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

In the Matter of	)	
	)	
2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 14-50
	)	
2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 09-182
	)	
Promoting Diversification of Ownership In the Broadcasting Services	)	MB Docket No. 07-294
	)	
Rules and Policies Concerning Attribution of Joint Sales Agreements In Local Television Markets	)	MB Docket No. 04-256

COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

SINCLAIR BROADCAST GROUP, INC.

Clifford M. Harrington
Paul A. Cicelski

Its Attorneys

Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

August 6, 2014

Table of Contents

Page

Summary

It is now 2014, and yet the FCC continues to impose unnecessary local television ownership limitations based on an outdated analysis developed in 1999. It has been fifteen years since the FCC originally adopted the "eight voices standard" and the "top-four test," yet the FCC continues to ignore the reality of the changed marketplace by limiting the number of television stations a broadcaster may own or operate in local markets. The FCC continues to bury its head in the sand even though local television stations no longer dominate the market for providing news and entertainment to the public, and are subject to intense competition for advertising dollars. The time has finally come for the FCC to come to terms with reality and to acknowledge that the video marketplace has changed dramatically since 1999 and that such change requires these unnecessary rules to be eliminated consistent with Congressional intent.

Media companies providing video programming like Hulu, Netflix, Amazon, and YouTube, were nowhere to been seen and their immense popularity could hardly have been imagined in 1999. In 2014, all are available to virtually every American. Today, more than three-quarters of the adult population are Internet users, and broadband connections enable users to view and send enormous amounts of information with little or no effort. Although the FCC acknowledges in the FNPRM that the media marketplace has changed, it stubbornly refuses to take action. The FCC's rationale does not justify continuing to maintain onerous ownership regulations only on television stations while not imposing similar ownership restrictions on other media that directly compete with broadcasters for viewers and advertising revenue. Congress requires that the FCC review its broadcast ownership rules and repeal those that are no longer in the public interest, and the time has come for the Commission to meet its obligation by repealing these anachronistic regulations.

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COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

Sinclair Broadcast Group, Inc. (“Sinclair”) hereby responds to the Federal Communications Commission’s (“FCC” or “Commission”) Further Notice of Proposed Rulemaking and Report and Order in the above-referenced proceeding.[1] Sinclair is filing these comments to address the Commission’s further proposals regarding the local television ownership rules. Sinclair has already commented on these rules numerous times in the past.

[1] *In the Matter of 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Further Notice of Proposed Rulemaking and Report and Order, MB Docket Nos. 14-50, 09-182, 07-294, 04-256, 29 FCC Rcd 4371 (2014) (“FNPRM”). *See also In the Matter of 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Order, DA 14-525 (released June 27, 2014) (extending the comment deadline to August 6, 2014).

Accordingly, rather than burden the record with repetitious material, Sinclair incorporates herein by reference each of the filings listed on Exhibit A hereto.

Introduction

It is now 2014, and yet the FCC continues to impose unnecessary local television ownership limitations based on an outdated analysis developed in 1999. Fifteen years after the FCC originally adopted the “eight voices standard” and the “top-four test,” the FCC continues to ignore the reality of rapid and transformational change in the marketplace by limiting the number of television stations a broadcaster may own or operate in local markets. At the same time it imposes no comparable ownership restrictions on other media such as cable, satellite, and broadband providers. This continues to be the case even though local television stations no longer dominate the market for providing news and entertainment to the public, and are subject to intense competition for advertising dollars. After all of these years, the time has finally come for the FCC to come to terms with reality and to acknowledge the obvious, namely, that the video marketplace has changed dramatically since the adoption of the local television ownership rules in 1999, and that such change requires such rules, which are clearly not necessary in the public interest, to be eliminated consistent with Congressional intent.

The Commission cannot continue to ignore the change that is taking place all around it. Since 1999, when the current rules were developed, cable programming channels have dramatically increased their offerings of original series programming, news, and sports coverage. Media companies providing video programming like Hulu, Netflix, Amazon, and YouTube, to name just a few, were nowhere to been seen and their immense popularity could hardly have been imagined. In 2014, all are available to virtually every American. Today, more than 150 million Americans (three-quarters of the adult population) are Internet users, almost double the number from the year 1999. Today, broadband connections enable users to view and send enormous amounts of information, including large video files, with little or no effort. This was inconceivable in 1999. And the explosion of the use of Smart Phones – which access Internet content and video – was yet again something that was unavailable – indeed unimaginable in 1999.[2]

In the FNPRM, the Commission itself acknowledges that the impact of new technologies on the media marketplace has been significant, yet it nevertheless ignores its own conclusion by stubbornly holding on to the notion that strict local TV ownership regulations remain necessary "to promote the Commission's policy goals in local markets."[3] As an example regarding why the FCC's rationale makes no sense in today's media marketplace, the FCC points out that 19 million Americans lack access to high speed Internet.[4] Even if true, that number represents only approximately 6% of the U.S. population, which is hardly a justification for maintaining restrictive local ownership rules that were long ago outdated.[5] The Commission also claims that although many Americans get their news from the Internet, most of that news originates from

[2] The local television ownership rule is a serious intrusion on free speech, raising significant First Amendment concerns. The only justification for government intrusion into these fundamental rights has been the perception that there is a "scarcity" which justifies different treatment for broadcast media. *See Red Lion Broad. Co. v. FCC*, 395 U.S. 367, 390-91 (1969); *FCC v. Pacifica Found.*, 438 U. S. 726 (1978). Given the explosion in new competitive media, the scarcity rationale, if it ever had validity, is invalid in today's media marketplace. *See* John W. Berresford, *The Scarcity Rationale for Regulating Traditional Broadcasting: An Idea Whose Time Has Passed*, Media Bureau Staff Research Paper No. 2005-2 (2005). Developments since 2005 make the point even more obvious today. As noted by Justice Thomas, "*Red Lion* and *Pacifica* were unconvincing when they were issued, and the passage of time has only increased doubt regarding their continued validity.…even if this Court's disfavored treatment of broadcasters under the First Amendment could have been justified at the time of *Red Lion* and *Pacifica*, dramatic technological advances have eviscerated the factual assumptions underlying those decisions. . . .The extant facts that drove this Court to subject broadcasters to unique disfavor under the First Amendment simply do not exist today." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 530-34 (2009) (Thomas, J.., concurring). The Commission must, therefore, reconsider the very basis for its local television ownership rule.

[3] FNPRM, at ¶ 5.

[4] *Id.* at n.5.

[5] Moreover, the Commission's rules make no distinctions between markets where there is near universal internet penetration, and those, such as extremely rural areas, where fiber has not yet become available. For regulations based on lack of Internet access to be rational, the Commission's rules should vary, depending on local conditions. But they do not.

newspapers and local broadcast stations. However, a review of the top fifteen news websites by popularity indicates that the majority of the websites are newspaper sites and none are local TV station sites.[6] Again, the FCC's rationale does not justify continuing to maintain onerous ownership regulations only on television stations while not imposing similar ownership restrictions on other media that directly compete with broadcasters for viewers and advertising revenue.

Realizing that rapid change in the video marketplace was inevitable, in 1996 Congress adopted Section 202(h) of the 1996 Telecommunications Act[7] which requires the FCC to review its broadcast ownership rules at regular intervals to "determine whether any of such rules are necessary in the public interest as the result of competition" and to "repeal or modify any regulation it determines to be no longer in the public interest." Despite numerous Section 202(h) reviews, the Commission inexplicably continues to enforce the same local television ownership regulations that it adopted in 1999. Between 1999 and 2014 the increase in media competition generally, and video competition in particular, has been nothing short of stunning, and continues to grow exponentially. The time has come for the Commission to recognize this and to follow its obligation under Section 202(h) to repeal these anachronistic regulations.

Discussion

1. The Local Television Ownership Rule Must be Substantially Relaxed or Eliminated

More than eighteen years ago, Congress recognized that, due to the tremendous changes in the video marketplace, the FCC's pre-existing multiple ownership regime was becoming too restrictive. Therefore, in 1996 Congress adopted sweeping amendments to the 1934

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[6] *See, e.g., Top 15 Most Popular News Websites*, EBIZ MBA, http://www.ebizmba.com/articles/news-websites (last visited August 5, 2014).

[7] Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12 (1996) ("1996 Act").

Communications Act "[t]o promote competition and reduce regulation" and required the Commission to conduct a rulemaking to determine whether to retain, modify, or eliminate its restrictions on the number of television stations that a person or entity may own, operate or control within the same television market.[8] In a reflection of Congressional concern that the rapidly evolving marketplace for news and video might require future adjustment of any rules adopted as part of such a rulemaking, Congress expressly required the Commission to regularly review its broadcast ownership rules to "determine whether any of such rules are necessary in the public interest as the result of competition" and charged it with the statutory obligation to "repeal or modify any regulation it determines to be no longer in the public interest."[9]

What has the Commission done in the eighteen years since Congress instructed it to repeal or modify any local television ownership rule that is no longer in the public interest? After years of proceedings, virtually nothing. And that is exactly where the Commission proposes in the current proceeding to leave the matter.

In 1999, pursuant to the Telecommunications Act of 1996, the FCC implemented a new local television ownership regime (the "1999 Rules").[10] The 1999 Rules permitted common ownership of two television stations within the same Designated Market Area ("DMA") and with overlapping Grade B signal contours only if (a) at least eight independently owned and operated "voices" would remain in the DMA following the proposed combination (the "eight voices standard"), and (b) the two merging stations were not both among the top four-ranked stations in the market, as measured by audience share (the "top-four test").

[8] *Id.* § 202(c)(2).

[9] *Id.* § 202(h). Initially the review was to be conducted biennially, but Congress subsequently revised § 202(h) to require quadrennial reviews. Consolidated Appropriations Act, 2004, Pub. L. No. 108-199 § 629, 118 Stat. 3, 100 (2004).

[10] *See In the Matter of Review of the Commission's Regulations Governing Television Broadcasting*, 14 FCC Rcd 12903 (1999) ("1999 Television Ownership Order"), *on recon.*, 16 FCC Rcd 1067 (2001).

Sinclair filed a timely Petition for Review of the 1999 Television Ownership Order with the D.C. Circuit.[11] Sinclair argued, among other things, that the new eight voices standard lacked evidentiary support and was arbitrary and capricious, and that the Commission had failed to adequately explain either why it chose the number eight, or why it refused to count other, non-television voices available in the market, such as cable television, DBS, MMDS, daily newspapers, and the Internet, given that such "voices" are counted with respect to other aspects of the Commission's duopoly rules, and that the Commission had itself concluded in 1984 that these media are "substitutes."[12] In 2002, the D.C. Circuit agreed that the rule was "arbitrary and capricious" and remanded the "eight-voices" test to the Commission with instructions to either justify the necessity for the restriction or eliminate it.[13] The Commission subsequently concluded that it could not justify the "eight-voices" restrictions and eliminated it only to mystifyingly change its mind and find a justification later when procedural jockeying by organizations which oppose consolidation allowed the rules to be considered by a different federal appeals court.

Rather than directly address the remand ordered by the D.C. Circuit in *Sinclair v. FCC*, the FCC conducted a new Biennial Review (the "2003 Rules").[14] In its *2002 Biennial Order*, the Commission eliminated the eight voices standard entirely, and substituted a new standard permitting television station triopolies in markets with 18 or more television stations, and duopolies in markets with 17 or fewer (but at least 5) television stations.[15] The Commission

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[11] Petition for Review, *Sinclair v. FCC*, No. 01-1079 (D.C. Cir. February 20, 2001).

[12] *See* Brief of Sinclair Broadcasting Group, Inc., *Sinclair v. FCC*, No. 01-1079 (D.C. Cir. May 17, 2001).

[13] *Sinclair Broad. Grp. V. FCC*, 284 F.3d 148 (D.C. Cir. 2002).

[14] *See In the Matter of 2002 Biennial Regulatory Review*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620 (2002), ("*2002 Biennial Order*"), which is incorporated herein by reference.

[15] *Id.* at ¶ 134.

concluded that "in light of the myriad sources of competition to local television broadcast stations . . . our current rule is not necessary in the public interest to promote competition . . . [and] does not promote, and may even hinder, program diversity and localism."[16]

On appeal, the United States Court of Appeals for the Third Circuit ("Third Circuit") stayed the effectiveness of the 2003 Rules, and held, *inter alia*, that the Commission had failed to adequately support its new local television numerical limits, and remanded the matter for further consideration.[17] The Third Circuit did not address the eight voices standard or the top-four rule.

The FCC did not take this opportunity to address the Third Circuit's concerns with its 2002 local television ownership rule. Instead it started yet another Quadrennial Review proceeding.[18] In the *2008 Quadrennial Order*, the FCC restored its 1999 local television ownership rule. It did so despite its own prior conclusion that such restriction could not be justified and despite the continued decline of broadcasting's position as the primary source of news and entertainment. Given the enormous growth in the number of alternative outlets for diversity of viewpoint in local markets, the Commission was forced to abandon its prior view that the local television ownership rule was necessary to foster viewpoint diversity. For the first time the Commission insisted that the rule was necessary to promote "competition" among broadcast television stations. The Commission did not clearly define, and has never clearly defined, what it meant by such competition, although to the extent that it meant either competition for viewers or competition for programming, seemingly the only possible definitions

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[16] *Id*. at ¶ 133.

[17] *Prometheus Radio Project v. FCC*, 373 F. 3d 372 (3d Cir. 2004). Chief Judge Scirica dissented in part, stating that the Court had failed to accord the Commission the due deference accorded to agency decision-making and had substituted its own policy judgment for that of the FCC, upsetting the ongoing review of broadcast media regulation mandated by Congress in the Telecommunications Act of 1996. Chief Judge Scirica would have allowed the Commission's 2002 media ownership rules to go into effect.

[18] *In the Matter of 2006 Quadrennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010 (2008) (the "*2008 Quadrennial Order*").

for the term's use, the Commission cannot seriously argue today that cable channels and Internet sites should not be treated as providing robust competition in both areas.

The provisions of the *2008 Quadrennial Order* reverting to the eight voices standard and top-four test were upheld on review by the Third Circuit based on the deference due administrative agency judgments.[19] The Third Circuit gave deference to the Commission's decision to ignore every other kind of competitive media, and considering only other full power television stations, on the ground that the rule is needed to ensure competition among the stations themselves.

In Sinclair's view, the rationale expressed by the Commission and the Third Circuit is contrary to the Commission's goals in other proceedings. How can it be said that the local television rule is necessary in the public interest as the result of competition when the Commission, which controls the allocation of television stations to the various markets, has not made any effort to assign eight voices to each of the over 200 DMAs in the United States? In fact, of course, the large majority of television markets have fewer than eight voices. The Commission has the authority and indeed the statutory obligation under Section 307(b) of the Communications Act,[20] to provide a "fair, efficient, and equitable distribution" of licenses among communities. If eight competing over-the-air TV stations are the minimum necessary to ensure competition, why has the Commission not met its Section 307(b) obligation by granting licenses to at least eight stations in each market? The answer, of course, is that no harm comes from having fewer than eight independent television "voices," and this is really not a priority of the Commission.

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[19] *Prometheus Radio Project v. FCC*, 652 F.3d 431 (3d Cir. 2011). Other portions of the *2008 Quadrennial Order* were remanded for further review and action.

[20] 47 U.S.C. § 307(b), as amended,

Nor can this justification for the local television ownership rule be reconciled with the decisions of the Commission to dramatically reduce the number of television channels available for allocation throughout the United States. At one time over 80 television channels were available for allocation. First, Channels 70-83 were reallocated from television to Land Mobile Services. Then Channels 52-69 were reallocated for use by cellular telephone operators. Now use of Channel 51 is frozen. And, if the Commission allocates 120 MHz for the spectrum auction called for in the National Broadband Plan, the highest television frequency will be channel 31, meaning we will have gone from 80 to 30 channels, which is hardly a prescription for increased competition.

The Commission repeatedly claims in the FNRPM that it is concerned with a single party owning two television stations in a given market that does not have eight voices. Yet the Commission recently approved Sinclair's merger of WTTO(TV), the ABC affiliate, and WABM(TV), the My Network affiliate in the market Birmingham DMA. Sinclair is using the multicasting ability of WABM(TV) to broadcast the programming of both networks. Similarly, the FCC approved the shifting of ABC programming to WMMP(TV), and Sinclair currently is using the multicasting capability of WMMP(TV) to broadcast both ABC and My Network TV in the Charleston DMA. If the Commission finds it acceptable to multicast two networks in a given market, why should "competitive concerns" stand in the way of Sinclair owning both stations outright? It simply makes no sense if the Commission is truly concerned about competition.

Nor can it be said that MVPDs, the Internet and other video providers are not competitive with television – when viewed either from the perspective of advertising sales or from attracting viewership.[21] MVPDs are using "interconnects" to compete directly with local television

[21] Indeed, our neighbor to the North has recognized that more and more consumers are seeking their news from sources other than traditional television, and has its changed policy accordingly. Hubert Lacroix, Chairman and

stations for video advertising sales, and Internet services such as Google are now the largest advertising sales outlets of all and provide super-targeted local advertising. Nor can it be claimed that news programming, including but not limited to *CNN, Fox News, Newschannel 8*, original cable series such as *Boardwalk Empire, Breaking Bad, Burn Notice, Homeland, Mad Men, The Newsroom,* and *The Walking Dead* and Internet-distributed series such as *House of Cards* and *Orange is the New Black,* and sports programming such as ESPN, NASCAR racing, NFL Network, *Monday Night Football*, and MVPD exclusive rights to the majority of NCAA, MLB, NAB, and NHL games do not compete directly with local broadcast television for viewership and advertising dollars.[22] The strong competitive position that cable and Internet programming have achieved is evidenced by their representation in the 2013 Emmy awards, accounting for five of six nominees for Best Drama, three of six nominees for Best Comedy, and both the Lead Actor and Lead Actress awards for Drama Series.[23]

2. The Commission Should Not Impose Additional Restraints on Sharing Arrangements, and Should Eliminate JSA Attribution

In the Order associated with the FNPRM, the Commission adopted a new attribution rule which counts television stations brokered under a same-market television joint sales agreement ("JSA") that encompasses more than 15 percent of the weekly advertising time for the brokered

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CEO of the government-sponsored Canadian Broadcasting Corporation, unveiled a plan to shift resources out of the TV divisions to drive a wave of new mobile-friendly content, including the scaling back of local evening newscasts by as much as two-thirds, in an effort to transform the broadcaster to target smartphones and tablets first to find readers, viewers and listeners wherever they are. *See* James Bradshaw, *CBC Plans Massive Staff Cuts As It Shifts To Mobile-First Strategy*, THE GLOBE AND MAIL, January 26, 2014, http://www.theglobeandmail.com/arts/television/cbc-plans-massive-staff-cuts-as-it-shifts-to-mobile-first-strategy/article19354305/ (last visited August 6, 2014).

[22] Among the distributors of original programming that compete directly for viewers and advertisers are non-broadcast services HBO, Showtime, A&E, AMC, FX and USA Network, to name but a few.

[23] *2013 Emmy Awards Winners List*, VARIETY, September 22, 2013 http://variety.com/2013/tv/news/2013-emmy-awards-winners-list-1200660209/ (last visited August 6, 2014). *See also*, Mark Hughes, *How Cables Emmy Wins Signal the Future of Television Programming*, FORBES, September 23, 2013, http://www.forbes.com/sites/markhughes/2013/09/23/how-cables-emmy-wins-signal-the-future-of-television-programming/ (last visited August 6, 2014)

station toward the brokering station's permissible ownership totals.[24] This effectively prohibits one station in a market from providing sales services to a second station in the market unless the first station could own the second, regardless of the market share or competitive impact of the stations involved. The use of such a bright-line test causes anomalous results. For example, Sinclair could not utilize a JSA in the Charleston, South Carolina, market even though the Antitrust Division of the Justice Department, after a thorough review of the market, found no reason to object to such a relationship. Even if it had been faced with a merger in the case, the Department said, its "investigation and antitrust analysis of the Charleston market revealed that advertisers do not largely view the stations as close substitutes, and even a full merger would not likely result in a substantial lessening of competition."[25] This weighing of actual competitive forces in each marketplace clearly is superior to the approach adopted by the Commission.

In its recent report on Media Ownership (the "GAO Report"), the Government Accountability Office ("GAO") concluded that the Commission has not collected adequate data or completed a review to understand how broadcaster agreements are being used and the potential impacts with respect to its media ownership rules and the corresponding policy goals of competition, localism, and diversity.[26] The GAO specifically found that the FCC has not collected comprehensive data to determine the number of agreements, the services provided through the agreements, and other relevant data to provide useful context, such as the market and station characteristics associated with the use of agreements. Instead, in making JSAs

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[24] FNPRM, at ¶ 340.

[25] *See* United States Department of Justice, Antitrust Division,*Justice Department and the Pennsylvania Office of Attorney General Require Divestiture from Sinclair Broadcast Group in Order to Proceed with Its Acquisition of Perpetual Corp.* Press Release, 14-735, *available at* http://www.justice.gov/opa/pr/2014/July/14-at-735.html(July 15, 2014).

[26] *See* United States Government Accountability Office, *Media Ownership - FCC Should Review the Effects of Broadcaster Agreements on Its Media Policy Goals*, Report to the Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, GAO-14-558, *available at* http://www.gao.gov/assets/670/664484.pdf (June 27, 2014).

attributable and imposing restrictive processing standards on all other sharing arrangements, the Commission relied on comments from stakeholders on these issues and its experience reviewing individual transactions. This, the GAO concluded, was insufficient and violated important government standards for imposing substantive rules.[27]

In view of the conclusion in the GAO Report that the Commission lacks sufficient data to make decisions on JSAs and other sharing arrangements, the Commission is obligated, under Section 202(h), take a fresh and comprehensive look at this issue. When it does, the Commission can only conclude that it went too far: it should relax its new rule to comport with antitrust policy and impose attribution only in those markets where adverse competitive effects would result from such an arrangement.

Sinclair is particularly concerned that the Commission will use this proceeding not merely to obtain information about other forms of sharing arrangements, such as shared services and news sharing arrangements, but as a means to justify prohibitions, either in the form of new rules or even more stringent processing guidelines. There is no basis for such action, and it would violate the adequate notice requirements of the Administrative Procedure Act.

Elimination of the benefits of shared facilities (and, in some cases, news operations) would dramatically increase operational costs of all stations. Most stations currently operated pursuant to JSAs and SSAs would go from a positive to a negative broadcast cash flow ("BCF") if current services arrangements were terminated. While some might suggest that this is a good thing, witness Chairman Wheeler's comments at the NAB Convention that broadcasters should abandon broadcasting for an "over-the-top" Internet distribution model, it would have a very negative impact on the public interest. Not only would there be a tremendous contraction in the

[27] *Id*. at 27 (citing GAO, Standards for Internal Control in the Federal Government, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999)).

ability of such stations to offer any news or other local programming, many would simply go out of business. How does this provide enhanced competition, the Commission's alleged goal? Moreover, in most markets below the top-25 there is no spectrum scarcity, no great bonanza to be earned by auctioning off their channels in the forthcoming spectrum auction, and no real benefit to consumers from additional broadband availability.

This study clearly shows that elimination of current sharing arrangements would place the very viability of CW and My Network affiliates in all but the largest markets at risk. Moreover, in each case the reduced cash flow would make it difficult, if not impossible, for such stations to provide news and other locally-originated programming to their audiences. In sum, not only would elimination of sharing arrangements not lead to increased competition for viewers or advertising revenues, it would likely lead to a net decrease in the ability of such stations to serve the public interest, even if they survive.

Conclusion

Section 202(h) of the 1996 Act specifically requires the Commission to review its broadcast ownership rules at regular intervals to "determine whether any of such rules are necessary in the public interest as the result of competition" and to "repeal or modify any regulation it determines to be no longer in the public interest."[28] Sinclair has repeatedly demonstrated throughout this proceeding that neither the "eight voices" test nor the "top-four" restriction is necessary in the public interest as the result of competition. Therefore, they should both be repealed. Further, none of the proposals to expand restrictions on broadcast ownership or operation are within the proper statutory scope of this proceeding, and, in any event, they are

[28] 1996 Act § 202(h).

not justified in the public interest. The Commission should, therefore, eliminate its unnecessary restrictions on the marketplace and refrain from imposing any new and unnecessary regulations.

Respectfully submitted,

SINCLAIR BROADCAST GROUP, INC.

By: *<u>/s/ Clifford M. Harrington</u>*
Clifford M. Harrington
Paul A. Cicelski
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

By: *<u>/s/ Barry M. Faber</u>*
Barry M. Faber
Executive Vice President &
General Counsel
Sinclair Broadcast Group, Inc.
10706 Beaver Dam Road
Hunt Valley, Maryland 21030

August 6, 2014

<u>**Exhibit A**</u>

1. Brief of Sinclair Broadcasting Group, Inc., *Sinclair v. FCC*, No. 01-1079 (D.C. Cir. May 17, 2001).

2. Consolidated Comments of Sinclair Broadcast Group, Inc., dated February 7, 1997, on the Commission's Further Notice of Proposed Rule Making, MM Docket No. 91-221 *Review Of the Commission's Regulations Governing Television Broadcasting; Television Satellite Stations Review of Policy and Rules*, 11 FCC Rcd 21655 (released November 7, 1996) and on the *Commission's* Further Notice of Proposed Rule Making, MM Docket No. 94-150, *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/Mds Interests; Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry; Reexamination of the Commission's Cross-Interest Policy* (released November 7, 1996).

3. Petition of Sinclair Broadcast Group, Inc. for Reconsideration, dated October 18, 1999, of the Commission's Report and Order in the *Review Of the Commission's Regulations Governing Television Broadcasting* (MM Docket No. 91-221), *Television and Satellite Stations Review of Policy and Rules* (MM Docket No. 87-8) and *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interest*s (MM Docket No. 94-150).

4. Comments of Sinclair Broadcast Group, Inc., dated January 2, 2003, on the Commission's Notice of Proposed Rule Making, MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No. 01-317 and MM Docket No. 00-244, in the *Matter of 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, *Cross-Ownership of Broadcast Stations and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets*, 17 FCC Rcd 18401 (released September 24, 2002).

5. Comments of Sinclair Broadcast Group, Inc., dated October 27, 2004, on the Commission's Notice of Proposed Rule Making in MB Docket No. 04-256, *Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets*, 19 FCC Rcd 15238 (released August 2, 2004).

6. Comments of Sinclair Broadcast Group, Inc. dated October 23, 2006, on the Commission's Further Notice of Proposed Rule Making in MB Docket No. 06-121, MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No. 01-317 and MM Docket No. 00-244, *2006 Quadrennial Regulatory Review – Review of The Commission's*

Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, 21 FCC Rcd 8834 (released July 24, 2006).

7. Reply Comments of Sinclair Broadcast Group, Inc., dated January 16, 2007 on the Commission's Further Notice of Proposed Rule Making in MB Docket No. 06-121, MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No. 01-317 and MM Docket No. 00-244, *2006 Quadrennial Regulatory Review – Review of The Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 21 FCC Rcd 8834 (released July 24, 2006).

8. Comments of Sinclair Broadcast Group, Inc. regarding the Media Ownership studies commissioned by the Commission in its Further Notice of Proposed Rule Making in MB Docket No. 06-121, MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No. 01-317 and MM Docket No. 00-244, *2006 Quadrennial Regulatory Review – Review of The Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 21 FCC Rcd 8834 (released July 24, 2006).

9. Letter submitted by Sinclair Broadcast Group, Inc., dated December 11, 2007, in response to FCC's News Releases, MB Docket No. 06-121, dated November 13, 2007.

10. Comments of Sinclair Broadcast Group, Inc., dated March 5, 2012, on the Commission's Notice of Proposed Rulemaking in MB Docket No. 09-182, MB Docket No. 07-294, *2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 26 FCC Rcd 17489 (released December 22, 2011).