Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of	)	
	)	
Petition of Canal Partners Media, LLC	)	MB Docket No. 15-24
	)	
For a Declaratory Ruling Concerning	)	
Use of Last-in-First-Out Preemption	)	
With Respect to Candidate	)	
Advertisements	)	

REPLY COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

Sinclair Broadcast Group, Inc. ("Sinclair") has reviewed the initial comments filed in this docket and files these Reply Comments to provide additional insight into the issues raised in the Comments of Canal Partners Media, LLC ("Canal Partners"). Very few parties have commented to date in this proceeding, which Sinclair believes is evidence that many in the broadcast community do not believe that Canal Partners' Comments present any serious issue for resolution.[1] Canal Partners has not presented any facts on which to base its arguments and the legal basis for the Commission's existing rule is well-established in the FCC's jurisprudence. The National Association of Broadcasters' (the "NAB") Opposition and Comments in this proceeding address many of the deficiencies in Canal Partners' arguments and Sinclair supports the NAB's comments. Accordingly, Sinclair specifically directs the instant Reply Comments to the Comments of Canal Partners.

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[1] As of the date of this filing, only Canal Partners and the National Association of Broadcasters have filed in this proceeding. *See* FCC Electronic Filing System, MB Docket 15-24, *available at* http://tinyurl.com/mwkpcat (last visited Mar. 17, 2015).

Canal Partners' claims are based upon the false premise that (1) political candidates are disadvantaged by the Last In, First Out ("LIFO") approach to determine preemption priority because candidates purchase their airtime at the last minute;[2] and that (2) the Communications Act requires that broadcasters elevate political candidate spots to a new and special category of the least preemptible spot in every class of airtime.[3]

The Commission, however, has already addressed and rejected Canal Partners' arguments in advance regarding these preemption claims. When codifying its political broadcasting rules in 1991 and 1992,[4] the FCC was quite clear and explicitly held that candidates purchasing a preemptible class of time are subject to the same preemption policies applicable to any commercial advertiser purchasing time in that class. Indeed, the language and legislative history of Section 315(b) of the Act shows that Congress sensibly rejected the notion of Canal Partners' approach.[5] As a result, Canal Partners' assertion that the Commission's codification of its political programming policies in 1991 and 1992 was in any way unclear regarding whether broadcast stations' standard preemption policies apply to candidates is patently inaccurate.[6] The Commission explained at length in both Orders that station preemption policies for their various classes of preemptible time are factors that impact decision making that political and commercial advertisers make when they purchase time. Thus, contrary to Canal Partners' allegations, there is simply no vagueness in the FCC's policies to warrant review.

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[2] *See* Comments of Canal Partners at 6 (filed Mar. 2, 2015).

[3] *Id.*

[4] *Codification of the Commission's Political Programming Policies*, Report and Order, 7 FCC Rcd 678 (1991); *Codification of the Commission's Political Programming Policies*, Memorandum Opinion and Order, 7 FCC Rcd 4611, 4614 (1992).

[5] *Codification of the Commission's Political Programming Policies*, Memorandum Opinion and Order, 7 FCC Rcd 4611, 4614 (1992).

[6] Canal Partners Petition at 7.

The FCC's political rules already state that broadcast stations cannot discriminate against political candidates in the price and terms of advertisements (except during lowest unit rate periods, when candidates get the best treatment supplied to any advertiser). Canal Partners is now seeking to have the Commission provide candidates better treatment than what other advertisers receive. This is not now and has never been the law, nor should it be. When LIFO is evenly applied, it is by its very nature equal treatment. If a commercial advertiser requests an order after a political advertiser has requested its order, that spot will be bounced first, and vice versa. Such a result is egalitarian and even-handed, and does not favor or discriminate against either advertiser.

Canal Partners presents no facts in support of its argument that candidates are disadvantaged because they may purchase airtime at the last minute. To the contrary, the NAB's examination of candidate airtime purchasing revealed that political candidates and commercial advertisers alike purchase time well in advance of it airing, as well as at the last minute. Canal Partners argues that political candidates "make purchasing decisions based on targeting and flow of the campaign."[7] In Sinclair's experience, commercial advertisers also direct their advertising to areas that are underperforming over the course of a sales campaign or a promotion.

As noted above, Canal Partners' argument has already been rejected by the Commission, and the Commission has explicitly stated that the proposal now proffered by Canal Partners is contradicted by the express language of the Communications Act. The result would be the creation of a candidate-only class within every class of time, unfairly vaulting political candidates ahead of commercial advertisers. Neither Congress nor the FCC has, for good reason, ever permitted such a result, and the FCC should not do so now.

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[7] Canal Partners Petition at 6.

For the reasons explained above, and those in the NAB's filings, the FCC should reject Canal Partners' proposed LIFO revisions given that they are baseless and without merit.

Respectfully submitted,

SINCLAIR BROADCAST GROUP, INC.

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