

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

In the Matter of)	
Implementation of the Satellite Home Viewer)	
Extension and Reauthorization Act of 2004)	MB Docket No. 05-49
)	
Implementation of Section 340 of the)	
Communications Act)	

To: The Secretary
The Commission

COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

Sinclair Broadcast Group, Inc. (“Sinclair”), by its attorneys, hereby submits its comments in response to the Commission’s Notice of Proposed Rule Making (“*NPRM*”), FCC 05-24, released February 7, 2005, in the above-captioned proceeding. Sinclair is one of the largest over-the-air television broadcasters in the United States today. Its television stations include affiliates of the ABC, CBS, NBC, FOX, WB, and UPN networks.

In the *NPRM*, the Commission seeks comment regarding the accuracy of its list (the “List”) of stations that have been granted significantly viewed status pursuant to the Commission’s cable television rules and its proposed use of the List for satellite carriage purposes, consistent with the Satellite Home Viewer Extension and Reauthorization Act of 2004.¹ In response to the Commission’s request, it is important to point out the obvious fact that the List does not reflect a number of stations that are actually “significantly viewed” because many stations that are home to a given market are not included on the List. Thus, despite the fact that most in-market stations would be considered significantly viewed in their home market, the List generally includes only select in-market stations. This is not surprising given that the

¹ Pub. L. No. 108-447, § 202, 118 Stat 2809 (2004).

original List is based on data from a 1971 survey and was initially released by the Commission in 1972.² As a result, an in-market station like Sinclair's WBFF(TV) in Baltimore, Maryland, which did not even begin operation until 1971, is not listed as a significantly viewed station in Baltimore even though the station is significantly viewed in the market today. In contrast, other in-market television stations WMAR, WBAL and WJZ are included on the List (along with out-of-market stations that have been deemed significantly viewed in the market).

Sinclair submits that this anomalous situation has traditionally had no significant adverse impact for purposes of the Commission's cable must carry rules and is likely to be similarly workable in the satellite must carry context. The reason for this is that in-market stations by definition are protected by the Commission's cable and satellite must carry rules and statutory copyright provisions. However, Sinclair cautions that given the flawed and incomplete nature of the List, the Commission should take care not to use the List in the future other than for the currently limited purpose of offering significantly viewed *out-of-market* broadcast stations to cable and satellite subscribers. If the Commission chooses to use the List for any other purpose, it must revise the List to reflect all stations that are significantly viewed in each market.

Respectfully submitted,

/s/
Kathryn R. Schmeltzer
Paul A. Cicelski
Counsel for Sinclair Broadcast Group, Inc.

Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, D.C. 20037
(202) 663-8000

April 8, 2005

² See 1972 Reconsideration Order, 36 FCC 2d 326, Appendix B (1972).