ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Application of	)	
	)	
Allbritton Communications Co.	)	**MB Docket No. 13-203**
	)	
For Consent to Transfer of Control of WJLA-TV, Washington, DC, to Sinclair Television Group, Inc.	)	BTCCDT – 20130809ACD *et seq.*
et al.		

Accepted / Filed

SEP 29 2015

Federal Communications Commission
Office of the Secretary

To: The Commission

OPPOSITION TO SUPPLEMENT TO APPLICATION FOR REVIEW

Sinclair Broadcast Group, Inc. ("Sinclair"), by its attorneys and pursuant to Section 1.115 of the rules ("Rules") of the Federal Communications Commission ("FCC" or "Commission"), hereby submits this Opposition to the Supplement to Application for Review ("Supplement") filed September 14, 2015, by Rainbow PUSH Coalition ("Rainbow PUSH"), in the above-referenced proceeding.[1] As has been repeatedly demonstrated in this proceeding, and is further reiterated herein, Rainbow PUSH's allegations that Sinclair is unfit to be a Commission licensee are without merit. Rainbow PUSH's latest effort to challenge the Media Bureau's action granting a series of applications (the "Allbritton Applications") for transfer of control of television stations affiliated with Allbritton Communications Company ("Allbritton") to Sinclair continues to reiterate unfounded allegations of control over a licensee, Cunningham

[1] 47 CFR § 1.115(d) specifies the filing deadline for oppositions to applications for review only, and not oppositions to supplements. Accordingly, Sinclair timely files this response pursuant to the FCC's general filing rules. *See* 47 CFR § 1.45 ("Except as otherwise provided in this chapter. . . [o]ppositions to any motion, petition, or request may be filed within 10 days after the original pleading is filed."). In any event, the filing deadline would fall on September 29, 2015 under either § 1.115 or § 1.45, based on the FCC's computation of time methodology. 47 CFR § 1.4(h) ("If a document is required to be served upon other parties by statute or Commission regulation and the document is in fact served by mail (see § 1.47(f)), and the filing period for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed to all parties in the proceeding for filing a response.").

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Broadcasting Corporation ("Cunningham"), that is not even party to this proceeding , and adds nothing to the record except hearsay from an unrelated, un-adjudicated pleading. Moreover, since the Commission granted the Allbritton Applications more than two years ago, Rainbow PUSH has not pointed to—and cannot point to—any harm resulting from Sinclair's control of the Allbritton stations. Rather, this "Supplement" merely adds to the mountain of wasteful filings that Rainbow PUSH has filed against Sinclair over the past 15 years. Consequently, Sinclair asks the Commission to dismiss the Rainbow PUSH Supplement and Application for Review.

Background

On July 24, 2014, the Media Bureau issued a Memorandum Opinion and Order ("Order") granting the Allbritton Applications for transfer of control of entities holding television licenses from subsidiaries of Allbritton to Sinclair.[2] In so doing, the Media Bureau denied Rainbow PUSH's Petition to Deny, which alleged that outstanding character allegations against Sinclair should prevent it from serving as a Commission licensee. In the Order, the Media Bureau noted that "[t]hese allegations have been raised piecemeal in a number of proceedings spanning approximately fourteen years," and, after reviewing the allegations in detail, concluded "that the character allegations raised by Rainbow Push fail to raise a substantial and material question of fact regarding Sinclair's fitness to acquire the stations at issue in this proceeding."[3]

Specifically, the Media Bureau rejected Rainbow PUSH's stale old allegations that Sinclair (i) exercised *de facto* control over Cunningham (based on Local Marketing Agreements ("LMAs") dating to1999); (ii) misrepresented or withheld facts in connection with the *Edwards*

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[2] *Applications for Consent to Transfer Control from License Subsidiaries of Allbritton Communications, Co. to Sinclair Television Group, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9156 (2014).

[3] Order ¶ 30.

litigation (which took place in 2001); (iii) solicited *ex parte* communications in violation of Commission Rules (in 2000); (iv) attempted to conceal or falsely report campaign contributions (in 2002); and (v) presented biased news coverage (in 2002).[4] The Media Bureau fully explained its reasons for rejecting these allegations, pointing out that it "previously concluded that all of these categories of allegations are without merit."[5]

Unable to take no for an answer, Rainbow PUSH filed an Application for Review ("Application for Review") on August 25, 2014, urging the Commission to review the Media Bureau's grant of the Allbritton Applications and to designate the Allbritton Applications for evidentiary hearing. However, Rainbow PUSH's Application for Review did not raise any new issues that the Media Bureau did not already fully consider in the Order. Instead, its pleading rested on the same tired allegations Rainbow PUSH has been unsuccessfully making before the Commission since 1999 regarding Sinclair and Cunningham. In the meantime, the Commission has reviewed numerous Sinclair applications, and has repeatedly found Sinclair to be fully qualified to be a Commission licensee.[6] Accordingly, Sinclair timely filed its Opposition to the Application for Review, requesting that the Commission summarily dismiss Rainbow PUSH's Application for Review.[7]

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[4] Order ¶ 31.

[5] *Id.*

[6] It should also be noted that, in over a decade since Rainbow PUSH's petition for reconsideration of the dismissal of the applications for Commission consent to allow Sinclair to acquire the Cunningham stations, Sinclair has been found qualified by the Commission to acquire dozens of stations in numerous transactions (most without comment of Rainbow PUSH), and has shown a record of excellence in operating the stations which it has acquired, adding substantial additional hours of news programming to the stations and winning numerous Emmys and other prestigious awards for its news and public affairs programming.

[7] *Application of Allbritton Communications Co. for Consent to Transfer Control of WJLA-TV, Washington, D.C., to Sinclair Television Group, Inc.*, Sinclair Opposition to Application for Review, MB Docket No. 13-203 (filed Sept. 9, 2014).

Now, more than a year after the filing window for such filings has closed, Rainbow PUSH has submitted a Supplement[8], contending that:

> Based just on the record to date, three straightforward questions ought to be designated for hearing:
> (1) In the wake of *Glencairn Ltd.*, did Sinclair exercise *de facto* control of Cunningham?
> (2) Does it continue to do so?
> And (3), has Sinclair at all times been candid and forthcoming with the Commission regarding its relationship with Cunningham?[9]

The Supplement does not provide any new information relating to these issues, and instead cites its own 2003 Petition to Deny to reassert its same unfounded allegations about Carolyn Smith's management of Cunningham.[10]

The Supplement also contends that, based on "new information", the Commission should designate three additional issues for hearing—issues that were not before the Media Bureau when it made its decision on the Allbritton Applications and which Rainbow PUSH raises based solely upon hearsay from an unrelated pleading that, in any event, does not have any bearing on Sinclair's fitness to be a Commission licensee.

For the reasons set forth below, Sinclair respectfully requests that the Commission dismiss the Supplement, as well as the underlying Application for Review.

Argument

Rainbow PUSH claims that a retransmission consent negotiation "good faith" complaint submitted by DISH Networks, LLC ("DISH") provides new information "that bears directly on

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[8] *See* 47 CFR § 1.115(d).

[9] Supplement, at 3.

[10] Rainbow PUSH has not provided any support for its conclusory allegation that "during [Mrs. Smith's] tenure, she made no decisions in Cunningham's interest and only made decisions in Sinclair's interest." *See* Supplement, at 2 n.2. Moreover, as Rainbow PUSH knows, Mrs. Smith is no longer able to respond to Rainbow PUSH's *ad hominem* arguments, having passed away in 2012.

Sinclair's qualifications to be a broadcast licensee."[11] In relying on the DISH complaint, Rainbow PUSH commits procedural and evidentiary errors that warrant dismissal of the Supplement without any further consideration. But should the Commission choose to consider the Supplement, it should find that Rainbow PUSH has still failed to present any valid basis for Commission review or any rationale for an evidentiary hearing.

As a procedural matter, the Supplement is untimely and should be dismissed on that ground alone. The Rules provide that, except in certain circumstances which are not present here, "the application for review and any supplemental thereto shall be filed within 30 days of public notice of such action[.]"[12] "The Commission has long held that enforcement of the procedural rules, including the proscription against the filing of untimely supplements, is necessary to manage the decision-making process in an efficient manner."[13] Additionally, the Commission has explained that there is no good cause to waive this procedural restriction when, as here, "supplemental filings involve matters that are not directly relevant to the issues before the Commission in this application proceeding."[14] The Order which Rainbow Push seeks review of was released on July 24, 2014, making the cut-off date for filing any application for review or supplement thereto August 25, 2014. Because Rainbow PUSH missed the filing deadline by more than a year, and because the Supplement involves "matters that are not directly related to" the underlying Application for Review or Petition to Deny, the Commission should dismiss the Supplement.

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[11] *Id.*, at 1.

[12] 47 CFR § 1.115(d) ; *see also Gresham Communications, Inc., et al.*, 26 FCC Rcd. 11895 (2011) (denying petitioner's Motion to File Supplement and dismissing the Supplement).

[13] *Gresham Communications*, at 11898.

[14] *Id.*

Further, where, as here, an application for review pertains to action taken pursuant to delegated authority, the "rules prohibit parties from raising matters of law or fact which the delegated authority has not been afforded an opportunity to consider."[15] The only "new information" Rainbow PUSH presents in the Supplement relates to Sinclair's retransmission consent negotiations with DISH that began in June 2015—well after the Media Bureau action Rainbow Push seeks review of here. Because DISH's complaint against Sinclair was not before the Media Bureau when it rejected Rainbow PUSH's Petition to Deny, the Commission should not consider it in this proceeding.

As an evidentiary matter, third-party statements submitted in an un-adjudicated, adversarial pleading in which Sinclair has not yet had an opportunity to respond constitute hearsay, rendering Rainbow PUSH's reliance on such statements inappropriate.[16] Shortly after DISH filed its Amended and Restated Retransmission Complaint with the Commission, DISH and Sinclair reached an agreement in principle as to all terms and conditions for new retransmission consent and related agreements. Accordingly, the parties submitted a joint letter requesting that the Commission stay and hold in abeyance the complaint, and indicated that the complaint would be dismissed with prejudice once a final agreement had been executed.[17] As a result, Sinclair has not responded to DISH's complaint. The Commission should therefore not rely on the one-sided, unsubstantiated allegations from the DISH complaint when considering Rainbow PUSH's Supplement to an Application for Review of an entirely different proceeding.

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[15] *Id.*; *see also* 47 CFR 1.115(c) ("No application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass.").

[16] *See, e.g.*, Federal Rule of Evidence 804 (As an analogy, the Federal Rules of Evidence except "former testimony" from the definition of "hearsay" only where the (i) the declarant is "unavailable" (ii) the testimony "was given as a witness at a trial, hearing, or lawful deposition" and (iii) the testimony "is now offered against a party who had . . . an opportunity and similar motive to develop it by direct, cross, or redirect examination.").

[17] *See* Letter to Marlene H. Dortch from Jeffrey H. Blum and Meredith S. Senter, Jr. (Aug. 26, 2015), attached hereto as Exhibit A.

Notwithstanding these procedural and evidentiary errors, the Supplement also fails when it comes to substance. Rainbow PUSH contends that Sinclair has told the FCC "that it did not even have *de facto* control over Cunningham," while telling DISH that it has "*de jure* control over Cunningham." Based on these two "irreconcilable positions," Rainbow PUSH concludes that Sinclair must be lying to the FCC, to DISH, or to both. But Rainbow PUSH's argument fails for two reasons.

First, Rainbow Push's argument that Sinclair has somehow indicated that it has control over Cunningham is completely spurious in that it ignores the fact that the position taken by Sinclair in the DISH negotiations had nothing whatsoever to do with any factual elements of Sinclair's involvement in the Cunningham stations. Rather Sinclair's position was simply a technical argument that the attribution of those stations as a result of the FCC's regulations meant that Sinclair was deemed by the FCC to be in legal (i.e., *de jure*) control of the stations. As a result, there can be no reasonable interpretation of Sinclair's position as indicating that it has more control over Cunningham than is permitted by the FCC's rules. Contrary to Rainbow PUSH's allegation in the Supplement, DISH's complaint never asserted that Sinclair claimed it had control, *de jure* or otherwise, over Cunningham. DISH's complaint in this regard is strictly limited to Sinclair's claims to be permitted to negotiate retransmission consent for certain stations which have sharing agreements with Sinclair. As further evidence of this distinction, we note that Sinclair did not propose to negotiate retransmission consent agreements with DISH for Cunningham stations for which it does not have a sharing agreement (i.e.,WTAT-TV, Charleston, SC and WYZZ-TV, Bloomington, IL).

Second, both the Supplement and the DISH complaint revolve entirely around one, non-exhaustive example of what constitutes "*de jure*" control, a term never clearly defined by the

FCC. While past FCC decisions refer to "majority stock ownership" as being an example of *de jure* control, the FCC has never stated that ownership of voting control was the only definition of *de jure* control. Other common definitions of "*de jure*" include: "Of right"; "legitimate"; "lawful"; and "according to law."[18]

Here, the Cunningham stations for which Sinclair sought to negotiate retransmission consent are parties to grandfathered LMAs. While the Rules consider such stations to be controlled by Sinclair for attribution purposes, the LMAs are grandfathered—and thus "lawful" under the FCC's multiple ownership rules. Sinclair, therefore, reasonably believed that such LMAs are, "according to law," recognized as vesting sufficient rights to the LMA programmer so as to permit joint retransmission consent negotiations with the programmer's other stations in the same market. Moreover, given that the thrust of the retransmission consent rules is to protect the value of programing rights, it was rational for Sinclair to conclude that it could continue to protect those rights, which it owned, by participating in the negotiations which determined the compensation for exploitation of those rights.[19]

In other words, Rainbow PUSH wholly ignores the statutory and regulatory ambiguity and legislative context that make Sinclair's interpretation of the joint negotiation provision entirely reasonable. Although the Commission clarified its position on the joint negotiation prohibition in a September 2, 2015 Notice of Proposed Rulemaking referenced in the Supplement,[20] it was not clear prior to that time that the FCC interpreted the joint negotiation

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[18] Black's Law Dictionary, 2d ed., *What is De Jure?*, http://thelawdictionary.org/de-jure/ (last visited Sept. 23, 2015); *see also* Oxford English Dictionary, *De Jure* ("of right, by right, according to law"), http://www.oed.com/view/Entry/47599?redirectedFrom=De+Jure#eid7498077 (last visited Sept. 23, 2015).

[19] Declaration of Melisa Ordonez ¶ 5 (emphasis added).

[20] *Implementation of Section 103 of the STELA Reauthorization Act of 2014*, Notice of Proposed Rulemaking, MB Docket No. 15-216, FCC 15-109 (rel. Sept. 2, 2015)("NPRM").

rule to apply solely to voting ownership control.[21] And, given that the prohibition was enacted around the same time that Congress grandfathered joint sales agreements ("JSAs"), it was reasonable to believe that grandfathered JSAs and LMAs were agreements "permitted under the regulations of the Commission," that would permit Sinclair to continue negotiation on the stations' behalf.[22]

Contrary to Rainbow PUSH's claims in the Supplement, Sinclair never claimed to exercise voting or other control of Cunningham, but rather only claimed that it reasonably believed that certain Cunningham stations which are subject to sharing agreements should be considered to be under "*de jure*" control under the Rules for the purposes of retransmission consent negotiations. As a result, there is no inconsistency between what Sinclair has represented to the Commission and what Sinclair has represented to DISH, rendering Rainbow PUSH's claim that Sinclair "has not been candid with the FCC, or was not being candid with Dish, or both" invalid.

Indeed, contrary to Rainbow PUSH's allegation that Sinclair lacks candor with the FCC, Sinclair's General Counsel, Barry Faber, sought clarification directly from the Chief of the Media Bureau, William Lake, on this very issue.[23] Well before the filing of the DISH complaint, Mr. Faber had a conversation with Mr. Lake, specifically asking Mr. Lake whether the FCC believed that the joint negotiation prohibition applied to grandfathered LMAs. Mr. Lake responded that he had never considered that question, was not sure of the answer, and would have to get back to Mr. Faber on the issue—which he never did prior to the September NPRM

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[21] Sinclair reserves the right to contest that interpretation before the Commission and in the Courts.

[22] *See* 47 USC § 325(b)(3)(C)(iv) (prohibiting "a television broadcast station from coordinating negotiations or negotiating on a joint basis with another television broadcast station in the same local market . . . *unless such stations are directly or indirectly under common de jure control* permitted under the regulations of the Commission.") (emphasis added).

[23] *See* Declaration of Barry Faber ¶ 6, attached hereto as Exhibit B.

release. Given that the head of the Media Bureau had not considered and did not know whether the prohibition on joint negotiation applied to LMAs, it is inconceivable for Rainbow PUSH to argue that Sinclair "knows full well that its 'explanation' was frivolous and articulated in bad faith."

The remainder of the Supplement's arguments are equally without merit. As detailed in the attached declaration of Mr. Faber, DISH's complaint mischaracterizes the context in which Sinclair suggested that DISH temporarily cease carriage of Sinclair's stations. Because the Supplement relies on the DISH complaint as its sole source of "new information," it too mischaracterizes the situation, claiming that Sinclair attempted "to coerce Dish by threatening it with non-carriage of 151 stations for a year if Dish complained to the FCC about Sinclair's frivolous claim of having *de jure* control of stations it does not own[.]"[24] In reality, Sinclair's comment came as an off-the-cuff response to DISH's assertion that Sinclair's stations were less valuable than Sinclair thought.[25] When DISH claimed that most people wouldn't react to the dropping of a Sinclair station, Sinclair simply pointed out that removing one or more of its stations would only prove their value if it was done for a minimum period of time that was communicated to the public.[26] Simply put, the discussion had nothing whatsoever to do with the issue of whether Sinclair could negotiate on behalf of such stations.

Further, rather than "attempt[ing] to dissuade" DISH from filing a complaint with the FCC, Sinclair merely suggested that their efforts would be more productive if focused on getting

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[24] Supplement, at 4.

[25] Declaration of Barry Faber ¶ 7.

[26] *Id.*

a deal done.[27] The Supplement thus fails to provide any reliable evidence that Sinclair "abuse[d] the retransmission consent process by negotiating in bad faith."[28]

Lastly, even taking as true all of the allegations set forth in the DISH complaint, Rainbow PUSH provides no support for its suggestion that a single violation of the "good faith" negotiation obligation would make Sinclair unfit to be a Commission licensee.[29]

In sum, Rainbow PUSH's Supplement fails to add any information to support its assertions that Sinclair lacks "basic qualifications to be a broadcast licensee," or that this proceeding merits a designation for hearing. Even if it were relevant to the underlying proceeding—and it is not—the Supplement adds no new information regarding Sinclair's alleged *de facto* control of Cunningham. What little "new information" the Supplement provides (i) is unreliable hearsay, (ii) is unrelated to the underlying proceeding, and (iii) has no bearing on Sinclair's fitness to be a Commission licensee.

Conclusion

For the foregoing reasons, Sinclair respectfully requests that the Commission dismiss the Rainbow PUSH Supplement and Application for Review.

September 29, 2015

Respectfully Submitted,

Clifford M. Harrington / by JTN

Clifford M. Harrington
Jessica Nyman

Counsel for Sinclair Broadcast Group, Inc.

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[27] Declaration of Barry Faber ¶ 5.

[28] Supplement, at 4.

[29] Note again that review of this pleading has been stayed as a result of successful Sinclair and DISH negotiations, suggesting, if anything, that the parties are in fact negotiating in good faith.

CERTIFICATE OF SERVICE

I, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that copies of the foregoing "**OPPOSITION TO SUPPLEMENT TO APPLICATION FOR REVIEW**" were served via U.S. mail on this 29th day of September, 2015 to the following:

Hon. Tom Wheeler*
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Hon. Mignon Clyburn*
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Hon. Ajit Pai*
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Hon. Jessica Rosenworcel*
Commissioner
Federal Communications Commission
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Hon. Michael O'Rielly*
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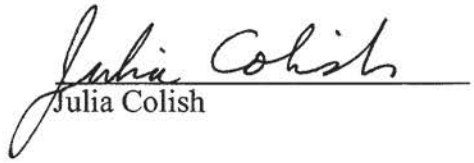

Julia Colish

* Via Hand Delivery

EXHIBIT A

August 26, 2015

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: *DISH Network L.L.C. v. Sinclair Broadcast Group, Inc.*, Verified Amended and Restated Retransmission Complaint and Request for Preliminary Injunctive Relief, Filed August 26, 2015, MB Docket No. 12-1, File. No. CSR-_____-C

Dear Ms. Dortch,

DISH Network L.L.C. ("DISH") and Sinclair Broadcast Group, Inc. ("Sinclair") (together, "the Parties") submit this joint letter to request that the Commission stay and hold in abeyance (including but not limited to suspension of any briefing deadlines) the above-referenced amended and restated retransmission complaint. The Parties have reached agreement in principle as to all terms and conditions for new retransmission consent and related agreements. The Parties have entered into a temporary extension to allow them to finalize the agreements. DISH will withdraw the amended complaint with prejudice if the agreements are executed. The Parties request that the stay remain in place during the extension period and thereafter unless the Commission has been notified that the Parties have reached an impasse.

The Parties will keep the Commission informed of any developments. The stations that went dark yesterday will be restored today.

Respectfully submitted,

_____/s/_____
Jeffrey H. Blum
Senior Vice President and Deputy General Counsel
DISH Network L.L.C.
1110 Vermont Ave NW, Suite 750
Washington, DC 20005

_____/s/_____
Meredith S. Senter, Jr.
Lerman Senter PLLC
2000 K Street, N.W. Suite 600
Washington, D.C. 20006
Counsel for Sinclair Broadcast Group, Inc.

cc: Maria Kirby
William Lake
Michelle Carey
Nancy Murphy
Mary Beth Murphy
Steven Broeckaert

EXHIBIT B

Declaration of Barry Faber

1. I, Barry M. Faber, being over 18 years of age, swear and affirm as follows:

2. I am currently the Executive Vice President and General Counsel of Sinclair Broadcast Group, Inc. ("Sinclair"), a role that I have held since 2008. In this capacity, I represent Sinclair in the negotiation of its retransmission consent contracts with multichannel video programming distributers ("MVPDs"), including DISH Network L.L.C. ("DISH").

3. On July 9, 2015, Sinclair responded to DISH's inquiry regarding the renewal of DISH's retransmission consent contracts, and proposed that the renewed agreements would cover stations that Sinclair owns as well as those stations for which Sinclair provides services pursuant to grandfathered Local Marketing Agreements ("LMAs") and Joint Sales Agreements ("JSAs"). This proposal did not include Cunningham stations which were not parties to an LMA or JSA with Sinclair, WTAT-TV, Charleston, SC and WYZZ-TV, Bloomington, IL.

4. On July 20, 2015, DISH's negotiating representative, Melisa Ordonez, counter-offered with a revised proposal that only included stations that DISH believed Sinclair had the right to negotiate for, which did not included the LMA and JSA stations. I responded that Sinclair disagreed with DISH's legal conclusion that Sinclair did not have the right to negotiate for such stations since Sinclair believes it has "*de jure*" control over such as a result the attribution of these stations pursuant to FCC regulations.

5. On or about July 21, 2015, I had a telephone call with Ms. Ordonez and Warren Schlichting, DISH's Senior Vice President, Media Sales and Programming. During our conversation, Ms. Ordonez said that DISH disagreed with Sinclair's interpretation of "*de jure*" control and threatened to file a complaint if Sinclair continued to insist upon negotiating for the LMA and JSA stations. I acknowledged that regardless of whether or not the FCC agreed with DISH's interpretation of "*de jure*" control, my opinion was that DISH's efforts would be much more productive if focused on getting the deal done, as compared to spending time drafting complaints to file with the Commission. I proffered that I believed we could reach an agreement in less time than it would typically take the Commission to adjudicate a complaint and noted that, in any event, the Commission does not have the authority to mandate carriage of Sinclair's stations. This was not intended as an attempt to dissuade DISH from filing a complaint, but merely intended to point out that filing a complaint was only likely to delay matters and that we were better off simply continuing negotiations.

6. Prior to August 3, 2015, I had a telephone conversation with William Lake, Chief of the Media Bureau. During that call I asked Mr. Lake if the FCC believed that the joint negotiation prohibition applied to grandfathered LMAs. Mr. Lake responded that he had never considered that question, was not sure of the answer, and that he would have to get back to me—something that he never did. In the absence of a response from Mr. Lake, I believed that it was reasonable to conclude that the joint negotiation prohibition did not preclude negotiations on behalf of stations with which Sinclair had a grandfathered LMA.

EXHIBIT B

7. Contrary to the allegations in Rainbow PUSH's Supplement, I never told DISH that Sinclair would cease negotiations and keep its stations off DISH for a year if DISH refused to allow Sinclair to bargain on behalf of Cunningham (and other companies). Rather, during the July 21 phone call described above, DISH commented that Sinclair's stations were not as valuable as Sinclair thought they were, and suggested that many people would not react to the dropping of a station because viewers believe the station will quickly come back on. In response, I made an off-the-cuff comment to point out that removing a station would only prove the value of the station if it was done for a minimum period of time that was communicated to the public. Despite DISH's and Rainbow PUSH's mischaracterization of this conversation, my comment, which was not a threat but merely an observation, had nothing whatsoever to do with the issue of the stations for which Sinclair could negotiate.

The foregoing declaration has been prepared using facts of which I have personal knowledge. 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 September 29, 2015

Barry M. Faber

Barry M. Faber
Executive Vice President and
General Counsel
Sinclair Broadcast Group, Inc.