

Exhibit Supporting Waiver of Phase Assignment Date

CBS Operations Investments Inc.

WTOG(TV) St. Petersburg, Florida

Facility ID 74112

CBS Operations Investments Inc. (*"ViacomCBS"*) seeks a waiver of the post-Incentive Auction Transition Phase assignment and corresponding testing dates and construction completion deadlines for WTOG(TV) St. Petersburg, FL (Facility ID 74112) (the "Station"), which is assigned to the Tampa-St. Petersburg (Sarasota) Designated Market Area ("DMA"). Pursuant to the *Closing and Reassignment Public Notice*, WTOG was originally assigned to Transition Phase 7. Following a Modification and Waiver for Phase Assignment, WTOG is now assigned to Transition Phase 9 with a Completion Date of May 1, 2020.¹ Due to the COVID-19 pandemic and other causes outside the control of *ViacomCBS* and more fully explained below, the instant request seeks a further modification to Phase 10, with a Completion Date of July 3, 2020.

ViacomCBS has been diligently working toward completion of the required WTOG repack. As detailed in the Station's prior Request for Modification and Waiver, construction of the Station's post-transition facility had previously been derailed by many extraordinary circumstances beyond its control, most notably the loss of two tower sites.² After making significant, ongoing progress, the Station had reason to believe it was on-schedule for a Phase 9 transition just a few weeks ago. However, due to the COVID-19 pandemic and other causes beyond the control of *ViacomCBS*, the project has recently suffered significant setbacks that make it unable to meet the May 1, 2020 Phase 9 deadline.

WTOG made significant progress in the months following the prior Phase Change Request. Specifically, the Station successfully negotiated a long-term contract with Florida West Coast Public Broadcasting, Inc. (WEDU) to utilize their existing "broadband" interim antenna

¹ Please see *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"*) and LMS File No. 0000086884.

² See LMS File No. 0000086884.

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system as a permanent primary antenna. This transmitter facility was built and has been extensively tested on the WTOG pre-transition channel.³

Prior measurements of the WEDU antenna identified unacceptable levels of reflected power on WTOG post-transition channel 19, but the manufacturer claimed that retuning would solve this problem.⁴ Recently, *ViacomCBS* contacted the manufacturer to request detailed, post-transition antenna specifications necessary to complete the yet-to-be filed WTOG Construction Permit Modification application. After completing more comprehensive research, the manufacturer has now revealed that although tuning may marginally improve the reflected power problem, since this specific antenna was originally optimized for the upper UHF channels, it would simply be unsuitable for long-term, high-power use on WTOG's lower UHF channel 19.

Separately, a recent structural analysis determined that once the antennas of earlier repack stations are removed from the WEDU tower, it could support the channel 19 auxiliary antenna that the Station originally ordered for use at its legacy tower site.⁵ When the legacy site was deemed unsuitable for repack use, the order for this antenna was canceled and the partially-built hardware was set aside. After the positive WEDU tower structural analysis, *ViacomCBS* renewed the prior antenna purchase order and the partially-built hardware was put back into the manufacturing queue. Unfortunately, this antenna and the associated transmission line is slated for manufacturing completion *after* the Phase 9 deadline.

In addition, the COVID-19 pandemic has caused multiple tower crews to be sent home and local travel restrictions have made movement difficult. The WTOG transmitter manufacturer has also raised concerns about the impact of COVID-19 on the availability of field support staff necessary to complete the WTOG primary transmitter installation and proof-of-performance. For all these reasons, *ViacomCBS* seeks this waiver for the station.

³ See STA LMS File No. 0000072364 as extended by 0000084339 and 0000092921.

⁴ Notably, WEDU never claimed the interim antenna would be appropriate for use on channel 19.

⁵ See Antenna Structure Registration Number 1030952.

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In a recent Public Notice, the Commission indicated that “As a result of these [COVID-19] circumstances, any station scheduled to complete its transition in phase 9 that believes it may be unable to meet the May 1, 2020, deadline will be granted a waiver of the phase 9 deadline and reassignment to phase 10...”⁶ The Commission has also indicated that it would evaluate waiver requests on a case-by-case basis by considering impact to other broadcasters, viewers, and the transition schedule.⁷ 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.”⁸ The FCC may grant a waiver for good cause shown.⁹ 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.¹⁰ Such a waiver is generally appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.¹¹ As demonstrated below, Station’s instant request qualifies for such favorable treatment.

Continued operation of the licensed, pre-transition WTOG facility will be fully compliant with the FCC Rules since it will provide principal community coverage of St. Petersburg while meeting all pertinent allocations and RF Exposure requirements. The proposed waiver would be in the public interest because it would ensure that viewers in the Tampa-St. Petersburg (Sarasota) market will continue to receive an over-the-air signal from WTOG and would allow

⁶ *Guidance for Stations in Phase 9 of the Post-Incentive Auction as a Result of the Novel Coronavirus (COVID-19) Pandemic*. Public Notice DA 20-282, Released: March 17, 2020

⁷ *Transition Scheduling Adoption Public Notice*, para. 49-51.

⁸ *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*).

⁹ 47 C.F.R. § 1.3.

¹⁰ *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.

¹¹ *Northeast Cellular*, 897 F.2d at 1166.

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successful completion of the ambitious repack before the final deadline for the broadcast transition. As WTOG 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.¹²

ViacomCBS believes disruption to area viewers will be minimal, with any impact limited to WTOG viewers. The Tampa DMA has stations assigned to two prior repack phases so the proposed change would increase the total to three. By Phase 10, WTOG viewers will have benefited from the prior education efforts of other Tampa DMA stations and should be quite familiar with the rescan process. *ViacomCBS* has previously agreed to increase outreach education by taking steps beyond 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. Collectively, this will ensure that WTOG viewers will be well informed of the modified transition schedule.

In conclusion, due to circumstances outside the control of *ViacomCBS*, the Station is unable to meet the Phase 9 completion deadline. By modifying the WTOG transition to Phase 10, the Station will continue to serve viewers without interruption while meeting the mandated deadline for the broadcast transition. Therefore, the requested WTOG transition delay is consistent with the public interest.

¹² *Transition Scheduling Adoption Public Notice*, para. 16.