

BARRY M. FABER
Vice President/General Counsel
Sinclair Broadcast Group, Inc.
Direct Dial (410) 568-1524
BFaber@sbgnet.com

May 22, 2003

By Electronic Filing

Marlene H. Dortch
Office of the Secretary
Federal Communication Commission
445 12th Street, SW
Washington, DC 20504

Re: MB Docket No. 02-277

Dear Ms. Dortch:

Pursuant to the Commission's *ex parte* rules, this letter is written to notify you that on May 21, 2003, Barry Faber, Vice President and General Counsel for Sinclair Broadcast Group, Inc. ("Sinclair") and Kathryn Schmeltzer, counsel for Sinclair, met with Commissioner Abernathy and Stacy Robinson. Attached is a copy of the chart referred to in the meeting detailing the audience shares of television stations broadcasting in certain markets.

As discussed during the meeting, the information contained in the attached chart graphically points out that a test based on share of viewing audience takes into account the unique circumstances of individual markets, while a voices test does not. For example, in Tallahassee, Florida while a 6-voices test and a top four station restriction would preclude a duopoly between any of the ABC, NBC and FOX stations, a percentage share test would allow a combination because such a test takes into account the dominant position of the CBS station in that market. Similarly, a triopoly conditioned on an 18-voices test would allow a FOX, UPN, and WB combination in New York and Los Angeles despite the fact that the combined audience share of those stations exceeds the percentage of viewers served by the same three network affiliates in such markets as Baltimore and Nashville.

During the meeting, Sinclair also advocated that the Commission reject the Top 4 Rule. As noted above, the particulars of individual markets should dictate whether a proposed merger should be prohibited. Blanket application of the Top 4 Rule would lead to anomalous and unfair results. In any event, the Top 4 Rule, which appears to be directed at the major broadcast network affiliates (ABC, CBS, NBC, and Fox), should not include Fox which is unlike the other three major broadcast networks.

Sinclair also believes that the Commission should continue to grandfather LMAs,

Marlene H. Dortch

May 22, 2003

Page 2

including LMAs involving Top 4 stations. There is no evidence in the record that LMAs harm competition, and in fact, Sinclair has demonstrated that there are significant public interest benefits from operation of such LMAs, including increased newscasts in a market.

The viewpoints expressed in the meeting were not intended to reflect any change in position by Sinclair – Sinclair's position (and the underlying facts supporting it) is fully set forth in prior filings in this proceeding. Rather, Sinclair wished simply to point out that if the Commission intends to continue to base television ownership restrictions on tests focused solely on over-the-air broadcast stations, using viewership share as an indicia of a station's reach provides a solution more adequately tailored to address the vagaries of individual markets. To the extent that the Commission elects to maintain a television-only voices test or the Top 4 Rule, Sinclair urges the Commission to permit waivers and to establish specific waiver request guidelines to assist Commission staff in processing such requests.

If we can provide any further information, please contact the undersigned. Thank you.

Sincerely yours,

/s/

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

Attachment

BMF:emw

**February 2003
Household Share¹
Sun – Sat 7a – 1a**

	Broadcast								Cable						
	ABC	CBS	NBC	FOX	WB	UPN	Combined FOX/WB/UPN	Total (ABC/CBS/NBC FOX/WB/UPN)	WTBS	Disney	F/X	NIK	TNT	TOON	USA
NY	11	6	9	8	6	3	17	43	3	N/A	3	6	3	3	2
LA	11	8	11	6	7	4	17	47	2	2	2	5	2	3	2
Balt	8	16	13	6	5	3	14	51	2	2	1	4	3	3	2
Nash	10	16	14	7	2	4	13	53	3	4	3	4	3	3	2
Dayt	9	20	7	6	4	N/A	N/A	46	3	3	3	3	3	2	2
Talla	6	23	5	5	N/A	N/A	N/A	39	2	N/A	N/A	3	3	N/A	2

¹ Source Nielsen Media Research
barry/2-03 house share.cht