

June 7, 2018

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington D.C. 20554

Re: Amendment of Section 73.3555(e) of the Commission's Rules, National Television
Multiple Ownership Rule, MB Docket No. 17-318

Dear Ms. Dortch:

ION Media Networks, Inc. ("ION"), Univision Communications Inc. ("Univision"), and Trinity Christian Center of Santa Ana, Inc. ("Trinity") (ION, Univision, and Trinity are herein collectively referred to as "Joint Commenters") hereby submit this letter in the above-referenced docket to emphasize the clear public interest benefits of full and transferrable grandfathering of the Joint Commenters' existing television station holdings, regardless of the Commission's decisions regarding the future of the national television ownership cap and the UHF Discount.¹

The Commission has before it a number of proposals advocating different approaches for the future of the national audience reach cap. The proposals before the Commission confirm that the national audience reach cap is outmoded and should be reformulated in light of marketplace developments.² The Commission faces a difficult decision in determining whether to retain a national audience reach cap and UHF Discount, and, if so, what reach limitation would permit broadcasters to compete effectively with cable, satellite and over-the-top distributors whose national reach is unregulated. The Joint Commenters urge the Commission, should it adopt changes to the UHF discount or national ownership cap, to ensure that the new rules allow broadcasters to continue to grow and reach the scale necessary to compete fully with their much-larger, and rapidly consolidating, competitors.

¹ The Joint Commenters filed comments in this proceeding. *See* Joint Comments of ION Media Networks, Inc., Univision Communications Inc., and Trinity Christian Center of Santa Ana, Inc., MB Docket No. 17-318, filed March 19, 2018 (the "Joint Comments").

² *See id.* at 7. *See also, e.g.*, Comments of the National Association of Broadcasters at 11-22, filed Mar. 19, 2018; Comments of Sinclair Broadcast Group, Inc. at 6-11; Comments of Nexstar Broadcasting, Inc. at 15-21. Separately, Univision has argued for elimination of the cap altogether. *See* Reply Comments of Univision Communications Inc., filed Apr. 18, 2018.

Regardless of how the Commission resolves the future of the national cap and UHF Discount, the Joint Commenters urge the Commission to remain focused on the equally important question of appropriate relief for station groups like ION, Univision, and Trinity, which were built in reliance on the UHF Discount. Each of these station groups relied on the UHF Discount to build new television networks that provide alternatives for viewers and competition to the established networks. In building and operating these networks, the Joint Commenters are serving the public interest in diverse programming from a multitude of sources. Any change to the national cap or the UHF Discount will serve the public interest only if the changes preserve these important contributions.

Accordingly, in the event that the Commission adopts changes to the UHF discount or national ownership cap, the Joint Commenters respectfully submit that their station group holdings should be grandfathered **permanently** and should be transferrable to third-party buyers with their grandfathered status intact. Only full and permanent grandfathering will preserve the value created by the Joint Commenters in their station groups and the consumer benefits that each has generated in the form of new, competitive broadcast networks.

Each of the Joint Commenters has built a competitive network that provides valuable programming to underserved communities. And each of the Joint Commenters' networks was constituted around UHF television stations with the encouragement and approval of the FCC. Thus, for example, the audience for ION's general entertainment network is made up disproportionately of minority, elderly, and over-the-air viewers. Univision relied on the UHF Discount to create a vehicle for serving the needs and interests of the country's fast-growing Hispanic community. And Trinity relied on the UHF Discount to create the nation's largest and most-watched religious network, TBN. Moreover, each of the Joint Commenters has used the scale offered by the UHF Discount to launch multiple additional over-the-air broadcast networks. ION has launched Qubo, the nation's only 24/7 children's educational and informational programming channel, and ION Life, a cutting edge health and wellness channel, to viewers throughout the country on its owned and affiliated stations. Univision similarly took advantage of the benefits of the UHF Discount to create a second Spanish language network now known as Unimás. Trinity has used its scale to launch both additional multicast religious channels, including Smile of a Child TV, The Hillsong Channel, and the Spanish-language Enlace USA, and multicasts aimed at Spanish-language viewers (TBN Salsa) and young adult viewers (JUICE TV). Few FCC rules have been so directly responsible for such a vast expansion of free over-the-air programming as the UHF Discount.

Accordingly, the Joint Commenters urge the Commission to find a path forward that preserves the competitive gains and programming diversity made possible by the UHF Discount, regardless of how it resolves the national cap and UHF Discount questions. The FCC's adoption

of the Joint Commenters' position on permanent grandfathering and full transferability would achieve that end.

For purposes of determining the Joint Commenters' future compliance with the national ownership cap, the existing audience reach of each station owned by each of the companies, at the time of the adoption of the new cap by the Commission in this proceeding, would be permanently calculated using a 50% discount. The audience reach of any station subsequently acquired by one of the companies would be calculated using whatever standard the Commission adopts in this proceeding. Accordingly, the Joint Commenters' compliance with the national ownership cap would be computed by adding together the national audience reach of their current station holdings (with the permanent 50% discount for UHF stations) and the audience reach of any subsequently acquired stations (calculated consistent with the outcome of this proceeding). In addition, the Joint Commenters would be permitted to sell their station holdings intact and, in the case of the sale of at least 50% of the companies' stations, these stations would retain any grandfathered calculation of their national audience reach as set forth above. Following the transaction, the buyer would acquire the same grandfathering protection for the acquired stations as the selling Joint Commenters had before it.

In the event of a change to the UHF discount or national ownership cap, each of these protections is necessary to protect the value to the Joint Commenters and their viewers of the service that the Joint Commenters have been able to provide in reliance on the UHF Discount. Permanent grandfathering will allow the Joint Commenters to continue to operate their station groups with certainty that they will not be forced to divest stations by this or a future Commission. This long-term outlook is essential to the companies' ability to finance their respective operations and continue to grow their programming offerings to viewers. The current uncertainty makes that very difficult. Full transferability is equally important to maintaining the benefits of the Joint Commenters' activities in reliance on the UHF Discount. A subsequent owner of each of the Joint Commenters should have the same opportunity to take advantage of the scale achieved by each of the Joint Commenters in order to continue to achieve the public interest benefits initiated by the Joint Commenters.

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For the foregoing reasons and those stated in the Joint Comments, the Joint Commenters request that the Commission ensure full and permanent grandfathering and transferability for their station groups built in reliance on and in compliance with existing FCC rules.

Respectfully submitted,

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