

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
Tribune Media Company (Transferor))	MB Docket No. 19-30
and)	
Nexstar Media Group, Inc. (Transferee))	
Consolidated Applications for Consent to Transfer)	
Control)	

PETITION TO DENY

Frontier Communications Corporation (“Frontier”)¹ respectfully petitions the Commission to deny the applications of Nexstar Media Group, Inc. (“Nexstar”) to acquire Tribune Media Company (“Tribune”) (collectively, the “Applicants”) and their related divestiture requests (collectively, the “Applications”).² Through this proposed transaction, Nexstar seeks to become the largest broadcaster in the country, and like Sinclair in its failed

¹ Frontier is the eighth largest multichannel video programming distributor (“MVPD”) in the United States. Frontier currently has retransmission consent agreements with both Applicants, allowing Frontier to retransmit certain local broadcast stations owned by the Applicants. Frontier expects to negotiate with both Applicants in the future for continued retransmission of their stations.

² See Public Notice, MB Docket No. 19-30, Media Bureau Establishes Pleading Cycle for Applications to Transfer Control of Tribune Media Company to Nexstar Media Group, Inc. and Permit-But-Disclose *Ex Parte* Status for the Proceeding, DA 19-82 (Feb. 14, 2019).

merger with Tribune,³ seeks to create a broadcast colossus that will hinder competition and exacerbate the broken retransmission consent system. Accordingly, the Commission should deny the merger.

On its face, the proposed merger raises serious questions by proposing to create the largest broadcast station group in the country. In Nexstar’s own words, the joint company would have “broad geographic reach and scale.”⁴ The combined company would own or operate 216 stations in 118 markets, with a “greatly expanded presence in the top 50” designated market areas.⁵ This expanded scale introduces significant concerns regarding competition, particularly in already lopsided negotiations with MVPDs for practically mandatory retransmission consent arrangements.

While just one of the many potential competitive concerns presented by the transaction, a joint Nexstar-Tribune will exacerbate already too high retransmission consent fees and harm consumers. It is no secret that the current framework for retransmission negotiations is imbalanced and is driving increasing retransmission costs for MVPDs and their customers.⁶

³ *In the Matter of Tribune Media Company (Transferor) and Sinclair Broadcast Group, Inc. (Transferee), Consolidated Applications for Consent to Transfer Control*, MB Docket No. 17-179.

⁴ Nexstar Media Group Investor Presentation, “Acquisition of Tribune Media Company,” <https://tinyurl.com/yyk4vmbo>, p. 3 (Dec. 3, 2018) (last accessed Mar. 18, 2019) (“Nexstar Investor Presentation”).

⁵ *Id.*

⁶ *See, e.g.*, Comments of DISH Network L.L.C., MB Docket No. 17-318 at 5-6 (Apr. 18, 2018); Comments of ITTA—The Voice of America’s Broadband Providers, GN Docket No. 16-142 at 6-10 (May 9, 2017); Comments of Frontier Communications Corporation, WC Docket No. 16-132 at 19-20 (Jan. 3, 2017); Comments of Verizon, Docket Nos. 16-131; 16-127; 16-128; 16-138; & 16-132 at 18-19 (Dec. 5, 2016).

Retransmission consent fees have increased dramatically in recent years and continue to do so at an unsustainable pace.⁷ As the Commission acknowledges, “[f]rom 2015 to 2016, total retransmission consent fees paid by cable systems to television broadcast stations increased, on average, by 31.8% per year.”⁸

This shocking anti-competitive and anti-consumer rise in retransmission consent fees is due in no small part to the increased leverage broadcasters enjoy as media conglomerates continue to gobble up smaller broadcasters. Retransmission consent fees are now basically an open checkbook for broadcasters, who continue to drive up these fees for their own profit at the expense of the American consumer.⁹ And larger scale translates into more “must see” programming and more networks across which to spread higher prices. Although the Commission may be somewhat limited by statute in terms of deciding the substantive outcome of retransmission consent negotiations or deciding a fair retransmission consent fee,¹⁰ there is no

⁷ According to the American Television Alliance, retransmission consent fees rose from \$1.2 billion in 2010 to \$9.3 billion in 2017. See American Television Alliance, About the Issue, <https://www.americantelevisionalliance.org> (last accessed Mar. 18, 2019); see also Mike Farrell, *Kagan: Retrans Fees to Reach \$11.6B by 2022*, MULTICHANNEL NEWS, June 29, 2016 (According to SNL Kagan, retransmission consent fees rose from \$6.4 billion in 2015 to \$7.7 billion in 2016, and are estimated to reach \$10.1 billion by 2019), <https://tinyurl.com/y4sxgmet> (last accessed Mar. 18, 2019).

⁸ *In the Matter of Communications Marketplace Report*, <https://docs.fcc.gov/public/attachments/DOC-355217A1.pdf>, ¶ 75 (adopted Dec. 12, 2018) (“*Communications Marketplace Report*”).

⁹ See *Communications Marketplace Report*, ¶ 97 (“Fees obtained from MVPDs and virtual MVPDs for the retransmission of the station’s signal make up the second largest category of broadcast stations revenue.”); ¶ 100 (noting that between 2016 and 2017, broadcasters’ share of overall revenue attributable to retransmission consent fees increased).

¹⁰ See 47 C.F.R. §§ 76.92 *et seq.*

need for the Commission to add more fuel to the fire by allowing a merger that will only make the playing field more imbalanced by decreasing competition.

Independently, Tribune and Nexstar have not shied away from aggressive tactics in negotiating retransmission consent agreement. For instance, Tribune regularly ties WGN station as part of its retransmission negotiations.¹¹ In other words, despite MVPDs having limited interest in WGN content, Tribune pressures MVPDs to purchase WGN content for MVPD subscribers out of market if the MVPD wants access to retransmission content in market. And both Tribune and Nextstar have engaged in blackouts to leverage higher retransmission consent fees.¹² There is little doubt that the combined entity will have even greater leverage in retransmission consent negotiations. In fact, Nexstar seems to be banking on it, citing “retransmission consent revenue growth” and “retransmission consent re-negotiations” as increasing the financial bottom line of the proposed transaction.¹³ In its press release announcing the merger, Nexstar trumpets the “benefit[s] from significant 2019 renewals of retransmission

¹¹ See Todd Spangler, *Cablevision Charges Tribune with “Illegally Tying” Stations Deals*, MULTICHANNEL NEWS (Aug. 17, 2012), <https://tinyurl.com/y64oscmh> (last accessed Mar. 18, 2019).

¹² See Mike Farrell, *Tribune Stations Go Dark to Charter Customers*, MULTICHANNEL NEWS, Jan. 2, 2019 (thirty-three Tribune stations in twenty-four Charter markets were blacked out after Charter refused Tribune’s demand to increase retransmission consent fees “by more than double” the current rate), <https://tinyurl.com/y2jlszn2> (last accessed Mar. 18, 2019); Letter from Andrew Petersen, Senior Vice President, TDS, to Chairman Pai (Jan. 4, 2019) (stating that Nexstar blacked out stations after TDS refused Nexstar’s demand for up to 129% increase in retransmission consent fees), <https://tinyurl.com/y6gdklw5> (last accessed Mar. 18, 2019).

¹³ Nexstar Investor Presentation at 12, 14.

consent agreements,” suggesting financial models leveraging a newfound size to further take advantage of the tilted retransmission consent negotiating table.¹⁴

Allowing the proposed transaction will only increase the Applicants’ ability to pursue these tactics, creating a true threat of anticompetitive effects that will harm the entire industry. Ultimately, consumers will be the hardest hit through increased prices as MVPDs cannot afford to absorb the exponential increases in retransmission consent fees.¹⁵ Consumers will also be negatively impacted by reduced choice in cable providers as MVPDs are forced to exit certain markets when faced with exorbitant retransmission consent fees. While denying the Applications is not alone a panacea for the current broken retransmission consent system, it will remove the Commission from actively exacerbating the problem. Accordingly, the Commission should deny the Applications. And in the event the Commission nonetheless moves forward with the Applications, it should, at a minimum, adopt protections to prevent the new broadcasting behemoth from exacting anticompetitive retransmission consent fees from MVPDs and their customers.

¹⁴ See Nexstar, *Nexstar Media Group Enters into Definitive Agreement to Acquire Tribune Media Company for \$6.4 Billion in Accretive Transaction Creating the Nation’s Largest Local Television Broadcaster and Local Media Company*, Press Release (Dec. 3, 2018), https://www.nexstar.tv/nexstar_agrees_to_acquire_tribune/.

¹⁵ See Mike Farrell, *Cable Rates on the Rise*, MULTICHANNEL NEWS, Jan. 8, 2019 (noting that cable charges continue to increase “to offset skyrocketing retransmission consent” fees and new fees have been added “to ease the pain of those costs”), <https://tinyurl.com/yydx8so7> (last accessed Mar. 18, 2019); *Communications Marketplace Report*, ¶ 66 (“In response to increased programming costs, many MVPDs have added “broadcast fees” and “regional sports fees” to monthly billing statements to pass those costs through directly to consumers and cover a portion of the increased programming costs without appearing to raise the rate of the television service.”).

Respectfully submitted,

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