, the decision contains a strong statement that the First Amendment and the Communications Act prohibit the FCC from censoring material or otherwise interfering with broadcasters' free speech rights.

The Wiley Rein team representing Red Zebra Broadcasting was led by Communications Litigation Practice chair Andrew G. McBride and Media Practice co-chair Kathleen A. Kirby.

In denying the objections and granting the station's license renewal, Peter H. Doyle, Chief of the Audio Division at the FCC's Media Bureau, wrote, "the Commission has stated that it will not take 'adverse action on a license renewal application based only upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming.'" Mr. Doyle concluded that the station had served the public interest during its most recent license term and that there had been no serious violations of the Communications Act or FCC rules.

## Related Professionals

Kathleen A. Kirby  
Partner  
202.719.3360  
kkirby@wiley.law

## Practice Areas

First Amendment/Commercial Speech  
Media  
Telecom, Media & Technology  
TMT Appellate

Mr. McBride stated: “The FCC’s written decision makes crystal clear that use of the word ‘Redskins’ on the airwaves does not violate any FCC rules, is not obscenity, profanity, or hate speech, and is fully protected by the First Amendment. The opinion should put an end to the complainants’ attempt to use the license renewal process to coerce broadcasters into not using the team’s official name. The FCC has made clear that the complainants’ threat is now an empty one.”

On behalf of Red Zebra Broadcasting, in which Washington Redskins team owner Daniel Snyder holds a controlling interest, Wiley Rein attorneys filed with the FCC on October 17 a response to the objections filed against the radio station’s license renewal application. The response made clear that the FCC cannot lawfully serve as arbiter of the public and political debate over the name of Washington, DC’s NFL franchise.

Yesterday’s FCC decision was covered by media outlets including *The Washington Post*.