

**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

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

T-Mobile USA, Inc. (“T-Mobile”)<sup>1</sup> hereby replies to the Consolidated Opposition to Petitions to Deny (“Joint Opposition”)<sup>2</sup> submitted by Sinclair Broadcast Group, Inc. (“Sinclair”) and Tribune Media Company (“Tribune”) (collectively, “the Applicants”) in the above-captioned proceeding. Applicants characterize as “pure speculation” and “flatly wrong”<sup>3</sup> the concerns of T-Mobile and others that New Sinclair has the ability and incentive to delay the clearing of the 600 MHz band in order to leverage the deployment of ATSC 3.0 transmission standard, but the facts are clear: Sinclair has already demonstrated its willingness to hold the repack hostage to its ATSC 3.0 ambitions.

On June 30, 2017, only a few days after the Applicants filed their transfer of control applications with the Commission, Sinclair’s affiliate, ONE Media 3.0, LLC (“ONE Media”), filed an application with the Commission requesting experimental Special Temporary

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<sup>1</sup> T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

<sup>2</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, Applicants’ Consolidated Opposition to Petitions to Deny (filed August 22, 2017) (“Joint Opposition”).

<sup>3</sup> Joint Opposition at 42-43.

Authority (“STA”) to operate on Channel 41 (632-648 MHz) in Baltimore, Maryland.<sup>4</sup> ONE Media indicated in its application that it was requesting the STA in the Baltimore market, among other reasons, to create a suitable test bed for ATSC 3.0 business modeling and consumer testing, as well as to demonstrate the simulcasting of ATSC 1.0 and 3.0 signals and the technical solutions permitting channel sharing.<sup>5</sup> ONE Media noted in its application that the STA would cause unacceptable interference to WNUV (Channel 40), another Sinclair-owned station<sup>6</sup> that conveniently, agreed to accept any and all interference from the proposed experiment.<sup>7</sup>

But that is not the entire story. Weeks before Sinclair applied for the STA, T-Mobile had contacted Sinclair about the possibility of facilitating the repacking of WNUV ahead of the station’s scheduled transition.<sup>8</sup> Describing the discussions, Sinclair Vice President Mark Aitken noted that “there had been very preliminary discussions” but “no dollars placed on the table yet . . . to provide an incentive to move early.”<sup>9</sup> Instead of engaging in further negotiations, however, Sinclair’s response was to have ONE Media file its STA request—seeking to effectively prolong broadcast transmissions in the 600 MHz band until well into 2019, and thereby substantially hindering T-Mobile’s ability to deploy its 600 MHz spectrum in numerous sites across Maryland, Washington, D.C., Pennsylvania, New Jersey, and Virginia.<sup>10</sup>

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<sup>4</sup> See ONE Media 3.0 LLC, DTS Experimental STA Application, File No. 0000025417, FRN 0024731697 (June 30, 2017).

<sup>5</sup> See *id.*, Experimental License Narrative at 1.

<sup>6</sup> See *id.*, Proposed System Description at 1.

<sup>7</sup> See *id.*, WNUV Interference Agreement.

<sup>8</sup> See Dave Mayo Declaration ¶ 5 (Aug. 29, 2017) (“Mayo Decl.”), attached hereto as Attachment A.

<sup>9</sup> See Phil Kurz, *T-Mobile Enticing Stations to Repack Early*, TVNEWSCHECK (June 8, 2017, 12:18 PM) <http://www.tvnewscheck.com/article/104782/tmobile-enticing-stations-to-repack-early>.

<sup>10</sup> See Mayo Decl. ¶ 6.

Nonetheless, even after ONE Media filled its STA, T-Mobile once again reached out to Sinclair to reengage about the possible transition of WNUV.<sup>11</sup> Sinclair’s reply was that it would not even entertain discussions regarding an early transition for WNUV unless T-Mobile agreed to place ATSC 3.0 technology into its mobile devices,<sup>12</sup> despite T-Mobile’s previous suggestion that Sinclair should discuss the feasibility of adding ATSC 3.0 technology directly with handset vendors.<sup>13</sup> Further, discussions with companies in which Sinclair has an interest or business relationship have been cut off and T-Mobile has been referred to Sinclair for approval of any clearing discussions.<sup>14</sup>

Applicants’ incentives to delay are readily apparent. Delaying repacking prevents T-Mobile and other auction winners from deploying their low-band spectrum until Sinclair is ready to enter the mobile broadband marketplace as a competitor, which it intends to do. As Sinclair has explained in detail,<sup>15</sup> ATSC 3.0 will provide it with “new business opportunities” such as the provision of “many of the service offerings previously limited to wireless carriers.”<sup>16</sup> These offerings include data delivery in which “[b]roadcasters’ competitors ... are the ‘other’ wireless industry players” who are “entrenched, well organized, well-funded, and have mapped out a long-term strategy to dominate the data distribution market.”<sup>17</sup> “[A]rmed” with ATSC 3.0,

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<sup>11</sup> *See id.* ¶ 7.

<sup>12</sup> *See id.*

<sup>13</sup> *See id.*

<sup>14</sup> *See id.* ¶ 8.

<sup>15</sup> Mark Aitken & Mike Simon, *Sinclair’s 3.0 Vision – The Future of Broadcasting* (NAB 2017 Broadcast Engineering and Information Technology Conference, Apr. 22, 2017), <http://sbgi.net/wp-content/uploads/2015/01/Vision-Paper-NAB-2017.pdf>.

<sup>16</sup> *Id.* at 2-3.

<sup>17</sup> *Id.* at 5.

however, broadcasters “pose a significant market disruption to them.”<sup>18</sup> Clearly, Sinclair’s motivation to hinder wireless carriers while it readies ATSC 3.0 is far from the “pure speculation based on little more than conjecture” that Applicants contend.<sup>19</sup>

## CONCLUSION

The proposed 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. Applicants’ efforts to demean T-Mobile’s concerns are contrary to the facts and Sinclair’s own statements. If the Commission nonetheless determines not to deny the above-captioned applications, the Commission must adopt the conditions that T-Mobile proposed in its initial comments.

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<sup>18</sup> *Id.* Sinclair’s plans to enter the mobile broadband space have been widely reported in the trade press. *See* Press Release, Sinclair Broadcast Group, Nexstar Media Group and Sinclair Broadcast Group Establish Consortium to Promote Broadcast Spectrum Aggregation, Innovation and Monetization (Mar. 15, 2017), <http://www.prnewswire.com/news-releases/nexstar-media-group-and-sinclair-broadcast-group-establish-consortium-to-promote-broadcast-spectrum-aggregation-innovation-and-monetization-300424026.html> (“[Sinclair and Nexstar] have entered into a memorandum of understanding regarding the establishment of a consortium that will promote spectrum aggregation, innovation and monetization and enhance their abilities to compete in the wireless data transmission sector.”); Deborah D. McAdams, *Sinclair and Nexstar Form ATSC 3.0 Spectrum Consortium*, TVTECHNOLOGY (Mar. 15, 2017), <http://www.tvtechnology.com/atsc3/0031/sinclair-and-nexstar-form-atsc-30-spectrum-consortium/280568> (“The consortium will promote innovation and develop and explore products and services associated with ATSC 3.0 and monetization opportunities such as spectrum utilization, virtual MVPD platforms, multicast channels, automotive applications, single-frequency networks and wireless data applications, among others.”); Jeff Baumgartner, *CES 2017: Why Sinclair Has the Hots for ATSC 3.0*, MULTICHANNEL NEWS (Jan. 5, 2017, 7:00 AM), <http://www.multichannel.com/blog/bauminator/ces-2017-why-sinclair-likes-atsc-30/409972> (indicating that Sinclair’s CEO, Chris Ripley, believes in ATSC 3.0 because “[i]t’s a mobile-first standard. With TV viewership continuing to shift outside the big screen, it’s vital to have a pipe that can reach directly into mobile devices.”).

<sup>19</sup> Joint Opposition at 45-46.

Respectfully submitted,

/s/ Kathleen O'Brien Ham

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August 29, 2017

# **ATTACHMENT A**

## **DECLARATION OF DAVE MAYO**

I, Dave Mayo, being over 18 years of age, swear and affirm as follows:

1. I make this declaration using facts of which I have personal knowledge or based on information provided to me in connection with my involvement in the repacking process for T-Mobile USA, Inc. (“T-Mobile”).
2. I am currently the Senior Vice President–Chief of Network Planning, and have held this position and other Senior Vice President roles in the technical organization at T-Mobile for the last decade. I have been with the business, including predecessor companies VoiceStream Wireless and Western Wireless, for twenty one years and served in various management capacities in the technical organization. In my capacity as Senior Vice President, I have overall responsibility for T-Mobile’s business management responsibility for over \$12 billion in capital and operating costs, and for developing and driving strategic initiatives, including management of key infrastructure vendor relationships, backhaul re-engineering, and national development programs.
3. In the Federal Communications Commission’s recently-concluded incentive auction, T-Mobile won 1,500 600 MHz band licenses covering the entire United States by bidding almost \$8 billion. T-Mobile has already announced plans to aggressively deploy the 600 MHz spectrum and is preparing to provide service beginning later this year using this spectrum.
4. Since May of 2016, I have met twice with David Smith, the CEO of Sinclair Broadcast Group, Inc. (“Sinclair”) and we have discussed T-Mobile’s desire to accelerate broadcaster relocation to free up spectrum for accelerated wireless broadband rollouts. The first meeting was in Portland, Maine in connection with a visit to Dielectric on May 26, 2016. The second meeting was at the National Association of Broadcasters meeting in Las Vegas, Nevada on April 25, 2017.

5. In May 2017, T-Mobile contacted Sinclair about the possibility of facilitating the repacking of WNUV located in Baltimore, Maryland ahead of the station's scheduled transition. T-Mobile and Sinclair representatives subsequently met to discuss this matter, but the discussions were inconclusive.

6. Less than six weeks after that exchange, Sinclair's affiliate, ONE Media 3.0, LLC ("ONE Media") filed an application for Special Temporary Authorization ("STA") that would prolong its occupation of Channel 41 in Baltimore, and by extension deprive T-Mobile of the use of the 600 MHz spectrum currently assigned to WNUV on adjacent Channel 40, until the term of the STA expires in 2019. Sinclair did not provide T-Mobile with any advance notice of this filing. While the Commission has taken no action on the application to date, the effect of the STA, if granted, would be to significantly delay T-Mobile's ability to deploy its 600 MHz spectrum in numerous sites across Maryland, Washington, D.C., Pennsylvania, New Jersey, and Virginia.

7. Shortly after the filing of ONE Media's STA, T-Mobile reached out to Sinclair to reengage regarding the early transition of WNUV. Sinclair representatives replied to T-Mobile's request to reengage on WNUV in an email stating that Sinclair would not entertain discussions regarding an early transition for WNUV unless T-Mobile agreed to place ATSC 3.0 technology into its mobile devices, notwithstanding earlier discussions in which we suggested that Sinclair discuss the feasibility of adding ATSC 3.0 technology directly with handset vendors.

8. In addition to Sinclair directly tying discussions of repacking to T-Mobile's acceptance of ATSC 3.0, discussions with companies in which Sinclair has an interest or business relationship have been cut off and T-Mobile has been referred to Sinclair for approval of any clearing discussions.

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The foregoing declaration has been prepared using facts of which I have personal knowledge or based upon information provided to me. I declare under penalty of perjury that the foregoing is true and correct to the best of my current information, knowledge, and belief.

Executed on August 29, 2017

DocuSigned by:  
*Dave Mayo*  
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Dave Mayo  
Senior Vice President–Chief of Network  
Planning  
T-MOBILE USA, INC.

**CERTIFICATE OF SERVICE**

I, Kathleen O'Brien Ham, hereby certify that, on this 29th day of August, 2017, I caused a copy of the foregoing *Reply 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 electronic mail:

Mace Rosenstein Covington & Burling LLP One City Center 850 Tenth Street, NW Washington, DC 20001-4956 mrosenstein@cov.com <i>Counsel for Tribune Media Company</i>	Miles S. Mason Pillsbury Winthrop Shaw Pittman LLP 1200 Seventeenth Street, NW Washington, DC 20036 Miles.Mason@pillsburylaw.com <i>Counsel for Sinclair Broadcast Group, Inc.</i>
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/s/ Kathleen O'Brien Ham  
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