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October 15, 2015

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**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: Sun Broadcasting Complaint Concerning Retransmission of WXCW(TV),  
MB Docket No. 14-258

Dear Ms. Dortch:

In response to the October 5 “Request for Information” in the above referenced proceeding, Sun Broadcasting, Inc. (“Sun”), licensee of Television Station WXCW(TV), Naples, Florida, by undersigned counsel, hereby confirms that, by letter dated January 22, 2015, DISH Network L.L.C. (“DISH”) provided notice that it had authorized OpticalTel Telecommunications, Inc. (“OpticalTel”) to provide local network services (non-transport) to the communities of Glades Country Club and Sail Harbour, Florida, effective December 12, 2014. Although DISH does not provide detailed break-outs of its subscribers, it is Sun’s understanding that payments from DISH have included the OpticalTel subscribers since that time.<sup>1</sup>

Sun also notes that, as the record in this proceeding reflects, OpticalTel was fully aware that its pre-existing agreement with DISH did not provide it with authority to retransmit the signal of WXCW. As set out in more detail in the Retransmission Complaint, Sun first informed OpticalTel that it was retransmitting the signal of WXCW(TV) without proper authority under Section 325(b) of the Communications Act of 1934, as amended, in January 2014.<sup>2</sup> After OpticalTel claimed that it was an authorized DISH reseller, Sun sought and received confirmation from DISH that OpticalTel’s agreement with DISH did not provide OpticalTel with the authority to retransmit the signal of WXCW, and relayed that information to OpticalTel. Subsequently, OpticalTel, rather than seeking to remedy the issue, refused to negotiate with Sun, or even to return repeated telephone calls from Sun.<sup>3</sup> Indeed,

<sup>1</sup> See Declaration of James W. Schwartzel, attached hereto.

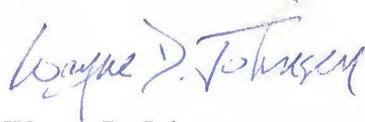
<sup>2</sup> See In the Matter of Optical Tel Telecommunications, Inc., Complaint Concerning Retransmission of WXCW(TV), Sun Broadcasting, Inc., MB Docket No. 14-258 (Filed Dec. 4, 2014) at 2.

<sup>3</sup> *Id.* 2-4.

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OpticalTel apparently entered into the December 12, 2014 agreement with DISH only after Sun was forced to file its Complaint in December 2014 because of OpticalTel's unresponsiveness and continued unauthorized carriage of WXCW.

Respectfully submitted,



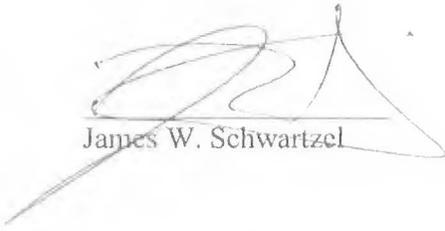
Wayne D. Johnsen

cc: Lynne Montgomery (via Facsimile)  
Mary Beth Murphy (via Facsimile)  
Steven Broeckaert (via Facsimile)  
Evan Baranoff (via Facsimile)

## DECLARATION

I, James W. Schwartzel, hereby declare under penalty of perjury as follows:

1. I am President of Sun Broadcasting, Inc., licensee of Television Station WXCW(TV), Naples, Florida ("Sun").
2. I have read the foregoing Response to Request for Information. The facts contained therein are true and correct to the best of my knowledge, information, and belief. In particular, by letter dated January 22, 2015, DISH Network L.L.C. ("DISH") provided notice to Sun, that it had authorized OpticalTel Telecommunications, Inc. ("OpticalTel") to provide local network services (non-transport) to the communities of Glades Country Club and Sail Harbour, Florida, effective December 12, 2014. Although DISH does not provide detailed break-outs of its subscribers, it is Sun's understanding that payments from DISH have included the OpticalTel subscribers since that time.
3. This Reply is grounded in fact, and is not interposed for any improper purpose.

  
James W. Schwartzel

October 14, 2015

**CERTIFICATE OF SERVICE**

I, Jacquelyn Martin, hereby certify that on this 15th day of October, 2015, a copy of the foregoing Sun Broadcasting Response to Information Request has been served by first-class mail on the following:

Arthur Harding  
Locke Lord LLP  
701 8<sup>th</sup> Street, NW  
Suite 700  
Washington, DC 20001



Jacquelyn Martin