

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

663

COMMITTEE ON ENERGY AND COMMERCE

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Majority (202) 225-2927  
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August 14, 2017

The Honorable Ajit V. Pai  
Chairman  
Federal Communications Commission  
445 12th Street N.W.  
Washington, D.C. 20554

Dear Chairman Pai:

We write to express our concern regarding reports that suggest favorable treatment of Sinclair Broadcast Group, Inc. (Sinclair) since you became Chairman of the Federal Communications Commission (FCC). These reports raise two overarching questions:

- Whether actions taken by the FCC under your leadership show a pattern of preferential treatment for Sinclair, and
- Whether a series of interactions between your office, the Trump Campaign and Trump Administration, and Sinclair demonstrate inappropriate coordination.

The FCC is an independent agency, and we are sending you this letter amid recent criticism of your commitment to independence as the Chairman of the FCC.<sup>1</sup> Given the press reports on this matter, we wanted to provide you the opportunity to address these reports and ask that you provide answers to our questions at the end of this letter so that we can better assess your actions regarding Sinclair, and recent related actions taken by the FCC.

**I. Since the beginning of the Trump Administration, the FCC has taken a series of swift actions that have benefitted Sinclair.**

The United States has maintained for decades a policy that restricts the number of viewers a single broadcast entity can reach nationwide so that the American public has access

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<sup>1</sup> See, e.g., Brian Fung, *The FCC's independent chair is getting too cozy with the White House, critics say*, Washington Post (June 23, 2017).

to a diversity of local voices over the air. As the largest owner of television broadcast stations in the country, Sinclair had expanded to the limits of these FCC ownership rules. Since taking office, however, you have implemented a series of actions that ease these restrictions and allow Sinclair to expand its reach quickly. You have simultaneously proposed to allow the industry to adopt a new broadcast technology that will likely benefit Sinclair more than any other company.

**a. The FCC eased ownership caps by reinstating the outdated “UHF Discount,” allowing Sinclair to quickly acquire more broadcast stations.**

To ensure the American people have access to multiple voices over the air, Congress capped the number of viewers that any one broadcast entity can reach nationwide.<sup>2</sup> When implementing this cap under older analog technologies, however, the FCC recognized that stations using Ultra High Frequency, or UHF, channels faced technical limitations that prevented them from reaching as many viewers. As such, the FCC did not count these UHF stations as heavily against the nationwide cap.<sup>3</sup> But the switch to digital television technology eliminated this technical difference, and the FCC, under the leadership of the prior FCC Chairman, removed this “UHF Discount” rule in 2016.<sup>4</sup>

Although analysts believed that Sinclair would not be permitted to make a major acquisition without the UHF discount in place, Sinclair nonetheless began exploring purchasing the second largest owner of broadcast stations, Tribune Media Company (Tribune).<sup>5</sup>

A few weeks after reports of this possible transaction, the FCC, under your leadership, took a party-line vote to reinstate the UHF Discount rule,<sup>6</sup> despite your having acknowledged that “our nation’s transition from analog to digital television has eroded the basis for the UHF discount.”<sup>7</sup> Sinclair noted in its recent 10-K filing that your reinstatement of this discount

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<sup>2</sup> 47 CFR § 73.3555(e)(1); Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3 (2004).

<sup>3</sup> 47 CFR § 73.3555(e)(2)(i).

<sup>4</sup> Federal Communications Commission, *Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, Report and Order, MB Docket No. 13-236, at ¶ 28 (rel. Sept. 7, 2016) ([apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-116A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-116A1.pdf)).

<sup>5</sup> Leon Lazaroff, *Tribune Media Rising on Deal Speculation Despite Obstacles to Sale*, TheStreet, Inc. (Mar. 6, 2017).

<sup>6</sup> Federal Communications Commission, *Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, Order on Reconsideration, MB Docket No. 13-236 (rel. Apr. 21, 2017) ([https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-40A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-40A1.pdf)).

<sup>7</sup> Dissenting Statement of Commissioner Pai, *Re: Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, Report and Order,

“would reduce our reach (for FCC purposes) to approximately 24% of U.S. households, which would expand our ability to make televisions [*sic*] station acquisitions in the future.”<sup>8</sup> In May 2017 Sinclair announced, just two weeks after the FCC’s action, that it intended to purchase Tribune<sup>9</sup> – a transaction that would result in a combined company reaching approximately 70 percent of American households.<sup>10</sup>

**b. The FCC established an expedited timeline for its review of the proposed Sinclair-Tribune transaction, allowing Sinclair to grow as quickly as possible.**

Sinclair officially filed its application to merge with Tribune at the end of June.<sup>11</sup> Days later, the FCC established a pleading cycle for the proceeding of just 30 days.<sup>12</sup> Even though the proposed transaction is between the two largest owners of broadcast stations, the FCC set a timeline for public comment that was shorter than the pleading cycles set for previous transactions.<sup>13</sup>

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MB Docket No. 13-236 (rel. Sept. 7, 2016)  
([https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-13-123A4.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-13-123A4.pdf)).

<sup>8</sup> Sinclair Broadcast Group, Inc., Form 10-K, Annual Report, at 15 (Feb. 28, 2017) ([sec.gov/Archives/edgar/data/912752/0000091275217000006/sbgi-20161231x10k.htm](http://sec.gov/Archives/edgar/data/912752/0000091275217000006/sbgi-20161231x10k.htm)).

<sup>9</sup> Alex Sherman, *Sinclair Buys Tribune in \$3.9 Billion Deal, Creating TV Goliath*, Bloomberg (May 7, 2017).

<sup>10</sup> Sydney Ember and Michael J. de la Merced, *Sinclair Unveils Tribune Deal, Raising Worries It Will Be Too Powerful*, New York Times, (May 8, 2017).

<sup>11</sup> *Application of Tribune Media Company and Sinclair Broadcast Group for Consent to Transfer Control of Licenses and Authorizations* (June 26, 2017) ([https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/forms/prod/cdbsmenu.htm?context=25&appn=101759797&formid=315&fac\\_num=22201](https://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbs/forms/prod/cdbsmenu.htm?context=25&appn=101759797&formid=315&fac_num=22201)).

<sup>12</sup> Federal Communications Commission, *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*, Public Notice, MB Docket No. 17-179 (July 6, 2017) ([ecfsapi.fcc.gov/file/07060101701359/DA-17-647A1.pdf](http://ecfsapi.fcc.gov/file/07060101701359/DA-17-647A1.pdf)).

<sup>13</sup> See, e.g., Federal Communications Commission, *Commission Seeks Comment on Application of AT&T and DirectTV to Transfer Control of FCC Licenses and Other Authorizations*, Public Notice, MB Docket No. 14-90 (Aug. 7, 2017) ([apps.fcc.gov/edocs\\_public/attachmatch/DA-14-1129A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1129A1.pdf)); Federal Communications Commission, *Commission Seeks Comment on Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. to Assign and Transfer Control of FCC Licenses*, Public Notice, MB Docket No. 10-56 (Mar. 18, 2010) ([https://apps.fcc.gov/edocs\\_public/attachmatch/DA-10-457A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-10-457A1.pdf)).

Critics assert that the public has received inadequate time to assess and respond to a deal of this magnitude. Within a week of the FCC's action, the agency received a Motion for Extension of Time – along with a request for additional information and documents – from parties with an interest in the proceeding.<sup>14</sup> These parties contend that Sinclair's applications provide “insufficient information for the Commission to validate, let alone quantify, the claimed public interest benefits.”<sup>15</sup>

**c. The FCC approved Sinclair's multimillion dollar deal to purchase stations owned by Bonten Media Group (Bonten), shortly after the FCC revoked a processing guidance that would have required close scrutiny of the transaction.**

The FCC granted the transfer of seven TV licenses from Bonten to Sinclair in various markets across the country,<sup>16</sup> including in markets where Sinclair now holds sharing agreements.<sup>17</sup> Sharing agreements allow a company like Sinclair to manage operational aspects of other stations that it does not own.

The FCC's approval of the Bonten deal came after you directed the Media Bureau to rescind – without explanation – its 2014 guidance on how the FCC scrutinizes license transfer applications that involve sharing agreements between broadcast stations.<sup>18</sup> The 2014 guidance expressed the Media Bureau's concern that entities may essentially control more stations than the FCC's local ownership rules permitted, and outlined how the FCC should scrutinize transactions that include these agreements to ensure they would not risk “impair[ing] the

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<sup>14</sup> Motion of Dish Network, American Cable Association, and Public Knowledge for Additional Information and Documents and Extension of Time, *In the Matter of Application of Tribune Media Company and Sinclair Broadcast Group for Consent to Transfer Control of Licenses and Authorizations*, MB Docket No. 17-179 (Jul. 12, 2017) ([ecfsapi.fcc.gov/file/10712432427229/Motion%20for%20Additional%20Information%20and%20Extention%20of%20Time.pdf](https://ecfsapi.fcc.gov/file/10712432427229/Motion%20for%20Additional%20Information%20and%20Extention%20of%20Time.pdf)).

<sup>15</sup> *Id.* at 1.

<sup>16</sup> Letter from Barbara A. Kreisman, Chief, Video Division, FCC Media Bureau, to Bonten Media Group LLC and Sinclair Television Group, Inc., Re: Application for Consent to Transfer Control of License and Request for Continued Satellite Authority, Application File No. BTCCDT-20170505ABL, DA 17-638 (Jun. 30, 2017).

<sup>17</sup> KBVU JSA, KBVU SSA, and KBVU Option Agreement, Attachment 15, Application for Consent to Transfer License from Bonten Media Group, LLC to Sinclair Television Group, Application File No. BTCCDT-20170505ABL (May 5, 2017).

<sup>18</sup> Federal Communications Commission, Media Bureau, *Rescission of March 12, 2014, Broadcast Processing Guidance Relating to Sharing Arrangements and Contingent Interests*, Public Notice, DA 17-130 (rel. Feb. 3, 2017).



existing licensee's control over station operations and programming" or be "otherwise contrary to the public interest."<sup>19</sup>

The FCC's approval of the Bonten transaction raises important questions, including whether the Commission's staff, without the previous guidance, was able to adequately scrutinize the impact of sharing agreements when reviewing the application. For example, after the Bonten approval, Sinclair now owns one of the five full-power TV stations in the Eureka, CA market,<sup>20</sup> KAEF-TV,<sup>21</sup> but it controls another full-power station, through a Joint Sales Agreement and a Shared Services Agreement, as well as having a purchase option agreement for that station.<sup>22</sup>

As shown by the effect in Eureka, one of the country's smallest TV markets, the FCC's approval of this deal raises questions about whether Sinclair has effectively circumvented the FCC's local TV ownership rules.<sup>23</sup> Other timing questions are also raised given that the FCC made its decision in less than two months after the filing of this \$240 million dollar deal.<sup>24</sup>

**d. The FCC has started a proceeding to allow TV broadcasters to begin using Next Gen TV – a technology whose primary patent-holder is Sinclair.**

In addition to taking steps that allowed Sinclair to quickly expand its reach, the FCC also commenced a proceeding that would allow TV broadcasters – including Sinclair – to use a transmission standard, Next Gen TV, with very few consumer protections in place.<sup>25</sup> Some have raised questions about how consumers will be affected by this proposal,<sup>26</sup> such as

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<sup>19</sup> Federal Communications Commission, Public Notice, *Processing of Broadcast Television Applications Proposing Sharing Arrangements and Contingent Interests*, DA 14-330 (Mar. 12, 2014) ([apps.fcc.gov/edocs\\_public/attachmatch/DA-14-330A1.pdf](http://apps.fcc.gov/edocs_public/attachmatch/DA-14-330A1.pdf)).

<sup>20</sup> TV News Check, TV Station Directory for Eureka, CA (accessed July 24, 2017) (<http://www.tvnewscheck.com/tv-station-directory/dma/192>).

<sup>21</sup> See note 16.

<sup>22</sup> See note 17.

<sup>23</sup> Federal Communications Commission, *FCC's Review of the Broadcast Ownership Rules* (accessed July 13, 2017) ([transition.fcc.gov/cgb/consumerfacts/reviewrules.pdf](http://transition.fcc.gov/cgb/consumerfacts/reviewrules.pdf)).

<sup>24</sup> Sinclair Broadcast Group, Inc., *Sinclair Broadcast Group Announces Agreement to Purchase Bonten Media Group TV Stations*, PR Newswire (April 21, 2017).

<sup>25</sup> Federal Communications Commission, Notice of Proposed Rulemaking, *In the Matter of Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard* (GN Docket No. 16-142) at ¶ 2 (Feb. 23, 2017). [Hereinafter *Next Gen TV NPRM*]

<sup>26</sup> Statement of Commissioner Mignon Clyburn, *Re: Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142 (Feb. 23, 2017).

whether consumers will lose their signal,<sup>27</sup> or whether their viewer data will be monitored without government oversight.<sup>28</sup>

Although the proposal for Next Gen TV came from various broadcast groups, Sinclair is the lead proponent of the technology.<sup>29</sup> For example, ONE Media 3.0, a wholly owned subsidiary of Sinclair,<sup>30</sup> has disclosed that it has at least six patents that are necessary to the Next Gen TV transmission standard.<sup>31</sup> ONE Media 3.0 will provide licenses to those that will need to use the patents to implement the new standard.<sup>32</sup> Reports suggest that the royalties from the licenses for these patents could be worth billions of dollars.<sup>33</sup>

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<sup>27</sup> The FCC is seeking comment on a simulcasting requirement for TV stations that decide to transition to Next Gen TV. The proponents of Next Gen TV have sought the ability to simulcast their existing signal on another broadcast station “serving a substantially similar community of license.” See *Next Gen TV NPRM*, supra n. 25, at ¶ 23. If the Commission adopts the proposal from proponents, some over-the-air consumers may not be able to receive the simulcast signal because they live outside of the other station’s service area. Further, the Commission has sought comment on whether to allow stations to lower the signal quality of simulcast signals (e.g. provide formerly HD signals in standard definition).

<sup>28</sup> Ben Munson, *Sinclair, One Media Will Use ATSC 3.0 to Collect User Data*, Fierce Cable (Nov. 1, 2016) ([fiercecable.com/broadcasting/sinclair-one-media-will-use-atsc-3-0-to-collect-user-data](http://fiercecable.com/broadcasting/sinclair-one-media-will-use-atsc-3-0-to-collect-user-data)); Sinclair Broadcast Group, Inc., *Sinclair and One Media 3.0 Profile Receiver Specifications and User Data*, PR Newswire (Oct. 31, 2016) ([prnewswire.com/news-releases/sinclair-and-one-media-30-profile-receiver-specifications-and-user-data-300354162.html](http://prnewswire.com/news-releases/sinclair-and-one-media-30-profile-receiver-specifications-and-user-data-300354162.html)).

<sup>29</sup> Mike Dano, *With ATSC 3.0, TV Broadcasters Might Try to Steal Some Wireless Business After FCC’s Incentive Auction*, Fierce Wireless (Nov. 9, 2015) ([fiercewireless.com/wireless/atsc-3-0-tv-broadcasters-might-try-to-steal-some-wireless-business-after-fcc-s-incentive](http://fiercewireless.com/wireless/atsc-3-0-tv-broadcasters-might-try-to-steal-some-wireless-business-after-fcc-s-incentive)); John Eggerton, *ONE Media Strikes Deal to Advance ATSC 3.0 Chipsets*, Broadcasting and Cable (Mar. 28, 2017) ([broadcastingcable.com/news/washington/one-media-strikes-deal-advance-atsc-30-chipsets/164463](http://broadcastingcable.com/news/washington/one-media-strikes-deal-advance-atsc-30-chipsets/164463)).

<sup>30</sup> Sinclair Broadcast Group, Inc., *ONE Media 3.0, LLC to Launch Next Generation Broadcast Products and Services*, PR Newswire (Apr. 14, 2016) ([prnewswire.com/news-releases/one-media-30-llc-to-launch-next-generation-broadcast-products-and-services-300251684.html](http://prnewswire.com/news-releases/one-media-30-llc-to-launch-next-generation-broadcast-products-and-services-300251684.html)).

<sup>31</sup> ONE Media LLC ATSC Disclosure Statement and Licensing Declaration (Dec. 10, 2015) ([atsc.org/wp-content/uploads/2015/12/One\\_Media\\_ATSC\\_Patent\\_Disclosure\\_121415.pdf](http://atsc.org/wp-content/uploads/2015/12/One_Media_ATSC_Patent_Disclosure_121415.pdf)).

<sup>32</sup> *Id.*

<sup>33</sup> See, e.g., Doug Halonen, *Billions of \$ At Stake in ATSC Next Gen Effort*, TV News Check (Feb. 18, 2017) ([tvnewscheck.com/article/83062/billions-of-at-stake-in-atsc-nextgen-effort](http://tvnewscheck.com/article/83062/billions-of-at-stake-in-atsc-nextgen-effort)).

**II. Your interactions and the Trump Administration's interactions with Sinclair raise questions about the multiple FCC actions that have directly benefited the company.**

Multiple press reports have suggested a favorable relationship existed between Sinclair and the Trump campaign, and now exists with the Trump Administration. This includes a report involving a meeting with President Trump and Sinclair's Executive Chairman, during which "potential FCC rules changes were discussed."<sup>34</sup>

Reports further indicate that you, as Chairman of the FCC, have personally had a number of interactions both with the Administration and with Sinclair, as discussed below. Taken together, the volume of these interactions raise questions about the objectivity of recent FCC actions befitting Sinclair. Some of these reported interactions include the following:

- **After the election, President Trump reportedly met with the Executive Chairman and former CEO of Sinclair and discussed changing FCC rules to benefit Sinclair.** A news account stated that after the election, President Trump met with David Smith, Sinclair's Executive Chairman and former CEO. According to this report, "potential FCC rule changes were discussed" after President Trump asked Mr. Smith, "What do you need to happen in your business?"<sup>35</sup>
- **Before you became Chairman of the FCC, you reportedly met with then President-elect Trump in New York.** Reports indicate that on January 16 of this year, you met with then-President-elect Trump in New York in a meeting that did not appear on your official calendar.<sup>36</sup>
- **After you became Chairman of the FCC, you reportedly met with President Trump in the Oval Office.** In March, shortly after you became Chairman of the FCC, you met with President Trump in the Oval Office. An FCC spokesperson confirmed that the meeting occurred, but did not indicate what was discussed during the meeting.<sup>37</sup> When asked directly about your meetings with President Trump, you declined to disclose what you discussed with President Trump, saying "I am not at liberty to say."<sup>38</sup>
- **The week after the election, you reportedly attended a company conference for Sinclair's general managers, during which you met with Sinclair's CEO.** A report

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<sup>34</sup> Claire Atkinson and Josh Kosman, *Sinclair is close to buying all of Tribune's TV stations*, New York Post (Mar. 14, 2017).

<sup>35</sup> *Id.*

<sup>36</sup> Margaret Harding McGill, *A peek at Pai's calendar shows post-election agenda*, Politico Pro, Mar. 10, 2017; John Eggerton, *Trump Meets with FCC's Pai*, Broadcasting & Cable (Jan. 17, 2017).

<sup>37</sup> John Eggerton, *Updated: Trump Meets With FCC's Pai in Oval Office*, Broadcasting & Cable (Mar. 6, 2017).

<sup>38</sup> *Pai Declines to Discuss Trump Meetings*, TVNewsCheck (Mar. 8, 2017).

indicates that you attended on November 16, 2016 a Sinclair company summit for general managers at the Four Seasons Hotel in Baltimore.<sup>39</sup> During that event, you reportedly met with Sinclair's then-CEO David Smith.<sup>40</sup>

- **You again met with both the current and former CEO of Sinclair in January.** According to a Politico report, in January of this year, you met with Sinclair's former-CEO, David Smith, as well as the newly-named Sinclair CEO, Chris Ripley.<sup>41</sup>
- **The President's campaign reportedly "struck a deal" with Sinclair to "secure better media coverage."**<sup>42</sup> This arrangement came to light after the election, when Jared Kushner reportedly revealed that in exchange for access to then-candidate Trump and his campaign, "Sinclair would broadcast Trump interviews across the country without commentary."<sup>43</sup> Sinclair representatives have defended this arrangement by claiming that the Clinton campaign was offered the option for extended interviews with local anchors as well, but did not accept.<sup>44</sup>
- **Sinclair hired former Trump Administration official Boris Epshteyn as a commentator and political analyst.** In April, Boris Epshteyn, who was "most recently Special Assistant to The President and Assistant Communications Director for Surrogate Operations for the Executive Office of President Trump," and formerly a "senior advisor to the Trump campaign," joined Sinclair to provide on-air political commentary.<sup>45</sup> Epshteyn's segments are "must-run" programming for Sinclair stations, with nine segments airing per week.<sup>46</sup> One report has criticized the segments

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<sup>39</sup> Todd Shields, *Possible Tribune Suitor Sinclair Woos FCC's Pai on Regulations*, Bloomberg (Mar. 27, 2017).

<sup>40</sup> Margaret Harding McGill, *A peek at Pai's calendar shows post-election agenda*, Politico (Mar. 10, 2017).

<sup>41</sup> *Id.*

<sup>42</sup> Josh Dawsey and Hadas Gold, *Kushner: We struck deal with Sinclair for straighter coverage*, Politico (Dec. 16, 2016).

<sup>43</sup> *Id.* See also, Paul Farhi, *How the nation's largest owner of TV stations helped Donald Trump's campaign*, Washington Post (Dec. 22, 2017) (reporting that Sinclair-owned stations devoted broadcast time to 15 exclusive interviews with then-candidate Trump and also required stations to air "must-run" segments during the stations' morning or evening newscasts that were favorable to then-candidate Trump or that were critical of his opponent).

<sup>44</sup> See note 42.

<sup>45</sup> Cynthia Littleton, *Trump Spokesman Boris Epshteyn Joins Sinclair Broadcast Group as Political Analyst*, Variety (Apr. 17, 2017).

<sup>46</sup> *Id.*



as “propaganda,”<sup>47</sup> and reporting on Sinclair’s selection of “must-run” programming has raised “suggestions that Sinclair pushed right-leaning views.”<sup>48</sup>

We hope this letter will serve as an opportunity to respond to reports suggesting that you have failed to exercise adequate independence as FCC Chairman and that may have resulted in the agency giving unusual and possibly preferential treatment to Sinclair.

In order to provide you an opportunity to respond to these assertions, we ask that you provide answers to the attached list of questions. Your assistance in this matter is greatly appreciated, and we look forward to receiving a response by August 28.

Sincerely,



Frank Pallone, Jr.  
Ranking Member



Mike Doyle  
Ranking Member  
Subcommittee on Communications  
and Technology



Diana DeGette  
Ranking Member  
Subcommittee on Oversight  
and Investigations

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<sup>47</sup> David Zurawik, *Sinclair taking perilous political path with Boris Epshteyn*, Baltimore Sun (July 14, 2017).

<sup>48</sup> Sydney Ember, *Sinclair Requires TV Stations to Air Segments That Tilt to the Right*, New York Times (May 12, 2017).

## ATTACHMENT

### Meetings/Correspondence:

1. In a July 25, 2017 hearing before the Energy and Commerce Committee's Subcommittee on Communications and Technology,<sup>49</sup> you had the following exchange with Ranking Member Pallone:

Q: My question to the Chairman is numerous press accounts have detailed how your policies have benefited Sinclair Broadcast Group. There has also been speculation that the Trump Administration has been in touch with your office about a number of these policies, so I wanted to give you a chance to respond to those allegations, and specifically, can you tell us what the Administration has said – either to you or anyone in your office – about Sinclair or the UHF discount?

A: Thank you for the question Congressman. No one in the White House or the Administration generally has made any representations to me about any FCC proceeding relating to that company. They've not asked me to take any particular action or expressed views on the merits, and certainly not with respect to the UHF discount.

Beyond making "any representations to [you] about any proceeding relating to that company," more specifically, has any White House official in the current Administration discussed Sinclair at all with you? If so, what was discussed?

Has any White House official in the current Administration discussed Sinclair at all with anyone in your office? If so, what was discussed?

2. Please provide a list of all the meetings either you or members of your office have had with representatives of Sinclair, including any lobbyists and lawyers representing Sinclair, since November 8, 2016. Did the Sinclair representatives discuss issues within the FCC's jurisdiction with you? If so, please provide a summary of the issues discussed.
3. Please provide all correspondence between you or members of your office and representatives of Sinclair, including any lobbyists and lawyers representing Sinclair, since November 8, 2016.
4. Have you or members of your office corresponded with representatives of Sinclair, including any lobbyists and lawyers representing Sinclair, since November 8, 2016, using a non-government email account? If so, please provide this correspondence.

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<sup>49</sup> *Oversight and Reauthorization of the Federal Communications Commission: Hearing Before the House Committee on Energy and Commerce, Subcommittee on Communications and Technology*, 115th Congress (July 25, 2017).

5. Please provide a list of any meetings you had with President Trump, or President-elect Trump, since November 8, 2016. Did Mr. Trump discuss issues within the FCC's jurisdiction with you? If these meetings did occur, please provide a summary of the issues discussed. If these meetings did occur, did Mr. Trump discuss Sinclair Broadcast Group with you? If so, please provide a summary of the discussion.

**Next Gen TV:**

6. As discussed above, the FCC has started a proceeding to allow TV broadcasters to begin using Next Gen TV – a technology whose primary patent-holder is Sinclair – amid concerns about how consumers would be affected by the transition. How do you intend to protect consumers so that they do not lose broadcast TV signals as stations transition to Next Gen TV?
7. How do you intend to establish privacy protections for consumer data that will be collected using the Next Gen TV standard?

**Sinclair-Tribune Proposed Merger:**

8. As discussed above, several parties have expressed concerns that the FCC has established a pleading cycle that is too short for the FCC to determine whether the proposed Sinclair/Tribune transaction is in the public interest. How do you intend to ensure that the comment/pleading cycle for the proposed Sinclair/Tribune merger will allow for all interested parties to have adequate time to review, analyze, and comment on issues raised by the proposal?
9. Will you extend the comment/pleading cycle to mirror the time frames provided for in the AT&T-DirecTV merger? If so, please describe your plan. If you will not commit to this measure, please explain the basis for your decision.
10. Did representatives of Sinclair inform you or your office of a possible transaction with Tribune before the FCC voted to reinstate the UHF Discount? If so, please provide a copy of the written request, or a description of the oral request and the date of the relevant meeting or phone call.
11. You established a short timeframe within which the public could comment on Sinclair's proposed transaction with Tribune. Did representatives of Sinclair ever request an expedited FCC review of the proposed transaction, or request that the FCC review the proposed transaction within a particular timeframe? If so, please provide a copy of the written request, or a description of the oral request and the date of the relevant meeting or phone call.

### **Processing Guidance on License Transfer Applications:**

12. Will you start a proceeding for the full Commission's consideration on how the Media Bureau should review license transfer applications with sharing agreements or financial agreements? Specifically, what is your plan to ensure that the Media Bureau has specific procedures to fully evaluate the impact of such transactions on the local markets and consumers? If you do not plan to put these specific procedures in place, please explain your reasons for not doing so.
13. Did the Media Bureau staff evaluate any sharing agreements or financial agreements for stations in the same markets as the stations that Sinclair recently acquired from Bonten?
14. Please provide a list of all pending TV license transfer applications, including data on transferor, transferee, acceptance date, days pending, whether sharing and/or financial agreements are involved, and primary application file numbers.
15. Please provide a list of all TV license transfer applications that have been granted since March 2014, including data on transferor, transferee, acceptance date, granted date, whether sharing and/or financial agreements were involved, and primary application file numbers.

### **Other Potential Proceedings:**

16. In January, you met with Sinclair representatives and Armstrong Williams to discuss Joint Sales Agreement attribution rules.<sup>50</sup> Do you plan to start a proceeding – or include in any Broadcast Ownership Quadrennial Review – a proposal to reverse the current Joint Sales Agreement attribution rule for TV and/or radio stations?
17. Sinclair's CEO recently said to investors, "[w]e do expect this new FCC to tackle the ownership rules," and "[w]e're very optimistic about this new FCC and the leadership of Ajit Pai....we definitely anticipate that more consolidation will happen."<sup>51</sup> Do you plan to start a proceeding – or include in any Broadcast Ownership Quadrennial Review – a proposal to relax the local TV ownership ("duopoly") rule? Do you plan to start a proceeding regarding the national TV ownership cap? If so, when?

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<sup>50</sup> Letter from Colby M. May, Attorney, Howard Stirk Holdings, LLC and Howard Stirk Holdings II, LLC, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Re: Notice of Ex Parte Communication and Support of Expansion of Minority Ownership (Jan. 23, 2017) ([ecfsapi.fcc.gov/file/10123518122404/20170123%20--%20HSH%20Ex%20Parte%20Notice.pdf](https://ecfsapi.fcc.gov/file/10123518122404/20170123%20--%20HSH%20Ex%20Parte%20Notice.pdf)).

<sup>51</sup> See note 39.





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

September 15, 2017

The Honorable Diana DeGette  
U.S. House of Representatives  
2111 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congresswoman DeGette:

Thank you for your letter dated August 14, 2017. Since joining the Commission in May 2012, I have been a strong advocate for maintaining a vibrant and free over-the-air broadcast service in this country. Whether I have been pushing for the revitalization of AM radio or fighting to ensure that broadcast television stations were treated fairly in the incentive auction proceeding, my actions have been motivated by my belief that a strong over-the-air broadcast service advances the public interest. They have not been fueled by a desire to help any particular company.

Since I became Chairman in January 2017, it is certainly true that the FCC's general approach to issues impacting the broadcasting industry has changed. Under its prior leadership, the Commission was generally perceived as being hostile to broadcasters. I make no apologies for the fact that I have charted a different course. And I am pleased that the initiatives we have begun this year, from launching a proceeding to authorize use of the next-generation broadcast television standard to beginning a comprehensive effort to modernize the Commission's media regulations, have drawn support from a wide range of broadcasters associated with a wide variety of ideological perspectives.

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### **Sinclair-Tribune Proposed Merger**

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All transactions involving broadcast entities are also governed by specific structural rules that were created to promote competition, localism, and viewpoint diversity for the benefit of consumers in local markets. When applying these rules, the Commission relies on the attribution rules found in Note 2 to Section 73.3555 of the Commission’s rules, 47 C.F.R. § 73.3555, Note 2. The attribution rules identify specific financial and other corporate interests that confer a level of influence over programming decisions and other core operating functions such that the interest should be considered “ownership” for purposes of compliance with the structural rules. Where an interest is not specifically listed in the attribution rules, the staff looks to precedent in determining whether such relationships should nonetheless be deemed attributable.



In the recent acquisition of Bonten by Sinclair, the staff reviewed the sharing agreements and financial agreements presented in the application, consistent with longstanding Commission practice. Based on this thorough review, the Media Bureau concluded that these agreements did not result in either an unauthorized transfer of control prohibited by Section 310(d) or “attribution” for determining compliance with the numerical ownership restrictions of the local television ownership rule. Accordingly, contrary to demonstrating control over KBVU in circumvention of the local television ownership rule, as stated in your letter, Sinclair’s agreements with KBVU do not rise to the level of attribution or control and are entirely consistent with the Commission’s rules and precedent.

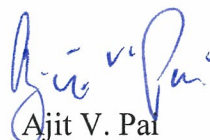
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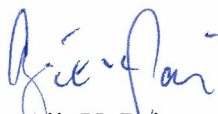
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### **Processing Guidance on License Transfer Applications**

The Commission’s review of all broadcast transactions is governed by both statute and the Commission’s structural ownership rules. Section 310(d) of the Act prohibits the assignment or transfer of control of a license without prior Commission authorization. Thus, all transactions, including all agreements related to the sale of the station, must be evaluated to determine whether control will rest in the proposed buyer and whether the transaction will serve the public interest, convenience, and necessity.

All transactions involving broadcast entities are also governed by specific structural rules that were created to promote competition, localism, and viewpoint diversity for the benefit of consumers in local markets. When applying these rules, the Commission relies on the attribution rules found in Note 2 to Section 73.3555 of the Commission’s rules, 47 C.F.R. § 73.3555, Note 2. The attribution rules identify specific financial and other corporate interests that confer a level of influence over programming decisions and other core operating functions such that the interest should be considered “ownership” for purposes of compliance with the structural rules. Where an interest is not specifically listed in the attribution rules, the staff looks to precedent in determining whether such relationships should nonetheless be deemed attributable.

In the recent acquisition of Bonten by Sinclair, the staff reviewed the sharing agreements and financial agreements presented in the application, consistent with longstanding Commission practice. Based on this thorough review, the Media Bureau concluded that these agreements did not result in either an unauthorized transfer of control prohibited by Section 310(d) or “attribution” for determining compliance with the numerical ownership restrictions of the local television ownership rule. Accordingly, contrary to demonstrating control over KBVU in circumvention of the local television ownership rule, as stated in your letter, Sinclair’s agreements with KBVU do not rise to the level of attribution or control and are entirely consistent with the Commission’s rules and precedent.

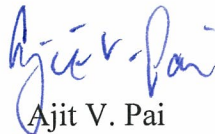
In addition, we note that Sinclair’s acquisition of the Bonten stations was unopposed at the Commission. Moreover, the time it took the Media Bureau to process the transaction was consistent with similar transactions in which there were no opposition filings or complex waiver requests. In fact, as you will see in the information we have provided in the lists of pending and completed television license transfer applications that you requested in your letter and that I am including with this response, assignment/transfer of control applications are frequently granted in similar or less time.

#### **Other Potential Proceedings**

On August 10, 2016, the Commission issued an order resolving the 2010 and 2014 broadcast ownership quadrennial review proceedings. Subsequently, several parties filed petitions for reconsideration of various aspects of this order, including the National Association of Broadcasters (NAB), Nexstar Broadcasting, Inc., and Connoisseur Media, LLC. Both the television Joint Sales Agreement (JSA) attribution rule and the local television ownership rule—among others—have been raised in one or more of the petitions for reconsideration before the Commission, and the Commission is obligated to rule on those petitions at some point. With respect to altering the current radio JSA attribution rule, which has been in place since 2003, I have no plans to start a proceeding, nor has any party made such a request. With regard to issues involving the national television ownership cap, including whether the UHF discount should be eliminated, I have publicly stated that I intend to commence consideration of those issues through a Notice of Proposed Rulemaking by the end of the year.

Please let me know if I can be of further assistance.

Sincerely,



Ajit V. Pai