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July 1, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Station WMAR-DT, Baltimore, Maryland, Facility ID No. 59442
MB Docket No. 03-15

Dear Ms. Dortch:

Scripps Howard Broadcasting Company, licensee of the above-referenced station, through counsel, hereby requests waiver of the July 1, 2005 replication/maximization interference protection deadline set out in the *Second Periodic Review Report and Order*, 19 FCC Rcd 18,279 (September 7, 2004). By Public Notice dated June 15, 2005 (DA 05-1636), the Commission confirmed that those stations whose DTV facilities come close to meeting the applicable replication or maximization requirements, but that cannot reasonably reach 100% replication or maximization prior to the cessation of analog broadcasting, may seek waiver of this deadline.

Attached is an engineering exhibit prepared under the direction of John F.X. Browne, P.E. that demonstrates how Station WMAR-DT meets the criteria for waiver of the deadline set out in that Public Notice. The exhibit explains (1) that the station now serves 97.2% of the population within its certified "replication" contour; (2) that full compliance prior to the cessation of analog service would harm Station WMAR-TV's analog viewers and impose excessive costs on the station; (3) that the station can and will modify its operation to fully comply with its replication certification after analog operation terminates; and finally (4) that the station's early initiation of full-power DTV service demonstrates its good faith commitment to offering viewers full DTV service at the earliest practicable time.

For the reasons set out in this exhibit, Scripps urges that grant of the requested waiver would serve the public interest.

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Please feel free to contact the undersigned if you have any questions or require any further information.

Respectfully submitted,



Kenneth C. Howard, Jr., Counsel for Scripps
Howard Broadcasting Company

Enclosure

cc: Station WMAR-TV Public File
Shaun Maher, Media Bureau, Room 2-A820 (Via Hand Delivery)



REQUEST FOR WAIVER
SCRIPPS HOWARD BROADCASTING
WMAR-DT
BALTIMORE, MD
JUNE 30, 2005

Scripps Howard (Scripps) is the licensee of WMAR-DT which operates on Channel 52 at Baltimore, MD and has certified to its "replication" facility. The WMAR-DT licensed facility (File #BLCDT19991230AAZ) presently operates with an ERP of 602 kW at an HAAT of 311m. The WMAR allotment (the "replication" facility which has been certified-to by WMAR) specifies an ERP of 1000 kW at an HAAT of 305m.

The existing WMAR digital TV antenna is located on the tower at an HAAT of 311m which is 6m higher than the specified allotment HAAT (305m). However, increasing the facility ERP to 961 kW (the equivalent of 1000 kW at an HAAT of 305m) would require replacement of the transmission line and antenna which, as will be shown below, is not practical until the end of the transition period. Scripps is a tenant on this tower (owned by a consortium of users) and, therefore, does not have independent control of the tower configuration.

The WMAR digital antenna is stacked on top of its analog antenna. The length of the digital antenna in this configuration is limited by the maximum height specified in the FAA "no-hazard" determination for the tower (the tower owner commissioned a structural analyses to determine whether the height could be increased which concluded that it could not accommodate any increase in height; therefore, the owner did not attempt to obtain a new "no-hazard" determination for increased height from the FAA). Scripps had to use a low gain



antenna on the top of the analog antenna in order to prevent the overall height of the structure from exceeding the height specified in the previously approved "no-hazard" determination and to comply with the structural limitations. Also, the tower is fully loaded and cannot structurally handle the larger transmission line required for WMAR-DT to obtain the certified ERP using this (low-gain) antenna or the repositioning of the analog antenna at a lower height on the tower. Scripps does not have the option of replacing the tower (which would cost in excess of \$5,000,000) as the area around the tower has been built up, and it is likely to be impossible to acquire the necessary land for a new tower. Thus, the implementation of full facilities cannot be accomplished until the WMAR analog antenna can be removed and a new, higher gain DTV antenna is installed in its place. It is further noted that Scripps' currently assigned DTV channel (Ch. 52) is out-of-core and its analog channel (Ch. 2) is deemed unsuitable for DTV service. Scripps is, therefore, unable to predict with any specificity the antenna requirements for its yet-to-be-assigned DTV channel.

Scripps submits that its presently authorized DTV facility, which has been operating at an ERP of 602 kW since December 20, 1999 serving 97.2% of the population inside the noise limited contour ^{1/}, represents a "good faith effort" to provide maximum DTV service to the Baltimore DMA; Scripps will complete its build-out to the certified facility parameters at the end of the DTV transition period when its analog antenna can be removed to create the necessary space and structural capability for the DTV antenna and transmission line required to achieve the certified ERP. Given the above information, Scripps requests a waiver of the July 1, 2005 "use-it-or-lose-it" deadline for construction of "full" certified facilities for WMAR-DT.

^{1/} The percentage is based on the predicted Longley Rice population inside the noise-limited contour for the WMAR licensed facility vs. the predicted Longley Rice population of the FCC allotment facility.

**Certification**

I hereby certify that the foregoing report or statement was prepared by me but may include work performed by others under my supervision or direction. The statements of fact contained therein are believed to be true and correct based on personal knowledge, information and belief unless otherwise stated; with respect to facts not known of my own personal knowledge, I believe them to be true and correct based on their origin from sources known to me to be generally reliable and accurate. I have prepared this document with due care and in accordance with applicable standards of professional practice.

A handwritten signature in black ink, appearing to read 'John F.X. Browne', written over a horizontal line.

John F.X. Browne, P.E.