

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

In the Matter of)	
)	
Applications of Sinclair Broadcast Group)	MB Docket No. 17-179
and Tribune Media Company)	
For Consent to Assign or Transfer)	
Control of Licenses and Authorizations)	
)	

**Reply Comments of
Communications Workers of America
National Association of Broadcast Employees and Technicians – CWA
The NewsGuild – CWA**

Brian Thorn
Debbie Goldman
Charlie Braico
501 Third Street NW
Washington, DC 20001
(202) 434-1194 (phone)
(202) 434-1201 (fax)
dgoldman@cwa-union.org

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The Communications Workers of America (CWA), the National Association of Broadcast Employees and Technicians-CWA (NABET-CWA), and The NewsGuild-CWA (TNG-CWA) submit these Reply Comments in response to the Federal Communications Commission's (Commission) *Public Notice* regarding the applications of Sinclair Broadcast Group (Sinclair) and Tribune Media Company (Tribune) (collectively Applicants) to transfer control of 42 television stations in 33 markets, as well as WGN America, WGN Radio, and a 31 percent stake in Food Network from Tribune to Sinclair.¹ CWA represents 700,000 workers in telecommunications and information technology, the airline industry, news media, broadcast and cable television, education, health care and public service, manufacturing, and other fields. We have an interest in this proceeding as representatives of Sinclair and Tribune employees, as workers in the broadcast and media industries, and as consumers of broadcast media.

The Commission should deny the Sinclair-Tribune application. A merger between Sinclair and Tribune would reduce viewpoint diversity and competition, harm localism, and reduce jobs. Applicants have a responsibility to demonstrate "the public interest, convenience, and necessity will be served by the transfer."² To evaluate the application, the Commission's public interest analysis embodies a "deeply rooted preference for preserving and enhancing competition in relevant markets [...] and ensuring a diversity of information sources and services to the public."³ The applicants fail to demonstrate in their initial application and in their subsequent opposition to petitioners that any purported merger-related benefits exceed the substantial harm to competition, diversity, localism, and the public interest that would result.

¹ 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); Applications of Sinclair Broadcast Group and Tribune Media Company for Consent to Transfer Control of Licenses and Authorizations, Comprehensive Exhibit (filed July 19, 2017). (Sinclair-Tribune Application).

² 47 USC §310(d).

³ See Applications of Comcast Corporation, General Electric Company and NBC Universal for Consent to Assign Licenses and Transfer Control of Licenses, Memorandum Opinion & Order, MB Docket No. 10-56, p. 11 (2011).

The Commission has repeatedly stated and Courts have repeatedly affirmed that media consolidation reduces viewpoint diversity.⁴ Structural rules to promote diverse ownership are essential to preserving the free flow of ideas and information that is essential to democracy. In 1985, the Commission determined that a national television audience reach limit was necessary to protect localism, competition, and viewpoint diversity. Eleven years later, Congress directed the Commission to increase the national audience reach cap from 25 to 35 percent, and in 2004 directed the Commission to set the cap at 39 percent of national television households, where the limit remains today.⁵ A merged Sinclair-Tribune would result in a broadcasting behemoth, owning and operating 223 television stations in 108 markets, including 39 of the top 50 markets.⁶ Sinclair’s footprint would expand to reach 72 percent of US television households, violating the limit by 33 percent.⁷ Even if one calculates national audience reach using the Commission’s technically obsolete UHF discount, the merged company would still violate the

⁴ See *Sinclair Broadcast Group v. FCC*, 284 F.3d 148 (DC Circuit 2002) (“In *Sinclair*, the Court of Appeals noted that ownership limits encourage diversity in the ownership of broadcast stations, which can in turn encourage a diversity of viewpoints in the material presented over the airwaves. The court added that diversity of ownership as a means to achieving viewpoint diversity has been found to service a legitimate government interest...”); Notice of Proposed Rulemaking, *In the Matter of 2002 Biennial Regulatory Review-Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Cross-Ownership of Broadcast Stations and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets*; MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No. 01-317, MM Docket No. 00-244, (adopted Sept. 12, 2002). See also *Turner Broadcasting System v. FCC*, 512 U.S. 622, 662 (1994) (“The Supreme Court has determined that ‘promoting the widespread dissemination of information from a multiplicity of sources’ is a government interest that is not only important, but is of the ‘highest order,’ Notice, 11 (quotation marks omitted); *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, 16 FCC Rcd 19861, 19877 (2001) (“Commission policy presumes that multiple owners are more likely to provide ‘divergent viewpoints on controversial issues,’ which the Commission has stated is essential to democracy.”).

⁵ See *Amendment of Section 73.35555 of the Commission’s Rules relating to Multiple Ownership of AM, FM, and Television Broadcast Stations*, Memorandum Opinion and Order, 100 FCC 2d 74, 87-92 (1985); Telecommunications Act of 1996, Pub. L. No. 104-04 § 202(c)(1), 110 Stat. 56, 111 (1996); Consolidated Appropriations Act, 2004, Pub. L. No. 108-199 § 629, 118 Stat. 3, 99-100 (2004); 47 CFR § 73.3555(e)(1): “No license for a commercial television broadcast station shall be granted, transferred or assigned to any party (including all parties under common control) if the grant, transfer or assignment of such license would result in such party or any of its stockholders, partners, members, officers or directors having a cognizable interest in television stations which have an aggregate national audience reach exceeding thirty-nine (39) percent.”

⁶ Sinclair-Tribune Application, 4-6.

⁷ *Ibid.* See also Petition to Deny of Free Press, MB Docket 17-179 (Aug. 7, 2017), p. 4-5.

national audience reach cap by almost seven percent.⁸ In addition to the national audience reach cap, the Commission has local television ownership rules, which promote the “bedrock” goals of serving a “vital public interest by promoting competition and diversity in mass media.”⁹ A merged Sinclair-Tribune would result in 12 additional duopolies in violation of the Commission’s duopoly rule.¹⁰ In addition to these rule violations, Sinclair has been a leader in joint service agreements (JSAs) and shared service agreements (SSAs). In essence, these agreements are consolidation by another name. As Free Press notes, JSAs and SSAs “effectively subvert public interest-based media ownership limitations, allowing the larger broadcaster in such agreements to exert significant control over stations while a shell or sidecar corporation maintains nominal ownership.”¹¹ The practical result of JSAs and SSAs is that there are fewer stations producing news, fewer TV stations competing to present a diversity of viewpoints, fewer broadcast station employees, fewer journalists, and less time devoted to local news coverage. In 2015, Sinclair had 44 sharing agreements across the 162 broadcast stations it owned. If the merger is approved, Sinclair would have a controlled duopoly or sidecar arrangement in 63 television markets, or almost 60 percent of the merged company’s total markets.¹² Any one of these media consolidation issues should be enough to concern the Commission. Taken together, they present a clear and significant threat to viewpoint diversity and competition.

Furthermore, the proposed merger would harm localism, particularly within poor and minority communities that disproportionately rely on over-the-air television broadcasting.

Sinclair subscribes to a corporate-driven, top-down editorial style that harms localism. By its

⁸ The UHF discount was adopted in 1984 to help accurately implement the national TV ownership cap. The discount allowed TV broadcasters to count UHF stations at 50 percent when calculating the broadcast owners’ ability to reach households across the country. It was intended to account for technical differences between UHF and VHF stations. But today, after the digital TV transition, the technical disparity that the discount addressed no longer exists.

⁹ 47 CFR § 73.3555(b); FCC, *Report and Order*, Docket No. 91-221 (rel. Aug. 6, 1999), p. 5.

¹⁰ Sinclair-Tribune Application, p. 1.

¹¹ See Petition to Deny of Free Press, MB Docket 17-179 (Aug. 7, 2017), p. 13.

¹² *Ibid.*, p. 14-15.

own admission, Sinclair engages in “central casting” to cut costs.¹³ Central casting is the act of substituting centrally originated programming for local programming, undercutting localism by forcing stations to cover particular issues in a particular way with a particular viewpoint regardless of local station decisions.¹⁴ This is long-standing practice at Sinclair.¹⁵ It is antithetical to the Commission’s localism principle. Despite the revolution in methods of news consumption, local broadcast remains vitally important. According to the Pew Research Center, television remains the “dominant screen” for news consumption, with 57 percent of Americans reporting they often watch TV to get their news.¹⁶ Further, about 23 million American households watch the local evening news and 12 million view early morning local news, according the Pew Research Center.¹⁷ Given the critical role that broadcast news continues to play, central casting must-run segments threaten localism and viewpoint diversity, which are essential to an informed citizenry in our democracy. And, according to a National Association of Broadcaster survey, marginalized communities, including people of color and the poor, are more likely to rely on over-the-air television programming. As a result, these communities will be disproportionately impacted by the reduction in localism and Sinclair’s corporate-driven editorial model.¹⁸

¹³ See Comments of Sinclair Broadcast Group, Broadcast Localism, MB Docket No. 04-233 (filed Apr. 28, 2008).

¹⁴ Jim Rutenberg with Micheline Maynard, “TV News That Looks Local, Even if It’s Not,” *The New York Times* (June 2, 2003). Available at: <http://www.nytimes.com/2003/06/02/business/tv-news-that-looks-local-even-if-it-s-not.html>; Jeffrey Layne Blevins, “Sinclair’s proposed purchase of Tribune Media is bad news for Des Moines, AZ Central (June 29, 2017). Available at: <https://www.azcentral.com/story/opinion/columnists/2017/06/29/sinclairs-proposed-purchase-tribune-media-bad-news-des-moines/439884001/>

¹⁵ NABET-CWA staff who represent Sinclair bargaining units report that for the last 17 years Sinclair management requires local stations to run editorials generated from corporate headquarters in Baltimore, MD.

¹⁶ Amy Mitchell, Jeffrey Gottfried, Michael Barthel, & Elisha Shearer, *The Modern News Consumer: News attitudes and practices in the digital era*, Pew Research Center (July 2016). Available at: <http://www.journalism.org/2016/07/07/pathways-to-news/>

¹⁷ Katerina Eva Matsa, *State of the News Media 2016*, Pew Research Center (June 2016). Available at: <https://assets.pewresearch.org/wp-content/uploads/sites/13/2016/06/30143308/state-of-the-news-media-report-2016-final.pdf>

¹⁸ See National Association of Broadcasters, *Over-the-air TV Viewership Soars to 54 Million Americans* (June 2012). Available at: <http://www.nab.org/documents/newsroom/pressRelease.asp?id=2761>

In addition, the proposed merger would likely lead to significant job loss. CWA, NABET-CWA, and TNG-CWA have long opposed JSAs and SSAs, which destroy jobs while diminishing public service.¹⁹ As discussed above, Sinclair has been a leader in joint service and shared service agreements. These agreements result in fewer stations producing news, less time devoted to local news, and also fewer broadcast station employees and journalists. The primary cost-saving in these models is the reduction of employees through the elimination of locally-originated programming at one or more of the affected stations by duplicating (or triplicating) the same programming. CWA previously documented numerous examples of how JSAs and SSAs lead to significant job loss. To cite one example, Fisher Communications – which was subsequently purchased by Sinclair – established a virtual triopoly in Eugene, OR in 2013, shutting down its news operation at KMTR and cutting 31 jobs.²⁰ One former employee described the cuts as a “blood bath.” As Professor Danilo Yanich concluded in a study of local TV news and service agreements: “These arrangements have invariably resulted in a loss of jobs in at least one of the stations involved in the agreement.”²¹ In recent years, Sinclair has been in a job-cutting mode. Over the past decade, Sinclair reduced the number of workers per station by more than eight percent.²² In the first quarter of 2007, Sinclair employed, on average, 48 workers per station. As of December 2016, Sinclair has approximately 8,400 employees working at 191 stations, a ratio of 44 workers per station.

¹⁹ See Comments of Communications Workers of America, The Newspaper Guild, and the National Association of Broadcast Employees and Technicians, MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (filed Aug. 5 2014).

²⁰ Camilla Mortensen, “Joseph Calbreath Speaks Out On KMTR ‘blood bath,’” Eugene Weekly (June 7, 2013). Available at: <http://www.eugeneweekly.com/blog/joseph-calbreath-speaks-out-kmtr-blood-bath>

²¹ Danilo Yanich, *ex parte*, “Local TV News and Service Agreements: A Critical Look,” Docket No. 09-182 (Oct. 24, 2011), p. 102.

²² See Free Press *ex parte*, MB Docket No. 09-182 (2014): “One only need look at Sinclair’s employment levels over the past decade to see that the company has a long track record of laying off workers and reducing the number of staff at each of its stations. In early 2001, Sinclair employed 3,500 workers at its 63 owned or operated stations, or an average of 55.6 jobs per station. By the end of February [2014], that number had declined to 43 workers per station.”

In conclusion, the substantial merger-related harm that would result from a Sinclair-Tribune combination – including massive consolidation in violation of Commission rules, the continued use of JSAs and SSAs to get around media ownership limits, the imposition of central casting to reduce localism and viewpoint diversity, and the associated job loss – simply cannot be resolved by station divestiture. The Applicants’ arrogant and dismissive response to numerous Petitions to Deny from a variety of stakeholders does little to assuage these concerns.²³ Moreover, hundreds of individual broadcast media consumers submitted comments to the Commission, expressing opposition to the proposed merger. The Commission should deny the Sinclair-Tribune application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian Thorn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brian Thorn
Communications Workers of America

²³ See Applicants’ Consolidated Opposition to Petitions to Deny, MB Docket No. 17-179 (filed Aug. 22, 2017).