

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

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In the Matter of )

Applications of Tribune Media Company )  
and Sinclair Broadcast Group For Consent to )  
Transfer Control of Licenses and Authorizations )

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MB Docket No. 17-179

**COMMENTS OF T-MOBILE USA, INC.**

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August 7, 2017

**TABLE OF CONTENTS**

I. INTRODUCTION AND SUMMARY ..... 1

II. STANDARD OF REVIEW ..... 2

III. SINCLAIR HAS THE INCENTIVE TO IMPEDE THE INCENTIVE  
AUCTION AND A HISTORY OF SEEKING TO DO SO ..... 4

IV. THE SIZE AND SCOPE OF NEW SINCLAIR WILL ENHANCE ITS  
ABILITY TO DELAY THE REPACKING PROCESS ..... 8

V. THE PUBLIC INTEREST WILL BE HARMED IF SINCLAIR DELAYS OR  
IMPEDES THE REPACKING PROCESS ..... 11

VI. CONCLUSION..... 13

## COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”) files these comments in response to the applications<sup>1</sup> seeking consent to the transfer of control (the “Transaction”) of subsidiaries of Tribune Media Company (“Tribune”) to Sinclair Broadcast Group, Inc. (“Sinclair”) (collectively, “the Applicants”).<sup>2</sup> Unless the Commission imposes the necessary conditions, the Transaction will harm consumers and competition in the wireless marketplace—particularly rural and underserved Americans—by significantly enhancing Sinclair’s incentive and ability to delay the post-incentive auction repacking of broadcasters to the TV band below channel 37.

### I. INTRODUCTION AND SUMMARY

Practically from the moment the Commission announced plans for the incentive auction, Sinclair sought unsuccessfully to impede it. Having failed to prevent the auction from going forward to a successful conclusion, Sinclair continues its obstructionist tactics—making clear that it wishes to delay repacking, and seeking to use that delay to promote the deployment of the ATSC 3.0 transmission standard in which it has made a substantial investment. But Sinclair’s self-interest must yield to the public interest in completing the repacking process within the 39-month period established by the Commission. Delays in the repacking process will impede access by T-Mobile and other winning forward auction bidders to the 600 MHz spectrum for which they paid nearly \$20 billion, and prevent these winning bidders from utilizing that spectrum to expand wireless broadband deployment in the United States, especially for the hundreds of thousands of square miles of rural and remote portions of the country where

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<sup>1</sup> See *Applications of Tribune Media Co. and Sinclair Broadcast Group for Consent to Transfer Control of Licenses and Authorizations*, MB Docket No. 17-179, Comprehensive Exhibit, 1 (June 2017) (“Comprehensive Exhibit”).

<sup>2</sup> See *Media Bureau Establishes Pleading Cycle for Applications to Transfer Control of Tribune Media Company to Sinclair Broadcast Group, Inc. and Permit-But-Disclose Ex Parte Status for the Proceeding*, MB Docket No. 17-179, Public Notice, DA 17-647 (rel. July 6, 2017).

underserved residents do not have wireless broadband connections or where competition is limited. T-Mobile has already announced plans to deploy its 600 MHz spectrum to provide service beginning later this year.

Combining Sinclair's and Tribune's portfolio of stations will give the merged entity control over more than 200 full power stations nationwide, with a station or stations in more than 100 markets. The "New" Sinclair will have over 110 stations slated for repacking and over 50 stations vacating the newly created 600 MHz band—making it by far the largest broadcaster engaged in repacking. In addition to broadcast stations, Sinclair also controls Dielectric, the nation's largest television antenna manufacturer, and Acrodyne Services, a television equipment servicing company; and owns numerous broadcasting tower and transmission sites. This massive portfolio of stations and vertically integrated businesses will provide New Sinclair with multiple means to thwart the repacking process in practically every region of the country.

If the Commission nonetheless determines not to deny the application, the Commission must condition any approval on the imposition of a clear and unambiguous obligation on the Applicants to comply with the repacking timetable that the Commission has adopted for their stations; impose substantial penalties for failing to meet this timetable; and forbid the Applicants from requesting any ATSC 3.0-related concessions from carriers in negotiations to accelerate Sinclair's departure from the 600 MHz band.

## **II. STANDARD OF REVIEW**

Pursuant to Section 310(d) of the Communications Act ("the Act"), the Commission must determine whether the proposed transfer of licenses will serve the public interest, convenience,

and necessity.<sup>3</sup> The first step in the analysis is whether the proposed transaction complies with the Act, other applicable statutes, and the Commission’s rules.<sup>4</sup> Only after determining that the transaction complies with applicable law does the Commission consider whether it results in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.<sup>5</sup> Following this analysis, the Commission must then balance any potential public interest harms of the proposed transaction against any potential public interest benefits.

Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction serves the public interest on balance.<sup>6</sup> Specifically, they must demonstrate that the transaction satisfies the “broad aims of the Communications Act,” which includes a deeply rooted preference for preserving and enhancing competition, promoting a diversity of information sources, and services to the public.<sup>7</sup> Furthermore, those benefits must be transaction specific, verifiable, and for the benefit of consumers rather than just the companies.<sup>8</sup> Under

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<sup>3</sup> 47 U.S.C. § 310(d); *see also Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 31 FCC Rcd 6327, 6336 ¶ 26 (2016) (“*Charter-TWC-BrightHouse Order*”); *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4247 ¶ 22 (2011) (“*Comcast-NBCU Order*”).

<sup>4</sup> *See Charter-TWC-BrightHouse Order*, 31 FCC Rcd at 6336 ¶ 26.

<sup>5</sup> *Id.*; *Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, Order, 26 FCC Rcd 16,184, 16,190 ¶ 5 (2011).

<sup>6</sup> *Charter-TWC-BrightHouse Order*, 31 FCC Rcd at 6336-37 ¶ 26; *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9139-40 ¶ 18 (2015) (“*AT&T-DIRECTV Order*”).

<sup>7</sup> *Charter-TWC-BrightHouse Order*, 31 FCC Rcd at 6337 ¶ 27 (quoting *Western Union Division, Commercial Telegrapher’s Union, A.F. of L. v. United States*, 87 F. Supp. 324, 335 (D.D.C. 1949), *aff’d*, 338 U.S. 864 (1949); *Comcast-NBCU Order*, 26 FCC Rcd at 4248 ¶ 23.

<sup>8</sup> *Charter-TWC-BrightHouse Order*, 31 FCC Rcd at 6479-80 ¶ 316-18; *Comcast-NBCU Order*, 26 FCC Rcd at 4331 ¶ 226.

these well-established principles, the Applicants have not met their burden to address the troubling competitive issues raised by the Transaction.<sup>9</sup>

### **III. SINCLAIR HAS THE INCENTIVE TO IMPEDE THE INCENTIVE AUCTION AND A HISTORY OF SEEKING TO DO SO**

Sinclair has long sought to obstruct the incentive auction. Even before the Commission adopted rules for the auction, Sinclair urged that the auction be delayed so that Sinclair could develop and promote its ATSC 3.0 transmission standard.<sup>10</sup> The Commission wisely refused this request, recognizing that the auction needed to go forward to make available the low-band spectrum that carriers needed to bring mobile broadband to rural areas and improve in-building coverage<sup>11</sup>—and to secure “the consumer benefits that stem from multiple providers” gaining access to this spectrum.<sup>12</sup> Sinclair then appealed the Commission’s 39-month repacking schedule to the D.C. Circuit; its challenge was unanimously rejected by the court.<sup>13</sup> Ironically, Sinclair subsequently elected to participate in the auction and was one of the most successful

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<sup>9</sup> As Competitive Carriers Association (“CCA”) notes, if the Commission is unable to find that a proposed transaction serves the public interest for any reason, or if the record presents a substantial and material question of fact, the Commission must designate the applications for a hearing. 47 U.S.C. § 309(e); *see also AT&T-DIRECTV Order*, 30 FCC Rcd at 9139-40 ¶ 18.

<sup>10</sup> *See* Comments of Sinclair Broadcast Group, Inc., GN Docket No. 12-268, at 7 (filed Jan. 25, 2013) (“But a rush to complete the auction and repacking years before the statutory window closes would squander the opportunity for broadcasters to deploy, at their option and to the benefit of the American public, new technology at the time of the repacking.”).

<sup>11</sup> *See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6573 ¶ 13, 6585 ¶ 44 & n.92 (2014) (“*Incentive Auction Report and Order*”).

<sup>12</sup> *Policies Regarding Mobile Spectrum Holdings Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, WT Docket No. 12-269, Report and Order, 29 FCC Rcd 6162-64 ¶¶ 58, 60 (2014).

<sup>13</sup> *See Nat’l Ass’n of Broadcasters v. FCC*, 789 F.3d 165, 180-82 (D.C. Cir. 2015).

reverse auction bidders, with the sale of just three stations bringing gross proceeds of \$313 million.<sup>14</sup>

Despite being a successful bidder in the incentive auction, Sinclair has continued on its obstructionist path, seeking to build pressure to delay the Commission’s repacking process. For instance, Sinclair has chastised the Commission for “perpetuat[ing] the fiction that all stations can be repacked within 39 months according to the repacking plan” and for “not provid[ing] a mechanism to address the impact of inevitable failures to meet the prescribed timelines.”<sup>15</sup> In addition, Sinclair has expressed that “[b]y failing to acknowledge and expressly provide for delays, the Commission is setting up a [repacking] process that will take much longer than one that starts with a candid acknowledgement of what is possible. Without a plan for the inevitable failures, any significant failure is likely to cascade into a sequence of additional and more significant problems over time.”<sup>16</sup> Statements such as these, before even one station has been transitioned, provide little hope that Sinclair will adopt a cooperative or constructive posture in meeting the Commission’s 39-month timeline to repack the television band.

Sinclair’s substantial investment in ATSC 3.0 gives it a strong incentive to seek to delay the repacking process. Sinclair has been a strong proponent of ATSC 3.0, having advocated for the last two decades for a digital broadcasting standard that would support both mobile and fixed reception.<sup>17</sup> In fact, Sinclair was the “prime mover” in starting the process to develop a new

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<sup>14</sup> See Press Release, Sinclair Broadcast Group, Inc., Sinclair Announces Results of Spectrum Auction (Feb. 9, 2017), <http://sbgi.net/pr-news/sinclair-announces-results-of-spectrum-auction/>.

<sup>15</sup> Comments of Sinclair Broadcast Group, MB Docket No. 16-306, at 2 (filed Oct. 31, 2016).

<sup>16</sup> Reply Comments of Sinclair Broadcast Group, MB Docket No. 16-306, at 2 (filed Nov. 15, 2016).

<sup>17</sup> See Reply Comments of Sinclair Broadcast Group, Inc., GN Docket No. 16-142, at 1 (filed June 8, 2017) (“Sinclair ATSC 3.0 Reply Comments”).

television broadcast standard. It reportedly holds a handful of patents related to ATSC 3.0,<sup>18</sup> and has invested over \$30 million developing ATSC 3.0 and preparing for its deployment.<sup>19</sup> Sinclair has formed a “Spectrum Consortium” with broadcast group owner Nexstar Media Group, Inc. to deploy ATSC 3.0 television in nearly 100 markets.<sup>20</sup> Univision is also a member of the consortium.<sup>21</sup>

Sinclair’s “all-in” posture on ATSC 3.0 gives it a strong self-interest in using whatever leverage it has to promote the adoption of this standard. Delays in repacking offer Sinclair the opportunity to press the Commission to devote more of the TV Broadcaster Relocation Reimbursement Fund to compensate stations for the purchase of ATSC 3.0 equipment.<sup>22</sup>

Sinclair could also engage in “hold out” tactics by resisting carrier efforts to expedite repacking of Sinclair stations unless the carrier agreed to incorporate the ATSC 3.0 standard into its

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<sup>18</sup> See John Eggerton, *Sinclair Powering Up for ATSC 3.0*, BROADCASTING & CABLE (Apr. 19, 2017, 2:04 PM), <http://www.broadcastingcable.com/news/washington/sinclair-powering-at-sc-30/165038>; see also *Developments on ATSC 3.0 ‘Advancing Very Quickly,’ Sinclair CEO Says*, COMMUNICATIONS DAILY (Feb. 25, 2016) (“The Internet protocol ‘opportunity’ of ATSC 3.0 ‘is fairly straightforward -- we own it, so it’s ours,’ Smith said in answering an analyst’s question about how Sinclair plans to ‘monetize’ ATSC 3.0 and the potential windfall for the company if ATSC 3.0 commercially is widely adopted.”).

<sup>19</sup> Sinclair ATSC 3.0 Reply Comments at 1-2.

<sup>20</sup> *Sinclair Broadcast And Nexstar Media Announce Agreement On Market Transition From ATSC 1.0 To ATSC 3.0 “NextGen” Services*, PR NEWswire (July 20, 2017, 2:15 PM), available at <http://www.prnewswire.com/news-releases/sinclair-broadcast-and-nexstar-media-announce-agreement-on-market-transition-from-at-sc-10-to-at-sc-30-nextgen-services-300491754.html>.

<sup>21</sup> *Univision Local Media Joins the Sinclair and Nexstar Consortium to Promote Broadcast Spectrum Aggregation, Innovation and Monetization*, PR NEWswire (June 1, 2017, 4:15 PM), available at <http://www.prnewswire.com/news-releases/univision-local-media-joins-the-sinclair-and-nexstar-consortium-to-promote-broadcast-spectrum-aggregation-innovation-and-monetization-300467431.html>.

<sup>22</sup> To date, however, the Commission has been clear that the development and deployment of ATSC 3.0 will not in and of itself be eligible for reimbursement. See *Incentive Auction Report and Order*, 29 FCC Rcd at 6822 ¶ 624 & n.1752 (“We do not . . . anticipate providing reimbursement for new, optional features in equipment unless the station or MVPD documents that the feature is already present in the equipment that is being replaced. . . . For example, a station whose current antenna or other facilities contain components enabling the transmission of ATSC Mobile/Handheld signals and that reasonably incurs the cost to replace this equipment may claim reimbursement for replacement equipment with mobile capability. A station that does not have mobile capability, however, may not claim reimbursement for the cost of adding that capability in its replacement equipment.”).

customer and network equipment.<sup>23</sup> And Sinclair has announced plans to use ATSC 3.0 to launch a wireless over-the-top service<sup>24</sup> that would directly compete with other facilities-based video providers, including T-Mobile and other forward auction winners, thus providing Sinclair with an additional incentive to delay T-Mobile's access to its newly acquired 600 MHz spectrum.

But any effort to tie ATSC 3.0 with the repacking of 600 MHz spectrum would harm the public interest by introducing an unjustifiable complication for the sole benefit of a single company pushing its own patented technology. As the Commission has found, ATSC 3.0 and the repacking process are completely unrelated. While T-Mobile has no objection to broadcaster development of ATSC 3.0 technology on a voluntary basis, the technology is still in development, with no line of sight to end user devices or the even more difficult proposal to include the technology in future wireless mobile devices. And regardless of how close ATSC 3.0 is to becoming a deployable commercial technology, it must not be allowed to delay or hold hostage the 600 MHz broadcast relocation and postpone the introduction of new wireless broadband services to the public.

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<sup>23</sup> Sinclair has already sought to pressure mobile phone manufacturers directly. See Phil Kurz, *Sinclair Free Chips Offer Key to Mobile Future*, TVNEWSCHECK (May 25, 2017, 11:11 AM), <http://www.tvnewscheck.com/article/104413/sinclair-free-chips-offer-key-to-mobile-future> (reporting that “Mark Aitken, Sinclair VP of advanced technology, offered 1 million ATSC 3.0 receiver chips designed for mobile applications at no charge to any cellphone maker that would commit to adding them to their devices.”).

<sup>24</sup> See Felix Gillette, *The Sinclair Revolution Will Be Televised. It'll Just Have Low Production Values*, BLOOMBERG BUSINESSWEEK (July 20, 2017, 5:00 AM), <https://www.bloomberg.com/news/features/2017-07-20/the-sinclair-revolution-will-be-televised-it-ll-just-have-low-production-values> (reporting Sinclair's plans to “deliver a wireless bundle of 25 to 30 channels”).

#### IV. THE SIZE AND SCOPE OF NEW SINCLAIR WILL ENHANCE ITS ABILITY TO DELAY THE REPACKING PROCESS

Following its acquisition of Tribune, Sinclair would be the largest broadcasting group in the country. It would own more than 200 full power stations nationwide, with properties in more than 100 markets, including at least one station in some of the nation's largest media markets, such as New York, Los Angeles, and Chicago.<sup>25</sup> "New" Sinclair also would gain at least one additional station in Washington D.C., Denver, and New Orleans,<sup>26</sup> increasing the over twenty markets where Sinclair currently owns multiple stations.<sup>27</sup> Moreover, as a result of the Commission's decision in April 2017 to reinstate the UHF discount,<sup>28</sup> New Sinclair would be able to reach 72 percent of television households following the close of the transaction,<sup>29</sup> far exceeding the current 39 percent national ownership cap. Additionally, New Sinclair will have over 110 stations slated for repacking and over 50 stations vacating the newly created 600 MHz band—making it by far the largest broadcaster engaged in repacking.

Even if "New" Sinclair is held to the Commission's current media ownership rules, its holdings will be sweeping in geographic scope. With this vast array of broadcast stations under its control, "New" Sinclair would have substantial leverage in the repacking process. As the

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<sup>25</sup> See Robert Channick, *Sinclair to buy WGN owner Tribune Media for \$3.9 billion plus debt*, CHICAGO TRIBUNE (May 8, 2017, 4:57 PM), <http://www.chicagotribune.com/business/ct-sinclair-acquires-tribune-media-0509-biz-20170508-story.html>.

<sup>26</sup> See Comprehensive Exhibit at 14-15.

<sup>27</sup> See Sinclair Broadcasting Group, Inc., Annual Report (10-K) at 7-8 (Feb. 28, 2017) ("Sinclair 2016 10-K").

<sup>28</sup> See *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No. 13-236, Order on Reconsideration, 32 FCC Rcd 3390, 3390-91, ¶¶ 1-2 (2017) (reinstating the rule under which only 50 percent of the television households in a market area are counted toward the audience reach of a UHF station for purposes of the national ownership cap of 39 percent).

<sup>29</sup> See Diana Marszalek, *Sinclair Inks Deal to Buy Tribune for \$3.9B*, BROADCASTING & CABLE (May 8, 2017, 9:05 AM), <http://www.broadcastingcable.com/news/local-tv/sinclair-inks-deal-buy-tribune-39b/165584>.

Commission has explained, repacking must take into account the complex interference relationships among television stations in adjacent markets (the “daisy-chain”).<sup>30</sup> These daisy-chains “can intersect and overlap,” creating a complex daisy-chain involving hundreds of stations that are interdependent on one another for a successful transition onto post-auction channels.<sup>31</sup> Given this tight interrelationship, a delay by one station group, or even one station, could jeopardize the entire repacking process. Sinclair has ample *incentive* to delay repacking, and a track record of seeking to do so, as explained above. This Transaction would give it even greater *ability* to impede repacking in key markets that could reverberate throughout the country.

As CCA demonstrates,<sup>32</sup> Sinclair also has the power to delay repacking through its control of Dielectric LLC, which supplies more than two-thirds of the TV industry’s high power antennas to Sinclair and its broadcast competitors. Approval of the Transaction would likely increase Dielectric’s market share by making it the sole supplier to Tribune, potentially setting back Tribune’s pre-merger efforts to acquire equipment for the repack from other sources. Sinclair has already indicated that it expects Dielectric to “be critical in the repack of the broadcast spectrum for both our stations and other broadcasters.”<sup>33</sup> This accumulation of market power would threaten a range of anticompetitive unilateral effects, such as slowing down the post-auction repack, and foreclosing other non-integrated broadcasters (and, potentially, wireless carrier) rivals from acquiring critical resources necessary to compete with Sinclair.

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<sup>30</sup> See *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan*, MB Docket No. 16-306, Public Notice, 31 FCC Rcd 10,802, 10,819, App. A ¶ 1 (2016).

<sup>31</sup> See *id.* at 10,822-23 ¶ 14.

<sup>32</sup> Petition to Deny of Competitive Carriers Association, MB Docket No. 17-179 (filed Aug. 7, 2017).

<sup>33</sup> Sinclair 2016 10-K at 18.

Sinclair's and Tribune's extensive tower ownership network is also another potential weapon that Sinclair can use to delay the transition. Sinclair owns towers that lease to other broadcasters and is also a tenant on towers owned by other broadcasters; Tribune owns numerous towers in its own capacity. In some markets, Tribune and Sinclair stations are located in close proximity but on separate towers. One of the potential synergies of the transaction is lowering New Sinclair's operating costs by consolidating stations onto a single tower, when possible, but New Sinclair could also use its control over tower ownership to delay the repack by depriving a repacking station of its current location through the consolidation of transmission sites or refusal to renew tenant leases for broadcasters that currently share a Sinclair site. Even when neither a Sinclair nor Tribune station are subject to repacking in a market, Sinclair has the potential to delay the transition of hosted stations on Sinclair towers.

This concern is more than simply theoretical. The Commission already is on notice that the transition process for the University of North Carolina's station, WUNF, has been delayed because the Sinclair-owned site on which it resides has been rendered inaccessible by Sinclair's failure to perform necessary maintenance and comply with safety regulations.<sup>34</sup> WUNF is a key part of Linked Station Set #40, a group of 98 stations that must coordinate their channel repacking in Phase 5 of the transition. Any delay of WUNF's transition could impact all of the stations in Phase 5 and other stations in later phases. WUNF's filing makes clear that even

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<sup>34</sup> See "Unable to Construct" Waiver Request, University of North Carolina, WUNF-TV (File No. 0000024877). At the Mt. Pisgah transmission site where UNC's WUNF transmission site is located, Sinclair has operated a cable car, also known as a funicular, without state safety authorization. In January 2015, a Sinclair employee was stranded on Mt. Pisgah in two feet of snow because the funicular broke down, prompting a search and rescue operation involving the National Guard. *Id.* at 3; see also Mike Cronin, *State: Tram to Pisgah tower operating without permit*, CITIZEN-TIMES (updated Feb. 19, 2016, 6:50 AM) <http://www.citizen-times.com/story/news/local/2016/02/18/use-mount-pisgah-cablecar-involved-last-months-rescue-may-have-violated-state-shutdown-order-search-and-rescue-mount-pisgah-wlos-news-13-sinclair-broadcast-group-emergency-management/80548616/> and Mike Cronin, *NC: WLOS tram 'likely to cause death,'* CITIZEN-TIMES (updated Sept. 1, 2016, 7:13 AM), <http://www.citizen-times.com/story/news/local/2016/08/31/nc-wlos-tram-likely-cause-death/89542566/>.

though Sinclair’s facility failed more than two-and-a-half years ago, Sinclair has yet to remedy the problem, perhaps in expectation that the reimbursement fund would cover Sinclair’s maintenance expense.

**V. THE PUBLIC INTEREST WILL BE HARMED IF SINCLAIR DELAYS OR IMPEDES THE REPACKING PROCESS**

Delaying the repacking process will harm the public interest by denying consumers—especially those in rural and underserved areas— access to a new class of innovative wireless services.<sup>35</sup> With its newly acquired 600 MHz spectrum, T-Mobile will be able to improve the customer experience by “expand[ing] its LTE network to compete in every corner of the country . . . and increase[ing] capacity to meet [the] growing demand for mobile data,” all of which will provide consumers with even greater access to innovative mobile applications and wireless solutions.<sup>36</sup> In fact, over a year ago, T-Mobile began to lay “the foundation for accelerated broadband deployment” by investing in the necessary equipment “to clear the 600 MHz band within” 39 months.<sup>37</sup> The highly favorable propagation characteristics of 600 MHz spectrum and the current repacking schedule offer “the most promising means available to accelerate and expand wireless broadband” to “the hundreds of thousands of square miles of rural and remote

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<sup>35</sup> See Press Release, T-Mobile, T-Mobile’s New 600 MHz Network Rollout Begins This Summer (June 15, 2017), <https://newsroom.t-mobile.com/news-and-blogs/t-mobiles-new-600-mhz-network-rollout-begins-this-summer.htm>.

<sup>36</sup> Press Release, T-Mobile, T-Mobile’s Spectrum Haul is a Game Changer for Wireless Consumers (Apr. 13, 2017), <https://newsroom.t-mobile.com/news-and-blogs/tmobile-spectrum-auction-win.htm>.

<sup>37</sup> See Letter from Steve B. Sharkey, Vice President, Government Affairs, T-Mobile, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2 (MB Docket No. 16-306, filed July 17, 2017); see also Press Release, T-Mobile, *supra* note 35.

portions of the country where residents may have never had wireless broadband connections or where competition is limited.”<sup>38</sup>

This is precisely what the Commission sought to accomplish when it crafted the structure of the incentive auction. Specifically, it wanted to “meet the Nation’s accelerating spectrum needs” and provide consumers with “more robust wireless services and applications” to spur job creation and economic growth.<sup>39</sup> The 39-month deadline for the repacking process is a critical element in fulfilling these objectives. It balanced the needs of broadcasters for sufficient time to relocate to their new post-auction channels with the need to avoid “depress[ing]... the value of investments made by forward auction winners” or “delay[ing] the launch of innovative services and caus[ing] uncertainty both for [wireless] providers and consumers.”<sup>40</sup> Indeed, forward auction bidders relied on that deadline in formulating their bids and bidding strategy. The Transaction must not be allowed to go forward if it will jeopardize this schedule.

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<sup>38</sup> See Letter from Steve B. Sharkey, Vice President, Government Affairs, T-Mobile, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2 (MB Docket No. 16-306, filed Aug.4, 2017).

<sup>39</sup> *Incentive Auction Report and Order*, 29 FCC Rcd at 6569-70 ¶ 1.

<sup>40</sup> *Id.* at 6799-6800, 6801 ¶¶ 568-69, 572.

## VI. CONCLUSION

The Transaction poses significant risks to the success of the post-incentive auction repack, which in turn will harm consumers and frustrate the competitive goals of the auction. If the Commission nonetheless determines not to deny the application, the Commission must adopt conditions to address the risks described above: the imposition of a clear and unambiguous obligation on the Applicants to comply with the repacking timetable that the Commission has adopted for their stations; the imposition of substantial penalties for failing to meet this timetable; and a prohibition on the Applicants' requesting any ATSC 3.0-related concessions from carriers in negotiations to accelerate Sinclair's departure from the 600 MHz band.<sup>41</sup>

Respectfully submitted,

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August 7, 2017

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<sup>41</sup> T-Mobile also supports the conditions proposed by CCA in its petition to deny.

**CERTIFICATE OF SERVICE**

I, Kathleen O'Brien Ham, hereby certify that, on this 7th day of August, 2017, I caused a copy of the foregoing *Comments of T-Mobile USA, Inc.* to be filed electronically with the Commission through the ECFS system and caused a copy of the foregoing to be served upon the following individuals by First Class or electronic mail:

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\* Denotes service by electronic mail.