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President & CEO

July 23, 2013

BY ELECTRONIC AND HAND FILING

The Honorable Mignon Clyburn
Acting Chairwoman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Amendment of Section 73.622(b), Final DTV Table of Allotments, Television Broadcast Stations (Memphis, Tennessee), Petition for Rulemaking, filed by WMC License Subsidiary, LLC (May 26, 2011) and GN Docket No. 12-268

Dear Chairwoman Clyburn:

Raycom Media, Inc. ("Raycom") writes to respectfully request prompt action by the Commission on Raycom's request to allow WMC-TV, Memphis, Tennessee ("WMC"), to move from its low VHF channel to Channel 17. The FCC's failure to act on this petition is harming thousands of viewers, and is particularly impacting minority and low-income households.

WMC's petition has been pending for well over two years. WMC is seeking to move to a UHF channel because its low VHF channel allotment (Channel 5) has failed to replicate the station's former analog footprint on this channel. Thus, the digital transition caused tens of thousands of viewers to lose access to the station's over-the-air signal. Despite WMC's extensive efforts over the past two years to remedy the problem — such as by giving away free antennas to viewers — many viewers are still unable to receive the station's signal. The problem is caused by the fact that low VHF

channels are fundamentally problematic for digital broadcasting — an issue that the Commission has recognized repeatedly.¹

By moving to its requested UHF channel, WMC would be able to provide a much more robust, free, over-the-air signal to viewers in the Memphis area. These viewers have been waiting for WMC to restore its signal for years. WMC's petition was filed before the FCC issued a freeze on the future filing of channel-change requests (a freeze in which the FCC committed to act on petitions that already had been filed).² Moreover, in the Spectrum Act, Congress ensured that the Commission could move forward on such petitions *consistent with* the goals of that legislation — not contrary to it.³

The record of this proceeding reflects the numerous reasons why the Commission's inaction on WMC's petition is contrary to the public interest, to the clear intent of Congress, and to basic principles of fundamental fairness. Raycom already has explained these issues in prior filings.⁴ It writes to you today to ensure that you are aware of both the troubling and continuing scope of this problem and the fact that it is getting worse.

WMC has conducted focus groups of Memphis viewers in which it asked participants to identify whether they have trouble receiving the signals of any area television stations. Of the study participants, an astonishing 15% reported problems receiving WMC's over-the-air signal. By contrast, barely any of the viewers in the focus groups reported problems receiving the signals of any other Memphis television station.

¹ See, e.g., *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, GN Dkt. No. 12-268, 27 FCC Rcd 12357 (2012), at para. 127; *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, Notice of Proposed Rulemaking, ET Docket No. 10-235, 25 FCC Rcd 16498, para. 43 (2010); *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Rcd 18279, at paras. 51 and 63 (2004).

² FCC Public Notice, "Freeze on the Filing of Petitions for Digital Channel Substitutions Effective Immediately," 26 FCC Rcd 7721 (May 31, 2011) ("*Freeze Notice*") (stating that the Media Bureau would "continue its processing of rulemaking petitions that are already on file with the Office of the Secretary"). WMC's petition was filed on May 26, 2011.

³ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 125 Stat. 156, Title VI (2012) ("*Spectrum Act*"), at § 6403(g)(1) (specifically allowing Commission action on petitions filed by the release of the *Freeze Notice*, such as WMC's).

⁴ See Comments of Raycom, GN Dkt. No. 12-268 (Jan. 25, 2013); Reply Comments of Raycom, GN Dkt. No. 12-268 (March 12, 2013).

Troublingly, the inability of WMC to deliver a robust signal over-the-air is disproportionately affecting senior citizens, households with incomes less than \$25,000, and African American households. There are higher than average populations of these groups in nine out of the ten zip codes from which WMC has received the most complaints from viewers about reception problems. Some of these viewers report to the station that they reluctantly have decided to pay for expensive cable or satellite subscriptions in order to receive WMC's programming, including WMC's vital news and emergency information,⁵ NBC entertainment and news programming, NFL games, the Olympics, and multicast programming specifically developed for the African American community. Other viewers tell WMC that they have simply given up on being able to access the station's programming.

Of note, WMC carries Bounce TV as a free digital over-the-air multicast. Bounce TV is the first multicast network designed to serve an African American audience. Raycom was the first station group in the country to launch the Bounce TV network. In Memphis, much of the target audience of this network is being deprived of the opportunity to view it over-the-air, a fact that is disappointing both to those viewers and to Raycom. Moreover, both of the DBS operators and several major cable operators refuse to carry WMC's Bounce TV multicast, so viewers that subscribe to these operators are simply deprived of access to this programming.

In the meantime, more and more viewers are cutting the cord on pay-TV subscriptions.⁶ Significantly:

- Nearly 20% of U.S. television households are now relying exclusively on over-the-air television, up from 17.8% last year and 14% four years ago.⁷
- Minority households rely heavily on over-the-air television, accounting for 41% of over-the-air only households. The number of African American over-the-air only households continues to grow, and now stands at 22% of all African American households.⁸

⁵ Raycom has made significant investments to provide WMC with the best-equipped broadcast weather service in the Mid-South. In addition, WMC is the only Memphis television station with a helicopter.

⁶ See, e.g., Phil Kurz, "OTA TV Reception Climbs; Minorities, Young, Poor Most Likely to Watch Only Off-Air TV," *Broadcast Engineering* (July 2, 2013).

⁷ *Id.*

⁸ *Id.*

- Lower-income households also rely disproportionately and increasingly on over-the-air television. Thirty percent of households with an income below \$30,000 are over-the-air only, up from 22% in 2010.⁹

In short, those Memphis-area viewers who are the most likely to watch WMC's programming over-the-air are being deprived of the ability to do so. This is a real and continuing problem, and one that is affecting more households over time as greater numbers of consumers cancel their pay-TV subscription services. The Commission owes it to these viewers to take action on WMC's long-pending petition, as the FCC said it would do over two years ago.

Respectfully submitted,



Paul McTear
President and CEO

cc: Commissioner Rosenworcel
Commissioner Pai
P. Michele Ellison
Dave Grimaldi
Sarah Whitesell
Alex Hoehn-Saric
Matthew Berry
William Lake, Media Bureau
Barbara Kreisman, Media Bureau

⁹ *Id.*