

Request for Special Temporary Authority

Scripps Broadcasting Holdings LLC (“Scripps”), licensee of KMCI-TV, Lawrence, KS (Facility ID No. 42636) (“KMCI-TV”), hereby requests special temporary authority in connection with the deployment of KMCI-TV as a NextGen TV broadcast facility in the Kansas City market, which is scheduled to launch on August 24, 2021.

Specifically, Scripps hereby requests special temporary authority to air KMCI-TV’s non-primary multicast streams using the ATSC 1.0 standard, with no ATSC 3.0 simulcast, on KSHB-TV, Kansas City, MO (Facility ID No. 59444) (“KSHB-TV”), which is also licensed to Scripps, and WDAF-TV, Kansas City, MO (Facility ID No. 11291) (“WDAF-TV”), which is licensed to WDAF License, Inc. (a subsidiary of Nexstar Media Inc., “Nexstar”), for purposes of confirming and clarifying that:

- (1) the broadcast ownership rules do not apply to the extent this arrangement would otherwise result in a potential violation of those rules; and
- (2) the subject non-primary multicast streams are KMCI-TV’s FCC-authorized programming streams and KMCI-TV is considered the responsible station for compliance with obligations under the Communication Act of 1934, as amended, and the Commission rules and regulations in the same manner as an ATSC 1.0 primary simulcast stream is treated under the Commission’s ATSC 3.0 rules and regulations.¹

As indicated in KMCI-TV’s NextGen TV license application, which Scripps is simultaneously filing herewith, Scripps plans to operate KMCI-TV’s facility using the ATSC 3.0 standard and, as required under the Commission’s ATSC 3.0 rules, to simulcast KMCI-TV’s primary programming stream in the ATSC 1.0 standard as a guest on KSHB-TV.

In addition to its primary programming stream (which is independent, not affiliated with a network), KMCI-TV currently broadcasts three non-primary multicast streams: Bounce TV, Court TV Mystery, and HSN.

While Scripps plans to broadcast KMCI-TV’s Bounce TV multicast stream using the ATSC 1.0 facility of co-owned KSHB-TV, because of ATSC 1.0 capacity constraints, KSHB-TV is not able to broadcast all three of KMCI-TV’s non-primary multicast streams together with KMCI-TV’s primary ATSC 1.0 programming stream.² Accordingly, Scripps has entered into a written hosting agreement with Nexstar to broadcast the Court TV Mystery and HSN streams using the ATSC 1.0 facility of WDAF-TV. KMCI-TV’s primary programming stream and three multicast streams, as broadcast on the ATSC 1.0 facilities of KSHB-TV and WDAF-TV, in the aggregate, will not exceed the number of programming streams that KMCI-TV could otherwise broadcast on KMCI-TV’s current ATSC 1.0 facility.

¹ While clarification with respect to the applicability of the broadcast ownership rules and FCC compliance responsibility is not necessary as a practical matter with respect to KSHB-TV given that Scripps owns both KSHB-TV and KMCI-TV, clarification that the multicast streams are KMCI-TV’s FCC-authorized programming streams may be pertinent to certain contractual relationships.

² In addition to broadcasting KMCI-TV’s guest programming streams, KSHB-TV will continue to broadcast its NBC, Grit, Laff, and GetTV programming streams.

As part of the same arrangement, Scripps will provide Nexstar capacity for WDAF-TV as an ATSC 3.0 guest station on KMCI-TV's ATSC 3.0 facility.

Furthermore, due to ATSC 3.0 capacity and other constraints attendant with the multi-station and multi-market coordination needed for a successful ATSC 3.0 deployment across the country, it is not feasible for KMCI-TV's ATSC 3.0 facility to simulcast KMCI-TV's non-primary multicast streams in the ATSC 3.0 standard without unduly minimizing, if not largely eliminating, the benefits to the public and the participating stations of transitioning to ATSC 3.0. KMCI-TV's ATSC 3.0 facility will be hosting four NextGen TV stations (KMCI-TV, KSHB-TV, WDAF-TV, and KCPT), and simulcasting KMCI-TV's non-primary multicast streams in ATSC 3.0 would reduce capacity available for the NextGen TV stations to offer consumers the improved services that ATSC 3.0 enables. The types of services and improvements that would be precluded would include enhanced video featuring High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels using Dolby AC-4, Advanced Emergency Alerting and Information functions as part of a broadcast receiver application, and non-real time interactive data delivery. Each of these requires a portion of the ATSC 3.0 capacity that would be unavailable were KMCI-TV's ATSC 3.0 facility to simulcast KMCI-TV's non-primary multicast streams in ATSC 3.0. Even setting aside these impediments, significant additional engineering work and more equipment would be required to simulcast KMCI-TV's non-primary multicast streams using ATSC 3.0 and ATSC 1.0 standards. Obtaining, installing and testing that equipment would delay and distract from the testing and deployment of improved services that ATSC 3.0 enables.

The ATSC 1.0 non-primary multicast stream hosting arrangements will enable Scripps to continue providing its multicast streams in the Kansas City market. As shown in KMCI-TV's NextGen TV license application, all of the total viewers who currently can receive KMCI-TV's non-primary multicast streams over-the-air from KMCI-TV's ATSC 1.0 current facility will be able to access to KMCI-TV's Bounce TV stream from KSHB-TV's ATSC 1.0 facilities. Further, as shown in the composite coverage map attached as Exhibit A, 98.9 percent of the total viewers, who currently can receive KMCI-TV's Court TV Mystery and HSN multicast streams over-the-air from KMCI-TV's ATSC 1.0 current facility will be able access to KMCI-TV's Court TV Mystery and HSN multicast streams from WDAF-TV's ATSC 1.0 facilities, which will also continue to serve KMCI-TV's community of license. Absent these arrangements, and without the clarity that a grant of the instant request for special temporary authority would provide, Scripps may not be able to continue to provide KMCI-TV's multicast streams over the air, which could result in a complete loss of service to all of the over-the-air viewers of these streams.

Scripps has provided notice to the relevant MVPDs of its plan to relocate its ATSC 1.0 non-primary multicast streams to the WDAF-TV and KSHB-TV ATSC 1.0 facilities in connection with the requisite notices regarding the relocation of KMCI-TV's ATSC 1.0 primary programming stream. Scripps will coordinate with potentially affected MVPDs as applicable to ensure they continue to receive a good quality signal of the non-primary multicast streams over-the-air or via alternative delivery methods. Scripps does not expect there to be any adverse impact on MVPD viewers.

KMCI-TV will also air the requisite consumer notices regarding the station's transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets in order

to continue to receive KMCI-TV's ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channels for each of KMCI-TV's program streams will remain unchanged and are identified as being associated with KMCI-TV.

Scripps' request herein to clarify that the broadcast ownership rules do not apply to this arrangement is consistent with the Commission's decision and underlying basis to "not apply the broadcast ownership rules in any situation where airing an ATSC 3.0 signal or an ATSC 1.0 simulcast on a temporary host station's facility would result in a potential violation of those rules."³

Scripps' request herein to clarify that the non-primary multicast streams are KMCI-TV's FCC-authorized programming streams and that KMCI-TV is considered the responsible station for compliance with any obligations under the Communication Act of 1934, as amended, and the Commission's rules and regulations, is, with respect to KSHB-TV, consistent with the fact that Scripps owns and is the licensee of both KMCI-TV and KSHB-TV, and with respect to WDAF-TV, consistent with the arrangements between Scripps and Nexstar, in connection with which Scripps will indemnify Nexstar from all liabilities or claims resulting from the airing of KMCI-TV's Court TV Mystery and HSN multicast streams over WDAF-TV's 1.0's facility.

Scripps understands that grant of the instant request will make clear that Scripps is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regards to KMCI-TV's multicast streams, including the Commission's rules regarding political broadcasting, children's programming, equal employment opportunities, public inspection file, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System.

With respect to children's programming, KMCI-TV schedules at least three-hours per week of core programming on its simulcast primary programming stream, and therefore does not currently, and does not intend to, rely on its non-primary multicast streams for compliance with the Commission's children's television programming requirements. Accordingly, KMCI-TV's compliance with the Commission's children's television programming requirements and viewers' access to the station's core programming will not be affected by the broadcast of its multicast streams from KSHB-TV's and WDAF-TV's ATSC 1.0 facilities.

For the foregoing reasons, Scripps respectfully requests special temporary authority to authorize KMCI-TV's broadcast of KMCI-TV's non-primary multicast streams using the ATSC 1.0 standard, with no ATSC 3.0 simulcast as follows:

- Court TV Mystery on WDAF-TV's ATSC 1.0 facility;
- HSN on WDAF-TV's ATSC 1.0 facility; and
- Bounce TV on KSHB-TV's ATSC 1.0 facility.

Grant of this request for special temporary authority will serve the public interest as it will advance the Commission's ATSC 3.0 policy goals, facilitate the deployment of ATSC 3.0 in light

³ *Next Gen TV Report and Order*, 32 FCC Rcd at 9972, para. 80, n.237. See also *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 20-73, para. 15 (rel. Jun. 9, 2020).

of the evolving nature of ATSC 3.0 deployment, and promote the continued over-the-air transmission of KMCI-TV's non-primary multicast streams in the ATSC 1.0 standard.

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KMCI-TV, Lawrence, KS
Facility ID No. 42636
Scripps Broadcasting Holdings LLC

EXHIBIT A

(Attached)

