

Exhibit Supporting Waiver of Phase Assignment Date

CBS Operations Inc.

WBXI-CD Indianapolis, Indiana

Facility ID 70416

CBS Operations Inc. (“*CBS*”) seeks waiver of the post-Incentive Auction Transition Phase assignment and corresponding testing dates and construction completion deadlines for WBXI-CD Indianapolis, Indiana (Facility ID 70416) (the “*Station*”), which is assigned to the Indianapolis Designated Market Area (“*DMA*”). Pursuant to the *Closing and Reassignment Public Notice*, WBCI-CD was assigned to Transition Phase 6 with a Phase Completion Date of October 18, 2019.¹

CBS is continuing to diligently work toward completion of the required repack on that date. However, as construction of the *Station’s* post-transition facility² continues to be delayed by circumstances beyond our control, there’s only a slim chance of success. It has therefore become clear that *CBS* now must request modification of the *Station’s* transition phase assignment to Phase 7, with a transition completion date of January 17, 2020. This change would extend the current construction period by ninety days.

The *Transition Scheduling Adoption Public Notice* permitted stations to propose “alternative transition solutions that could create efficiencies,” and held that a request to modify a station’s transition deadline would be viewed favorably if the request is “otherwise compliant with [FCC] rules and [has] little or no impact on the phase assignments or transition schedule.”³ As demonstrated below, *Station’s* instant request qualifies for such favorable treatment.

¹ *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Red 2786 (WTB & MB 2017) (“*Closing and Channel Reassignment Public Notice*”).

² See Construction Permit file number 0000033774.

³ *Incentive Auction Task Force and Media Bureau Adopt a Post-Incentive Auction Transition Scheduling Plan*, MB Docket No. 16-306 and GN Docket No. 12-268, 32 FCC Rcd 890, 913 ¶ 51 (MB 2017) (*Transition Scheduling Adoption Public Notice*), citing *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 31 FCC Rcd 10802 (MB 2016) (*Transition Scheduling Proposal Public Notice*).

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The FCC may grant a waiver for good cause shown.⁴ The Commission has indicated that it would evaluate waiver requests on a case-by-case basis by considering impact to other broadcasters, viewers, and the transition schedule.⁵ In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁶ Such a waiver is generally appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁷

WBXI-CD is now operating with a newly-constructed interim transmitter facility on pre-transition channel 47.⁸ Continued operation of this facility is fully compliant with the FCC Rules since it provides principal community coverage of Indianapolis while meeting all pertinent allocations and RF Exposure requirements. The proposed waiver would be in the public interest because it would ensure viewers in the Indianapolis market will continue to receive an over-the-air signal from WBXI-CD and would allow successful completion of the ambitious repack well before the final deadline for the broadcast transition. As WBXI-CD now broadcasts in the 600 MHz band, there are no “Downstream Neighbor” television stations that would be impacted by the proposed delay. Furthermore, the phase change will not create new linked-station sets or increase pairwise (station-to-station) interference during the transition period.⁹

CBS believes disruption to Indianapolis viewers will be minimal. All stations in the Indianapolis DMA are assigned to repack in Phase 6. Because the proposed phase change would occur shortly after the Phase 6 viewer rescan, WBXI-CD viewers would benefit from the prior education efforts of other Indianapolis stations. Further, CBS is uniquely capable of reaching and educating WBXI-CD viewers to advise of the delayed transition and need for an additional rescan. CBS is also prepared to increase outreach education by taking steps beyond

⁴ 47 C.F.R. § 1.3.

⁵ *Transition Scheduling Adoption Public Notice*, para. 49-51.

⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

⁷ *Northeast Cellular*, 897 F.2d at 1166.

⁸ See interim STA FCC file number 0000072635.

⁹ *Transition Scheduling Adoption Public Notice*, para. 16.

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the standard viewer and MVPD notification requirements, including additional crawls and social media outreach to notify the Station audience of the proposed transition and provide detailed instructions on the rescanning process. This will ensure that WBXI-CD viewers will be well informed of the modified transition schedule.

Until recently and despite many significant challenges, all subcontractors and equipment vendors had remained confident that the main facility work would be completed prior to the Phase 6 completion deadline. Because *CBS* was previously assured by third parties that construction would be completed on time, and relied on those assurances, a timelier phase change application could not have been filed. That changed in August when *CBS* faced even more setbacks and informally advised the FCC staff of the developing situation.¹⁰

In recent weeks, although significant progress has been made, some problems have been resolved, and we still hold out hope of success, it has become clear that WBXI-CD will be unlikely to transition during Phase 6. At present, the primary issues are the two-month delayed arrival of the tower crew, that crew's contractual obligations to work for other Indianapolis stations before WBXI-CD, and the delayed arrival of a transmitter specialist capable of final transmitter installation, adjustment, and commissioning.

As explained above, through no fault of *CBS*, the work required to transition the WBXI-CD main facility to channel 36 is unlikely to be completed until after the Phase 6 completion deadline. By modifying the WBXI-CD transition phase, the Station will continue to serve viewers without interruption. Therefore, it is believed that the requested WBXI-CD transition delay from Phase 6 to Phase 7 is consistent with the public interest.

¹⁰ WBXI-CD's tower crew was delayed by problems in the Atlanta, GA market that impacted *CBS* sister-station WUPA and others. Please see Legal STA FCC File 0000080633.