

**Before the  
Federal Communications Commission  
Washington, DC 20554**

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

**COMMENTS OF RIDE TELEVISION NETWORK, AWE – A WEALTH OF  
ENTERTAINMENT, ONE AMERICA NEWS NETWORK, CINEMOI, AND  
THEBLAZE**

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November 2, 2017

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Pursuant to Sections 309(d) and 310(d) of the Communications Act of 1934, as amended, and on behalf of independent programmers from across the political spectrum, RIDE Television Network, Awe – A Wealth of Entertainment, One America News Network, Cinémoi, and TheBlaze (together the “Independent Programmers”) respectfully submit these comments responding to the Commission’s request for additional comment on the proposed merger of Sinclair Broadcast Group (“Sinclair”) and Tribune Media Company (“Tribune,” and together, the “Applicants”).<sup>1</sup>

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<sup>1</sup> *Media Bureau Pauses 180-Day Transaction Shot Clock in the Proceeding for Transfer of Control of Tribune Media Company to Sinclair Broadcast Group, Inc. to Allow for Additional Comment*, Public Notice, MB Docket No. 17-179 (rel. Oct. 18, 2017).

Sinclair’s response to the Commission’s Request for Information (“Response”)<sup>2</sup> is wholly inadequate and does nothing to assuage concerns that the proposed transaction would harm the public interest. Once again, Sinclair fails to provide any economic analysis in support of its claimed public interest benefits and fails to address many of the serious public interest harms that would flow from the transaction, including from the impact the transaction would have on the availability of diverse, independent programming and increased retransmission consent fees that Sinclair itself has promised.<sup>3</sup>

In its Response, Sinclair, already the largest broadcaster, claims that economies of scale “make specialized programming possible that would otherwise not be financially feasible.”<sup>4</sup> Sinclair offers no concrete evidence that it needs more resources or greater scale in order to offer specialized or high quality programming. However, as Independent Programmers have explained,<sup>5</sup> Sinclair’s increased reach and scale will have the effect of reducing the amount of *existing* specialized programming available to consumers. The transaction would enable Sinclair to use its increased leverage to extract higher licensing fees and demand broader carriage for its content – including the multicast and planned ATSC 3.0 broadcast signals that Sinclair touts<sup>6</sup> – which will have the effect of crowding out independent networks in MVPDs’ channel lineups and squeezing licensing fees for such networks. Consumers will ultimately be harmed, as they will be offered fewer, less diverse choices at a higher price, all from a company that has made

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<sup>2</sup> Sinclair Response to Request for Information, MB Docket No. 17-179 (Oct. 5, 2017) (“Response”).

<sup>3</sup> See Diana Marszalek, Sinclair, Tribune CEOs Push Advantage of Sizing Up, Broadcasting & Cable (May 22, 2017), <http://www.broadcastingcable.com/news/local-tv/sinclair-tribune-ceos-push-advantage-sizing/166006>; see also Sinclair Broadcast Group, Investor Presentation at Slide 7 (May 8, 2017), [http://sbgi.net/wpcontent/uploads/2017/05/Sinclair\\_Tribune-Media-Investor-Presentation\\_vF.pdf](http://sbgi.net/wpcontent/uploads/2017/05/Sinclair_Tribune-Media-Investor-Presentation_vF.pdf) (indicating that for net retransmission revenue there would be “[i]mmediate contracted step-ups to Sinclair’s rates”).

<sup>4</sup> Response at 12.

<sup>5</sup> Cinemoui *et al.* Comments at 9-10.

<sup>6</sup> Response at 12-13.

programming budget decreases and the centralization of local news programming a hallmark of its consolidation strategy.<sup>7</sup>

Sinclair's Response also ignores the Commission's request for specific information regarding its divestiture plans to address violations of the national and local ownership rules.<sup>8</sup> As Independent Programmers have previously noted, without the UHF discount, the combined company would reach 72% of U.S. households, almost double the national ownership cap.<sup>9</sup> But even with the UHF discount, the combined company would reach 45% of TV households, still in excess of the 39% ownership cap. The transaction would also create local ownership rule violations in multiple markets.<sup>10</sup> However, Sinclair states that it "has not identified specific divestitures" to address these violations, claiming that such plans would be "premature" given possible changes to the Commission's ownership rules.<sup>11</sup> But, by law, the Applicants must adhere to the media ownership rules *as they currently exist*, not the rules as they hope they will be revised to their benefit at some point in the future.

As NCTA and other parties have pointed out, "it would be a blatant disregard of the Commission's public interest standard and the Administrative Procedures Act to consider – let

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<sup>7</sup> Independent Programmers and others have explained that the transaction would result in higher retransmission consent and other licensing fees for MVPDs, which will be passed along to MVPD customers as higher service fees. *See, e.g.,* Cinemoi *et al.* Comments at 7-9 & n. 21; NCTA Reply Comments at 6-7; Dish Petition at 21-31. In light of this Commission's focus on economic analysis, it bears emphasis that the overwhelming economic evidence in the record demonstrates that the transaction will result in higher retransmission consent and other licensing fees for MVPDs, evidence that is further bolstered by Sinclair's own investor presentations. *See* Sinclair Broadcast Group, Investor Presentation at Slide 7 (May 8, 2017), [http://sbgi.net/wpcontent/uploads/2017/05/Sinclair\\_Tribune-Media-Investor-Presentation\\_vF.pdf](http://sbgi.net/wpcontent/uploads/2017/05/Sinclair_Tribune-Media-Investor-Presentation_vF.pdf).

<sup>8</sup> *See* Response at 2, 8.

<sup>9</sup> *See* Cinemoi *et al.* Comments at 4-7.

<sup>10</sup> Multiple parties have expressed concern about the local ownership rule violations that would result from the proposed transaction. *See, e.g.,* Dish Petition at 73 ("[T]he degree to which the proposal would deviate from the [media ownership] rules is unprecedented. Diligent research has not uncovered any prior broadcast consolidation that would create a duopoly in 11 markets on top of the Applicants' existing duopolies . . ."); ACA Petition at 5-6; NTCA—The Rural Broadband Association Petition at 4-7.

<sup>11</sup> *See* Response at 2-3, 8.

alone approve – a proposed transaction under rules that are not yet final. The Commission must review a transaction under the rules in place at the time of filing.”<sup>12</sup> Given that the media ownership rules that are in effect today preclude the transaction absent divestitures, Applicants should at the very least be required to disclose additional information regarding their specific divestiture plans. And even if the Commission modifies the ownership rules during the pendency of the transaction, the Commission should require the Applicants to submit a new Application detailing any modifications to the proposed transaction in accordance with such rule changes, and should restart the shot clock in order to allow the public the opportunity to comment on the revised transaction and to allow the Commission to conduct the thorough review required by law.<sup>13</sup>

The record is replete with evidence of public interest harms that would flow from the creation of a colossus reaching 72% of U.S. households and wielding an enormous amount of leverage. To protect consumers, in addition to requiring divestitures, the Commission must place far more direct limits on post-transaction Sinclair’s ability to demand above-market local television fees, tie carriage of its affiliated cable networks, multicast, and ATSC 3.0 programming to its retransmission consent negotiations, and address the other public interest harms detailed in the record.

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<sup>12</sup> NCTA Reply Comments at 18; *see also* ACA Petition at 7-8; Dish Petition at 75.

<sup>13</sup> NCTA Reply Comments at 19. It is worth noting that the media ownership rule changes recently proposed by the Commission, if adopted, would not resolve the legal infirmities of the proposed transaction. For example, the national ownership limit is codified by statute, and the Commission’s proposed revision of the top-four rule would require a case-by-case analysis.

**CERTIFICATE OF SERVICE**

I, Ellen Schned, hereby certify that on November 2, 2017, a true and correct copy of the foregoing was filed with the Federal Communications Commission and copies were served by e-mail upon the following:

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November 2, 2017