

**MULTIPLE OWNERSHIP EXHIBIT**

By this application, Sinclair Broadcast Group, Inc. (“Sinclair”) seeks Commission consent to the assignment of license of television broadcast station WTAT-TV, Charleston, South Carolina from WTAT Licensee, LLC, a Delaware limited liability company controlled by Cunningham Broadcasting Corporation, to WTAT Licensee, LLC, a new Nevada limited liability company, which is indirectly controlled by Sinclair.<sup>1</sup> To the extent necessary, Sinclair seeks a waiver of Section 73.3555(b) of the Commission’s rules. Pursuant to Section 1.3 of the Commission’s rules, the Commission may waive any of its rules for good cause shown. 47 C.F.R. § 1.3. *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972). As discussed below, good cause exists for a waiver of the television duopoly rule because the U.S. Court of Appeals for the D.C. Circuit’s decision in *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002) (“*Sinclair v. FCC*”) has totally undermined the foundations of the rule.

The instant application is being filed at the present time for the following reasons. Sinclair owns Station WMMP(TV), Charleston, South Carolina and seeks to acquire WTAT-TV, Charleston, South Carolina, which it has been programming pursuant to a Local Marketing Agreement (“LMA”) since July 1, 1998. On August 6, 1999, the Commission released a Report and Order in *Review of the Commission’s Regulations Governing Television Broadcasting*, 14 FCC Rcd 12903 (“*Local Ownership Order*”), *on recon.*, 16 FCC Rcd 1067, *Memorandum Opinion and Second Order on Reconsideration* (2001) (“*Reconsideration Order*”). The *Local Ownership Order* permitted a single entity to directly own, operate or control two television

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<sup>1</sup> The ownership structure of WTAT Licensee, LLC is illustrated in Exhibit 11 of the instant application.

stations in the same DMA under two circumstances: (1) where the Grade B contours of the stations do not overlap, or (2) (i) at the time of filing of the application, at least one of the stations is not among the top four ranked stations in the market, based on the most recent all-day (9:00 a.m. – midnight) audience share as measured by Nielsen Media Research or a comparable ratings service, and (ii) at least eight independently owned and operating full-power commercial and non-commercial television stations will remain following the merger, (the “television duopoly rule”).

In the *Local Ownership Order*, the Commission stated that LMAs entered into after November 5, 1996 would have until August 6, 2001 to either come into compliance with the new rules or to terminate. In a companion proceeding issued simultaneously with the *Local Ownership Order*, the Commission stated that television LMAs would constitute attributable interests if they involved more than 15% of a station’s air time.<sup>2</sup> Thus, the WTAT-TV LMA became an attributable interest and, because it was entered into after November 5, 1996, it was subject to the August 6, 2001 divestiture date. However, Sinclair filed an appeal of the *Local Ownership Order* in the U.S. Court of Appeals for the D.C. Circuit and the Court granted a stay of the divestiture requirement. On April 2, 2002, the Court of Appeals remanded the television duopoly rule, finding that the Commission improperly excluded all media sources except television in defining “voices.”<sup>3</sup> *Sinclair v. FCC*, supra.

In view of the fact that the present LMA between Sinclair and WTAT-TV is attributable but is in limbo, Sinclair submits that this is an appropriate time for the Commission to act on the

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<sup>2</sup> *Review of the Commission’s Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Report and Order, 14 FCC Rcd 12559 (1999), *on recon.*, Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 1097 (2001).

<sup>3</sup> Sinclair’s Petition for Reconsideration or Rehearing En Banc is presently pending before the Court. That Petition argues that the television duopoly rule should be vacated. The Court imposed stay remains in place.

instant application. Moreover, the programming of WTAT-TV pursuant to the LMA has helped foster competition in the Charleston, South Carolina market, and this is the ideal time for the Commission to review the market situation and reach a determination concerning Sinclair's proposed acquisition of WTAT-TV. If the LMA terminates, the FCC will have less information on which to base a determination. Thus, Sinclair respectfully submits that this application is timely and should be processed without delay.

In light of the Court's remand of the television duopoly rule, the Commission must look at all media voices available in a market when reviewing a proposed television acquisition. The Court remanded the entire rule to the Commission for reconsideration. In addition to finding that the exclusion of non-broadcast voices from the television duopoly rule ran counter to the evidence before the Commission, the Court also suggested that "the Commission's choice of "eight" as the number of "voices" that must remain after a merger might be subject to independent challenge as arbitrary and capricious.<sup>4</sup> The Commission is obligated to forthwith give effect to the Court's decision. *See Cleveland v. Federal Power Comm'n*, 561 F.2d 344, 346 (D.C. Cir. 1977)(footnote omitted); *see also* 47 U.S. C. § 402(h) (providing that "it shall be the duty of the Commission... to forthwith give effect" to any judgment reversing an FCC order).

Sinclair submits that when alternative media sources are appropriately considered, as mandated by the *Sinclair v. FCC* decision, there is no plausible diversity rationale that can support the retention of the rule in its present form. Accordingly, Sinclair hereby presents a

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<sup>4</sup> The Court stated that "even if we were to reject Sinclair's assertion that the number eight was 'plucked out of the air,' in view of the rulemaking record, our resolution of Sinclair's challenge to the Commission's definition of 'voices' requires that the rule be remanded to the Commission. On remand, the Commission conceivably may determine to adjust not only the definition of 'voices' but also the numerical limit." *Sinclair v. FCC*, 284 F.3d at 162.

more rational and comprehensive analysis of the number of “voices” in the Charleston, South Carolina market which takes into account additional broadcast and non-broadcast voices.

The data demonstrates that the Charleston market represents a vibrant marketplace of ideas that exhibits vigorous competition. The “Voices Study,” attached hereto as Exhibit A, shows that at least 31 independent media voices would continue to exist in the Charleston market after the consummation of the proposed assignment of WTAT-TV.<sup>5</sup> Specifically, those independent media voices account for five independently owned and operated full-power television stations, 41 radio stations, one daily newspaper, cable channels, various cable television and direct broadcast satellite systems, and the Internet. The proposed assignment will not change that number because Sinclair’s existing LMA is attributable. Moreover, the LMA has been in effect since July 1998.

Both individually and collectively, these various voices form a highly competitive and challenging market. For example, the local CBS affiliate in Charleston, WCSC-TV broadcasts news updates across multiple cable channels on Comcast. Indeed, as noted in a recent article by Broadcasting & Cable magazine, cable television networks are now garnering a significantly higher share of primetime viewership than all of the broadcast networks combined.<sup>6</sup>

Pursuant to its existing LMA with WTAT-TV, Sinclair already holds an attributable ownership interest in two stations in the Charleston market. Thus, grant of the instant application would not lead to a further decrease in the number of independent voices in the

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<sup>5</sup> The number 31 treats all cable channels as a single voice, which is a conservative approach inasmuch as there are numerous different owners of cable channels, and cable channels are important sources of news, information, and entertainment.

<sup>6</sup> Allison Romano, “Cable KOs broadcast Nets in Viewership,” Broadcasting & Cable (July 3, 2002). In addition, according to the article, cable’s share of primetime viewership increased 12% from the same time last year, and broadcast’s share decreased by 11%.

Charleston market. In connection with the creation of this LMA, the parties thereto submitted the appropriate filings under the Hart Scott Rodino Antitrust Improvement Act of 1976, as amended, with the Department of Justice, and all applicable waiting periods under that Act have expired or terminated. In the four years that Sinclair has owned WMMP and programmed WTAT-TV, it has worked to improve the facilities and programming provided by the stations in order to better serve the public interest. Importantly, the stations carry different programming, thereby increasing the programming diversity available to the market. WMMP is an affiliate of UPN and WTAT-TV is an affiliate of the Fox Network. Following the consummation of the proposed transaction, the stations will continue to carry different programming and will continue to compete with one another for viewers and advertising revenue, just as they have for the past four years.

The policy underlying the Commission's multiple ownership rules seeks to ensure diversity and competition within any given market. As shown in Exhibit A hereto, Charleston, South Carolina is a vibrant, competitive and diverse market, with some 31 independent media voices remaining following the consummation of the proposed transaction. Therefore, under this more complete method of counting media voices and assessing competition, it is clear that grant of the instant application is in the public interest.

**TELEVISION STATIONS SERVING THE CHARLESTON, SOUTH CAROLINA  
DESIGNATED MARKET AREA**

No.	Licensee or Other Attributable Party	Call Sign	City, State
1.	Media General Communications, Inc.	WCBD-TV	Charleston, SC
2.	Allbritton Communications Co.	WCIV	Charleston, SC
3.	Jefferson-Pilot Communications	WCSC-TV	Charleston, SC
4.	South Carolina ETV Commission*	WITV	Charleston, SC
5.	Sinclair Broadcast Group	WMMP	Charleston, SC
	Cunningham Broadcasting Group	WTAT-TV	Charleston, SC
	(WTAT-TV is programmed by Sinclair pursuant to a LMA)		

\* Non-commercial station

**RADIO STATIONS SERVING THE CHARLESTON, SOUTH CAROLINA  
DESIGNATED MARKET AREA**

No.	Licensee or Other Attributable Party	Call Sign	City, State
6.	Clear Channel Communications	WALC(FM) WEZL(FM) WRFQ(FM) WSSP(FM) WXLY(FM) WSCC(AM)	Charleston, SC Charleston, SC Mt. Pleasant, SC Goose Creek, SC N. Charleston, SC Charleston, SC
7.	Citadel Communications Corporation	WNKT(FM) WMGL(FM) WSSX(FM) WSUY(FM) WWWZ(FM) WTMA(AM) WTMZ(AM) WXTC(AM)	St. George, SC Ravenel, SC Charleston, SC Charleston, SC Summerville, SC Charleston, SC Dorchester, SC Charleston, SC

**Exhibit A**

<b>No.</b>	<b>Licensee or Other Attributable Party</b>	<b>Call Sign</b>	<b>City, State</b>
8.	Emerald City Radio	WAVF(FM)	Hanahan, SC
9.	L. M. Communications	WYBB(FM) WCOO(FM)	Folly Beach, SC Moncks Corner, SC
10.	Barnacle Broadcasting Ltd.	WHBZ(FM)	Port Royal, SC
11.	Thomas B. Daniels	WJNI(FM) WWBZ(FM) WAZS(AM)	Ladson, SC McClellanville, SC Summerville, SC
12.	WPAL Radio, Inc.	WPAL(FM)	Ridgeville, SC
13.	Jeremiah Ravenell	WTUA(FM)	St. Stephens, SC
14.	ELM LLC	WQIZ(AM)	St. George, SC
15.	Kirkman Broadcasting Inc.	WQNT(AM) WQSC(AM) WWJK(AM)	Charleston, SC Charleston, SC Moncks Corner, SC
16.	Fulmer Broadcasting	WZJY(AM)	Mt. Pleasant, SC
17.	Family Stations, Inc.	WFCH(FM)*	Mt. Pleasant, SC
18.	RJ Stalvey	WGTN(AM)	Georgetown, SC
19.	Coastline Communications of Carolina, Inc.	WGTN-FM	Andrews, SC
20.	Melbar Broadcasting Co.	WLMC(AM)	Georgetown, SC
21.	Cumulus Licensing Corp.	WSYN(FM) WXJY(FM)	Georgetown, SC Georgetown, SC
22.	Root Communications License Co. L.P.	WWXM(FM) WGSS(FM)	Garden City, SC Kingstree, SC
23.	John H. Pembroke	WALD(AM)	Walterboro, SC
24.	Hess Communications LLC	WALI(FM)	Walterboro, SC
25.	Gresham Communications, Inc.	WPAL-FM	Ridgeville, SC

26.	Miller Communications, Inc.	WDKD(AM) WWKT-FM	Kingstree, SC Kingstree, SC
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**OTHER COMPETING MEDIA VOICES SERVING THE  
CHARLESTON, SOUTH CAROLINA DESIGNATED MARKET AREA**

<b>No.</b>	<b>Licensee or Other Attributable Party</b>	<b>Media</b>	<b>City, State</b>
27.	The Post and Courier	Daily Newspaper	Market wide
28.	Various Owners	Cable channels	Market wide
29.	Multiple Operators	Cable systems	Market wide
30.	Multiple Operators	DBS	Market wide
31.	Multiple Operators	Internet	Market wide

Sources: BIA Television 2002 Yearbook  
 BIA Radio Ownership 2001  
 CDBS Public Access Database  
 Gale Directory of Publications and Broadcast Media