WTIC-TV, Hartford, CT
WTXX(TV), Waterbury, CT
FCC Form 314
Exhibit 16-A

REQUEST FOR WAIVER OF SECTION 73.3555(b) OF THE COMMISSION'S RULES

I. INTRODUCTION AND SUMMARY

This exhibit is being filed in connection with two separate applications (the "Applications"). One application seeks the Commission's consent to the assignment of the license of WTIC-TV, Hartford, Connecticut from Tribune Television Company, Debtor-in-Possession ("TTC-DIP"), to Tribune Television Company ("Reorganized TTC"). The other application seeks FCC approval to assign the license of WTXX(TV), Waterbury, Connecticut from WTXX, Inc., Debtor-in-Possession ("WI-DIP"), to WTXX, Inc. ("Reorganized WI"). These proposed assignments are part of the reorganization of Tribune Company, Debtor-in-Possession ("Tribune"), parent of TTC-DIP and WI-DIP (collectively, the "DIP Licensees"), in which, subject to the approval of the Bankruptcy Court, certain of Tribune's current lenders will acquire equity interests and Reorganized Tribune will emerge from bankruptcy and thereafter become publicly traded.[1]

WTIC-TV and WTXX(TV) (together, the "Stations") are in the Hartford & New Haven, Connecticut DMA[2] and have been under the common ownership of Tribune for more than eight years pursuant to previously granted permanent waivers of the local television ownership rule.[3]

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[1] *See In re Tribune Co., et al.*, Nos. 08-13141, *et al.* (KJC) (Bankr. D. Del. filed Dec. 8, 2008) ("*Tribune Bankruptcy Proceeding*"). We will refer to the post-bankruptcy reorganized company herein as "Reorganized Tribune," and to Reorganized TTC and Reorganized WI as the "Reorganized Licensees." When appropriate, "Reorganized Tribune" will be used to include the Reorganized Licensees as well. Similarly, the term "Tribune," as noted above, will be used to refer to Tribune Company, Debtor-in-Possession, and also, when appropriate, will be used to include the Debtor-in Possession's corporate predecessor.

[2] *See 2010 Broadcasting & Cable Yearbook*, at B-176. The Hartford & New Haven DMA will be referred to herein as the "Hartford DMA."

[3] *See* FCC File No. BTCCT-19991116AJW (consummated Aug. 6, 2001); *Shareholders Of Tribune Co.*, Memorandum Opinion and Order, 22 FCC Rcd 21,266 (2007) ("*Shareholders of Tribune*"); *Counterpoint Commc'ns Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 15,044 (2001) ("*Counterpoint*"); *see also* 47 C.F.R. § 73.3555(b) (1999) (the "Duopoly Rule").

Absent continuation of the permanent waivers previously granted by the Commission, Reorganized Tribune's common ownership of the Stations would not be allowed under the Duopoly Rule. Because WTIC-TV and WTXX(TV) are ranked fourth and sixth, respectively, in the Hartford DMA,[4] the requirement that "at least one of the stations is not ranked among the top four stations in the DMA" is satisfied.[5] However, because eleven full-power television stations in the Hartford DMA are owned by a total of only seven separate entities, the requirement that "at least 8 independently owned and operating, full-power commercial and noncommercial TV stations would remain post-merger" is not satisfied.[6] Accordingly, another permanent waiver of the Duopoly Rule is necessary to permit Reorganized Tribune's common ownership of the Stations to continue after emergence from bankruptcy.

As set forth below, the requested waiver is appropriate and warranted in this case. The FCC grants waivers of the Duopoly Rule, *inter alia*, when one of the stations involved in the proposed combination is either a "failed" or "failing" station.[7] The FCC has granted a permanent waiver of the rule to permit common ownership of the Stations pursuant to the "failing" station

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[4] *See* Request for Cross-Ownership Waiver ("NBCO Waiver Request"), at Attachment 3 to NBCO Waiver Request (Exhibit 16 to this application).

[5] 47 C.F.R. § 73.3555(b)(2).

[6] *See 2010 Broadcasting & Cable Yearbook*, at B-176; Mark R. Fratrik, Ph. D., BIA Financial Network, *Report on the Hartford-New Haven, Connecticut Media Market: Media Diversity, Revenue Share, and Concentration Analysis in Support of the Request for Cross-Ownership Waiver for Television Stations WTIC-TV and WTXX(TV)*, at 22 and Appendix B (Feb. 26, 2010) ("BIA NBCO Report") (Attachment 4 to NBCO Waiver Request). This count of owners takes into account Tribune's current common ownership of WTIC-TV and WTXX(TV). Accordingly, grant of the Applications and the duopoly waiver requested herein will not reduce the number of independent TV owners in the DMA.

[7] 47 C.F.R. § 73.3555(b), Note 7; *infra* Section II.

standard on two prior occasions.[8] When granting these waivers, the agency cited WTXX(TV)'s low audience share and poor financial condition, the inability to find a buyer for WTXX(TV), and the public interest benefits of combined ownership of the Stations.[9]

Today, Reorganized Licensees qualify for a waiver of the Duopoly Rule under either the "failed" or "failing" station standard.[10] Indeed, financial and economic realities – particularly as they pertain to Tribune's Hartford properties, the Hartford market, and television broadcasting generally – have only worsened since 2007, when the Commission last granted Tribune a permanent waiver of the Duopoly Rule. Further, the DIP Licensees and Tribune are now engaged in bankruptcy proceedings.[11] The Commission should recognize that permitting Tribune to emerge from bankruptcy with its assets intact is necessary to provide the company with a much-needed fresh start and to promote the agency's policy of affording comity to the bankruptcy process.[12] Accordingly, the Reorganized Licensees respectfully request a permanent waiver of the Duopoly Rule to permit the continued common ownership of WTIC-TV and WTXX(TV).[13]

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[8] *Shareholders of Tribune*, 22 FCC Rcd at 21,279-81, 21,285 (¶¶ 37-45, 62); *Counterpoint*, 16 FCC Rcd at 15,045-48 (¶¶ 4-6, 12).

[9] *See Shareholders of Tribune*, 22 FCC Rcd at 21,280-81 (¶¶ 40-45); *Counterpoint*, 16 FCC Rcd at 15,046-47 (¶¶ 5-6).

[10] *See infra* Section II.

[11] *See infra* Section II.A.

[12] *See infra* Section III.

[13] Concurrently herewith, in a separate exhibit, Reorganized Licensees are requesting a waiver of the newspaper/broadcast cross-ownership rule, 47 C.F.R. § 73.3555(d), to permit the continued ownership of the Stations and the *Hartford Courant*, a daily newspaper published in Hartford, Connecticut by a Tribune subsidiary. *See* NBCO Waiver Request. In that request, the parties ask that the permanent waiver also permit a subsequent sale of those properties in tandem following the company's emergence from bankruptcy. The same relief is requested here.

II. **TRIBUNE SATISFIES THE CRITERIA FOR PERMANENT WAIVER OF THE DUOPOLY RULE.**

The FCC grants permanent waivers of the Duopoly Rule on a case-by-case basis and will do so in two circumstances relevant here: first, if the parties demonstrate that one of the stations in a proposed combination is a "failed" station;[14] and second, if the parties show that one of the stations in a proposed combination is a "failing" station.[15] As set forth below, despite Tribune's efforts over the past eight-plus years of ownership, Reorganized Tribune satisfies the requirements for a permanent waiver under either test.

A. **WTXX(TV) Qualifies for a Permanent "Failed" Station Waiver of the Duopoly Rule**

Under the relevant FCC standard, a television property is a "failed" station if (1) the licensee is a debtor in an involuntary bankruptcy or insolvency proceeding at the time of the application and (2) the in-market buyer is the only entity ready, willing, and able to operate the station, and sale to an out-of-market applicant would result in an artificially depressed price.[16] The Commission should conclude that WTXX(TV) is a "failed" station under this test.

1. Tribune and All of Its Media Subsidiaries – Including TTC-DIP and WI-DIP – Currently Are Subject to Bankruptcy Proceedings as a Result of Severe Financial Distress.

Tribune and many of its subsidiaries, including TTC-DIP and WI-DIP are in difficult financial straits. Tribune's core businesses are newspaper publishing and broadcast television. The newspaper industry overall is in a state of significant turmoil and has experienced a dramatic

[14] *See* 47 C.F.R. § 73.3555, Note 7.

[15] *See id.*

[16] *See id.*

downturn that intensified in 2009 and continues to date.[17] The broadcasting industry also is experiencing severe financial difficulties.[18] As a result of declining revenues and the resultant inability to service its outstanding debt, Tribune and all of its broadcasting and newspaper publishing subsidiaries – including TTC-DIP and WI-DIP – filed for bankruptcy protection in December of 2008.[19] The instant Applications are filed in conjunction with the Plan of Reorganization that Tribune and its subsidiaries has filed in the bankruptcy court to allow the company and its subsidiaries to emerge from bankruptcy. The bankruptcy status of Tribune's subsidiaries, including TTC-DIP and WI-DIP, results from their joint and several liability for Tribune's approximately $10.2 billion in indebtedness as guarantors under various credit agreements. That liability, if presently allocated amongst the guarantors, would consume all of the value of the subsidiaries. Accordingly, Tribune and the Licensees indisputably are facing extreme financial stress.

The bankruptcy of Tribune and the DIP Licensees should satisfy the financial distress prong of the "failed" station waiver test. Although the bankruptcy filing was not involuntary, strict application of the technical requirement that the bankruptcy be involuntary would not be sensible in this case. When the FCC enacted the "failed" station standard, it required that the bankruptcy be "involuntary" only because the agency was concerned that licensees might file for bankruptcy protection for the sole purpose of qualifying for waiver of the Duopoly Rule.[20] Here, however, there is no plausible argument that Tribune and its subsidiaries initiated bankruptcy

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[17] *See* NBCO Waiver Request at Section II.C. and materials cited therein.

[18] *See id.* and materials cited therein.

[19] *See Tribune Bankruptcy Proceeding.*

[20] *See Review of the Comm'ns Regulations Governing Television Broad., Report and Order*, 14 FCC Rcd 12,903, 12,937-938 (¶ 76) (1999) ("*Television Ownership R&O*").

proceedings to gain relief from the FCC's Duopoly Rule. Tribune's bankruptcy is manifestly a *bona fide* effort by a major media company in significant financial turmoil to position itself to emerge from Chapter 11 as a viable entity, able to continue operating its businesses and thereby serve the public interest.[21] Tribune is not attempting to sell to an in-market broadcaster and exit the market; rather, Tribune seeks only to retain its existing assets, including the Stations, so that it can exit bankruptcy as a competitive entity. The FCC therefore should find that Tribune's Hartford properties substantially comply with the bankruptcy-related portion of the "failed" station standard and grant the waiver on this basis.

2. <u>There Is No Other Entity Reasonably Available To Acquire and Operate WTXX(TV).</u>

As the FCC noted in *Shareholders of Tribune*, the company's extensive efforts to sell WTXX(TV) were unsuccessful.[22] Today, it is even less likely that Tribune could find a purchaser for WTXX(TV). Therefore, the Commission should find that Tribune satisfies this element of the "failed" station test as well.

From April 2000 – before the company acquired WTXX(TV) – through late 2006, Tribune expended extensive resources searching for parties that might be interested in purchasing or swapping WTXX(TV). Tribune engaged a broker and an affiliated investment firm to assist with these efforts. Although Tribune distributed information and solicitations numerous times, it was unable to find a buyer for WTXX(TV). Some solicitations generated no

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[21] Indeed, Reorganized Tribune is requesting cross-ownership waivers in Hartford and four other markets in order to maintain the *status quo* as it emerges from bankruptcy.

[22] *See Shareholders of Tribune*, 22 FCC Rcd at 21,280-21 (¶¶ 43-44). Past efforts to sell the station are summarized below and discussed in more detail in Tribune's 2007 application to transfer control of WTXX(TV) (FCC File No. BTCCT-20070501AEZ, Exhibit 18, Request for Failing Station Waiver, § III.4.A) and in the attached Declaration of Brian Byrnes, dated Apr. 26, 2010 (the "Byrnes Decl.") (Attachment A hereto).

expressions of interest at all. The few solicitations that generated any interest did not result in offers to purchase that were at all realistic, with communications frequently ending before a nondisclosure agreement was even signed. Among the impediments Tribune encountered were potential purchasers' concerns about the growth and revenue potential of the Hartford market and their inability to secure financing for the transaction. These conditions produced offers well below WTXX(TV)'s appraised value (and valuation disagreements generally) or offers that did not appear to be *bona fide*, typically accompanied by unacceptable business terms and an interest in entering into affiliation agreements inconsistent with existing contracts. When the FCC granted Tribune a permanent "failing" station waiver of the Duopoly Rule in 2007, it acknowledged Tribune's showings concerning past efforts to sell WTXX(TV) and both Stations, and agreed that "no prospective purchaser made an offer that did not include unacceptable terms or that was not well below the price Tribune needed to receive a fair exchange for its investment in the [S]tations."[23]

As a result of the Commission's *Shareholders of Tribune* decision in 2007, and in view of the pendency of appeals relating to that decision, Tribune is under no immediate requirement to divest either of the Stations or the *Courant*.[24] Nonetheless, it is much less likely than before that

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[23] *See Shareholders of Tribune*, 22 FCC Rcd at 21,280-21 (¶¶ 43-44).

[24] When granting Tribune a waiver of the newspaper/broadcast cross-ownership rule, the Commission stated that:

> [W]e recognize the possibility that the applicants may choose to challenge today's denial of waivers from the NBCO rule in court. Should they do so, given the unique circumstances of this case, we do not believe that it would be appropriate for us to mandate divestitures while the applicants' court challenge is pending. In particular, we note the admittedly unusual and uncertain status of the current NBCO rule as well as the harm that applicants would suffer were they forced to divest properties but then win their court challenge. As a result, should applicants challenge today's decision in court, we grant a temporary waiver of the NBCO rule for the New York, Los Angeles, Miami, and Hartford markets. This waiver will last

the company could today find a purchaser for the station. In view of the extremely poor economic health of the television broadcasting industry generally, the Hartford television market specifically, and the market for television transactions, as well as Tribune's previous unsuccessful attempts to market WTXX(TV), it remains unreasonable to believe that continued marketing efforts would bear fruit.

The recent economic downturn has substantially increased financial pressure on the local television stations in the Hartford DMA, and WTXX(TV) would be an extremely weak and likely nonviable competitor if it had to compete on its own.[25] With expected revenue difficulties in upcoming years, the television stations in the Hartford market will be hard-pressed to compete and to continue offering their current level of local programming.[26] Four strong television groups operate in the Hartford television market. In addition to Tribune, Meredith Corporation owns CBS affiliate WFSB(TV); NBC/GE owns WVIT(TV); and LIN Television owns the ABC and My Network affiliates, WTNH(TV) and WCTX(TV), respectively.[27] Each of these three operators consistently garners a larger percentage of local television revenue than the Stations.[28]

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either for two years or until six months after the conclusion of the litigation, whichever is longer.

See id. at 21,278-79 (¶ 36) (internal citations omitted); *see also id.* at 21,285 (¶ 60). Tribune challenged the NBCO rule in court, *see Tribune Co. v. FCC*, No. 07-1488 (D.C. Cir. filed Dec. 3, 2007), and therefore has not been under an obligation to divest either of the Stations or the newspaper since that time.

[25] *See* Mark R. Fratrik, Ph. D., BIA Financial Network, *An Analysis of the Competitive Impact of the Duopoly of WTIC-TV and WTXX(TV) in the Hartford-New Haven, Connecticut Television Market*, at 2 (Feb. 5, 2010) ("BIA Duopoly Report") (Attachment B hereto).

[26] *See id.* at 4.

[27] *See id.*

[28] *See id.* at 5 (showing revenue shares for broadcast operators in the Hartford market for 2004-2008).

In 2008 the other three operators each earned between 21.7% and 30.4% of such revenue.[29] Tribune trailed these market leaders, earning only 20.8%, and most of that share was earned by WTIC-TV.[30] Between 2004 and 2008, even with the efficiencies flowing from common ownership, WTXX(TV) annually earned only 3.8% to 4.3% of the local television revenue in the Hartford market.[31] In view of this intense competition from large group owners in the market, and WTXX(TV)'s consistently poor revenue performance, it is unlikely that any out-of-market buyer would be willing or able to purchase the station and operate it as a stand alone property.[32] In fact, the other two television stations in the market – both of which operate without major network affiliation – together received only 2.8% of the local television revenue in Hartford in 2008. As an indicator of how a stand-alone, unaffiliated WTXX(TV) might fare financially, such performance would not be encouraging to prospective buyers.

Tribune's inability to sell WTXX(TV) as a stand alone is consistent with recent trends in broadcast transactions generally. In today's marketplace there are very few serious buyers of local television stations, and even fewer who could maintain the present levels of local programming made possible by the current common ownership.[33] As revenue growth for broadcasters continues to decline, prospective buyers have found it difficult or impossible to secure the necessary financing.[34] Several major financial institutions filed for bankruptcy in late

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[29] *See id.*

[30] *See id.* at 5-6.

[31] *See id.* at 6.

[32] *See id.*

[33] *See* Mark R. Fratrik, Ph.D., BIA Advisory Services, *An Analysis of the Effect on Diversity of Separation of Local Media Combinations*, at 1 (Feb. 22, 2010) ("BIA Separation Analysis") (Attachment 9 to NBCO Waiver Request).

[34] *See id.* at 2-3.

2008, and the U.S. government provided financial aid to others.[35] These institutions were criticized for speculative loan activity, and they reacted by reducing the number of loans they issued and tightening loan qualifications for buyers.[36] In the second quarter of 2009, the total amount of loans held by the 15 largest U.S. banks decreased by almost 3%, indicating that the institutions are not inclined to loosen their credit restrictions and are "clamping down on lending to conserve capital as a cushion against mounting loan losses."[37] These difficulties have been particularly pronounced for broadcasters, as several financial institutions that have been prominent lenders to broadcast purchasers have either cut back or completely left the business of providing new loans to parties interested in acquiring broadcast stations.[38] In January 2010, the Federal Reserve Board was reporting that banks still had yet to unwind the considerable tightening of loan standards that had occurred in the previous two years.[39]

Given current poor economic conditions – both generally and in the broadcast industry – and the inability of prospective purchasers to secure financing, it is not surprising that the television station sales marketplace is completely moribund.[40] Except for a spike in the volume of sales proceeds in 2006 occasioned almost entirely by the Univision network and television

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[35] *See id.* at 2.

[36] *See id.*

[37] *See id.* (citing David Enrich & Dan Fitzpatrick, *Loans Shrink as Fear Lingers*, WALL ST. JOURNAL, July 27, 2009 *available at* http://online.wsj.com/article/SB124865259057482435.html (last visited Oct. 27, 2009)).

[38] *See id.* at 2-3.

[39] The Federal Reserve Board, "The January 2010 Senior Loan Officer Opinion Survey on Bank Lending Practices," *available at* http://www.federalreserve.gov/boarddocs/snloansurvey/201002/ (last visited Feb. 15, 2010).

[40] *See* BIA Separation Analysis at 3. The BIA Separation Analysis provides a detailed discussion of the current state of the market for local television stations. *See id.* at 4-6.

stations sale, the total number and total value of television stations sold have been at very low levels.[41] In 2007, 294 stations sold for a total value of $4.6 billion.[42] The drop-off in 2008 was dramatic. That year, only 46 local television stations were sold for a total value of around $531 million.[43] This represents decreases of approximately 88.5% in the value of stations sales between 2007 and 2008.[44]

This trend continues. In 2009, there were 76 full power television stations sold for a total value of $715 million[45] – representing decreases of 74.1% in the number of stations and 84.5% in the value of those sales compared to the same time period in 2007. Equally significant, this depressed level of station transactions has not been driven by a normal buyer-seller market, but to a large extent by several large groups that have been forced into bankruptcy proceedings or reorganizations.[46]

Potential purchasers are deterred by the continued revenue generation difficulties facing the television industry.[47] Even before the recent economic downturn, the increases in total

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[41] *See id.* at 5.

[42] *See id.*

[43] *See id.* A substantial number of "sales" of local television stations in 2007 were part of restructuring deals. The restructurings of Granite Broadcasting, ION Media Networks, and Communications Corporation of America accounted for 91 of the stations "sold" in 2007. *Id.* at 5 n.5.

[44] *See id.* at 5.

[45] *See id.* at 5-6 (citing http://www.bia.com/resources_trends_sold.asp (last visited Feb. 2, 2010) (on file with author); http://www.bia.com/resources_trends_trans.asp (last visited Feb. 2, 2010) (on file with author)).

[46] *See id.* at 5 n.6.

[47] Further information concerning revenue generation difficulties in the broadcast industry is presented in Section II.C. of the NBCO Waiver Request.

television station revenues had been trending downward.[48] Increased competition from other sources of video programming and other local media outlets has further crippled the revenues of local television stations, and the revenue outlook for local television stations is significantly lower than in previous years.[49] Recently, the negative effect on broadcast revenue caused by long-term movement of advertisers to other media has been exacerbated by lower advertising expenditures generally.[50] For example, advertising spending rates at local television stations by automotive manufacturers and car and truck dealers – historically the largest advertiser categories for local television stations – decreased approximately 50% and 33%, respectively, in the third quarter of 2009 from the previous year's level.[51] The decreases and the declines in many other categories of advertising far exceeded the increased level of political advertising in that same year.[52] Advertising levels, especially in the automotive sector, most likely will not return to previous levels, even when the overall economy recovers, because there are fewer brands of cars being sold and fewer car dealerships in the U.S. than there were in the past.[53] Of course, this discouraging economic outlook deters potential buyers from acquiring television stations.

Hartford's proximity to four other markets – Boston, New York, Providence, and Springfield – further exacerbates revenue generation difficulties in the Hartford DMA.[54]

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[48] BIA Separation Analysis, at 8.

[49] *See id.* at 7-8.

[50] *See id.* at 9.

[51] *See id.* at 9 and n. 10 (citing http://www.tvb.org/nav/build_frameset.aspx).

[52] *See id.* at 9.

[53] *See id.*

[54] *See* BIA Duopoly Report, at 6-7.

Stations in these neighboring markets provide over-the-air service to large portions of the DMA and enjoy an unusually high level of carriage on cable systems located in the Hartford TV market, with more than a half dozen systems carrying five television signals from outside the Hartford DMA and at least two systems carrying seven out-of-market signals.[55] This is particularly important given that total multichannel video programming distributor penetration in the Hartford DMA is 96.7% – second highest in the nation and substantially greater than the 89.4% national average.[56]

The FCC has long accorded "significantly viewed" status to a number of these out-of-market stations.[57] Cable subscribers in six of the seven counties in the Hartford DMA receive at least one significantly viewed signal from Boston or New York City.[58] Viewers in New Haven and Windham Counties receive six "significantly viewed" out-of-market signals from nearly DMAs, while viewers in four of the other five counties receive between one and five such signals.[59] Among the stations that are significantly viewed in the Hartford DMA are WABC-TV, WNBC-TV, and WCBS-TV (the New York City-based flagship stations for three of the four major networks) and WBZ-TV and WCVB(TV) (Boston's CBS and ABC affiliates, respectively).[60]

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[55] *See id.* at 6.

[56] *See id.* at 7-8.

[57] *Significantly Viewed List* at 46-49 (last modified Apr. 1, 2010), *available at* www.fcc.gov/mb/significantviewedstations040110.pdf (last visited Apr. 17, 2010).

[58] *See id.*

[59] *See id.*

[60] *See id.*

Out-of-market stations serve as competing outlets for local news and information for many residents of the Hartford DMA.[61] In fact, during the November 2009 sweeps period, stations from adjacent markets garnered 6.0% of all viewing of over-the-air television stations.[62] This substantial competition renders it more difficult for stations in the Hartford DMA to generate revenue, making it even less likely that any entity would be willing to purchase WTXX(TV) by itself or able to operate it as a viable independent station.[63]

Other factors hamper revenue generation as well. For example, increasing viewership of new national programming networks delivered by cable and direct broadcast satellite systems has made it more difficult for local television stations to attract significant audiences.[64] Competitors that stream video content over the Internet also siphon viewers from broadcasters and will likely continue to do so.[65] Some such services – like YouTube – provide professional and local news videos for local viewers, enhancing their ability to divert local broadcasters' audiences for news programming.[66] Of course, decreasing audience shares translate into less local television advertising revenue.

Research indicates that combined television station operations improve both audience share and revenue generation.[67] Cost and revenue synergies with WTIC-TV therefore are crucial

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[61] *See* BIA Duopoly Report, at 7.

[62] *See id.* at 6-7. (This share represents 9 am – midnight viewing).

[63] Section III.B.1. of the NBCO Waiver Request includes additional information concerning ratings of stations in the Hartford DMA and competition from out-of-market stations.

[64] *See* BIA Duopoly Report, at 7-9.

[65] *See id.* at 9-11.

[66] *See id.* at 9-10.

[67] *See id.* at 12.

to WTXX(TV)'s survival.[68] Forcing the Stations to operate separately would create new costs that would make successful operation of WTXX(TV) even less likely. For example, the estimated equipment costs associated with converting WTXX(TV) to a stand-alone station would exceed $1.26 million.[69] Given these costs and the financial condition of WTXX(TV), it likely could not survive at all without the efficiencies of common ownership with WTIC-TV.[70]

Dr. Mark Fratrik of BIA summarizes the situation as follows:

> Under [current] circumstances, WTXX(TV), the financially weaker of the two stations in this duopoly, would be unable to survive if it were forced to operate separately. Previous attempts to sell this station . . . [have been] unsuccessful, strongly indicating the impracticality of operating WTXX(TV) as a stand-alone. Given the present anemic state of the local television station sales marketplace, we see it as even less likely than before, that any company would commit the investment to purchase this station and operate it independently and highly unlikely that it could obtain financing to do so.[71]

Brian Byrnes, president of media and brokerage consulting firm Paramount Media Advisors, Inc., was involved extensively in Tribune's efforts to sell WTXX(TV) between September 2001 and September 2006.[72] Despite a significant up-tick in station sales in 2005 and 2006, Mr. Byrnes could not locate a buyer willing to pay anything close to an amount that would permit Tribune to realize a fair return on its investment in WTXX(TV).[73]

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[68] *See id.* at 13-14.

[69] *See id.* at 11-12.

[70] *See id.* at 13-14.

[71] *See id.* at i (footnote omitted).

[72] *See* Byrnes Decl., ¶¶ 1, 3. Mr. Byrnes has extensive knowledge of the television industry in general and for many years has consulted and appraised television stations for purposes such as acquisitions, divestitures, mergers, financing, and debt restructuring. *See id.* ¶ 2.

[73] *See id.* ¶ 3.

Since that time, as noted above and as Mr. Byrnes echoes, the market for selling local television stations has declined significantly, due to the general economic downturn, plummeting advertising revenues, uncertainties regarding future revenue growth, and the inability of prospective purchasers to obtain financing.[74] As a result, Mr. Byrnes notes that 2008 and 2009 saw significant declines in the number of local station sales, and most recent station sales have involved restructuring and liquidating in connection with the bankruptcies of group owners.[75]

According to Mr. Byrnes, the downturn has been especially hard on stations not affiliated with the major networks, like CW-affiliated WTXX(TV).[76] During the past two years, transactions involving CW affiliates have been infrequent.[77] Some transactions have involved bankruptcies, and others have resulted in sales at depressed prices.[78] Five were sales to in-market buyers that involved either the continuation of existing duopolies or the creation of new duopolies – indicating that for CW-affiliated stations, duopoly operations often have been the best, and perhaps the only, way to maintain viable, local service.[79] For three of these transactions, the FCC issued "failing" station waivers of the duopoly rule, recognizing the poor economic conditions of the stations involved.[80]

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[74] *See id.* ¶¶ 4, 6.

[75] *See id.* ¶ 6.

[76] *See id.*

[77] *See id.* ¶ 3.

[78] *See id.* ¶¶ 7-8.

[79] *See id.* ¶ 9.

[80] *See id.*

During this period, Mr. Byrnes was involved in the marketing of a CW affiliate in a "failing" station situation and found that efforts directed towards out-of-market buyers were futile.[81] No prospective purchasers were interested in acquiring and operating the station as a stand alone, and the owner finally sold the station to an in-market buyer pursuant to a "failing" station waiver.[82]

Mr. Byrnes notes that, in the current economic environment, any attempt to sell a CW-affiliated station like WTXX(TV) would meet with significant market resistance.[83] Moreover, it is likely that any expression of interest would come from an in-market operator and, even more likely that no buyer would come forward at all.[84] Simply put, he sees no likelihood that WTXX(TV) could be sold to an out-of-market buyer at a price that would not represent a significant loss.[85]

Accordingly, based on unsuccessful past efforts to sell WTXX(TV), the futility of attempting to sell it at this time, and worsening economic realities facing the broadcast television industry generally, the Hartford television market, and WTXX(TV) itself, the Commission should conclude, as it did in 2001 and again in 2007, that there is no other entity reasonably available to acquire and operate WTXX(TV). The FCC should grant Reorganized Licensees a permanent "failed" station waiver of the Duopoly Rule.

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[81] *See id.* ¶ 10.

[82] *See id.*

[83] *See id.* ¶ 11.

[84] *See id.*

[85] *See id.*

B. WTXX(TV) Also Qualifies for a Permanent "Failing" Station Waiver of the Duopoly Rule

Even if the FCC were to decide, as a technical matter, that WTXX(TV) is not a "failed" station, the Commission should conclude that it is a "failing" station and grant Reorganized Licensees a permanent waiver of the Duopoly Rule on that basis. Such a waiver is appropriate when (1) the station has an all-day audience share of no more than four percent; (2) the station has had negative cash flow for three consecutive years immediately prior to the application; (3) consolidation of the two stations results in tangible and verifiable public interest benefits that outweigh any harm to competition and diversity, and (4) the in-market co-owner is the only entity ready, willing, and able to operate the station, and sale to an out-of-market applicant would result in an artificially depressed price.[86] As demonstrated below, all four parts of this test are satisfied here.

As noted previously, the FCC twice has granted "failing" station waivers of the Duopoly Rule permitting common ownership of the Stations. In 2001 the Commission granted a permanent "failing" station waiver of the Duopoly Rule when it approved the transfer of control of the licensee of WTXX(TV) to Tribune, which was already the licensee of WTIC-TV.[87] The agency cited WTXX(TV)'s low audience share and poor financial condition, as well as the public interest benefits of combined ownership of the Stations.[88] More recently, in 2007, the FCC again granted Tribune a permanent waiver of the Duopoly Rule when it approved a transfer of control of the company from its then existing shareholders to Sam Zell, The Tribune Employee Stock Ownership Plan (as implemented by the Tribune Employee Stock Ownership

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[86] *See* 47 C.F.R. § 73.3555, Note 7.

[87] *See Counterpoint*, 16 FCC Rcd at 15,046-47 (¶¶ 5-6).

[88] *See id.* at 15,046 (¶ 5).

Trust), and EGI-TRB, LLC.[89] The agency again cited WTXX(TV)'s poor financial health, WTXX(TV)'s low audience share, and the public interest benefits of the duopoly, along with Tribune's inability to find a buyer for WTXX(TV) or both Stations.[90] Grant of a permanent "failing" station waiver here would be fully consistent with both of these prior FCC determinations. In fact, the case for waiver is even stronger today than it was when the Commission granted the two prior waivers of the duopoly rule.

1. WTXX(TV)'s All-Day Audience Share Is Well Under Four Percent.

In order to qualify for a "failing" station waiver, WTXX(TV) must have an all-day audience share of no more than four percent.[91] While the FCC did not establish a specific calendar period over which the "failing" station's audience share would be reviewed when it adopted the "failing" station waiver standard, the Commission in the past has reviewed audience share data for the three years prior to the filing of the application.[92] The table below provides WTXX(TV)'s Nielsen February all-day audience rating and share figures (9 am to midnight) for 2007 through 2009.

	Rating	**Share**
2008	0.8	1.6
2009[93]	0.7	1.6
2010	0.8	1.7

These figures clearly satisfy the relevant standard.

[89] *See Shareholders of Tribune*, 22 FCC Rcd at 21,281 (¶¶ 44-45).

[90] *See id.* at 21,280-81 (¶¶ 40-43).

[91] *See* 47 C.F.R. § 73.3555, Note 7.

[92] *See, e.g., KSMO Licensee, Inc.*, 20 FCC Rcd 15,254, 15,258 (2005).

[93] Because of issues related to the changing deadline for the 2009 transition from analog to digital broadcasting, in non-LPM markets there was no February 2009 sweep. Non-LPM markets had a March 2009 sweep.

Moreover, these numbers are not an aberration, but rather a continuation of an ongoing trend. For example, when the FCC granted Tribune a permanent waiver of the Duopoly Rule in 2001, it noted that "WTXX(TV) earned a 1 rating and a 2 share in the market" during the relevant three-year period.[94] And, when the Commission again granted Tribune a permanent waiver of the Duopoly Rule in 2007, it noted that "[o]ver the most recent 12 periods in which WTXX(TV)'s share was measured, WTXX(TV) averaged only a 2.3 share, and earned a low of 1.8."[95] Since 2007, WTXX(TV)'s ratings have continued to decline. The station garnered a 0.8 rating and a 1.6 share in 2008, a 0.7 rating and 1.6 share in 2009, and a 0.8 rating and 1.7 share in 2010. Clearly, despite Tribune's efforts, WTXX(TV) continues to have difficulty attracting significant viewership.

2. <u>WTXX(TV) Has Had Negative Cash Flow for the Past Three Years.</u>

Concurrently herewith, Tribune is submitting financial statements for WTXX(TV) covering the past three years under a request for confidential treatment. These materials show that WTXX(TV) has had negative cash flow (as calculated consistent with FCC precedents) over the last three years due to difficulties generating revenue and significant capital expenditures associated with compliance with the mandated digital television transition. Indeed, WTXX(TV)'s capital expenditures associated with the FCC-mandated conversion to digital operations in 2008 and 2009 were approximately $535,000 and $35,000, respectively. An additional DTV-related capital expenditure of $65,000 for inductive output tubes necessary for operation of the station's digital transmitter was also required in 2008.[96] WTXX(TV)'s showing

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[94] *See Counterpoint*, 16 FCC Rcd at 15,046 (¶ 5).

[95] *See Shareholders of Tribune*, 22 FCC Rcd at 21,280 (¶ 40).

[96] *See* Declaration of Gina M. Mazzaferri, dated Apr. 26, 2010 ("Mazzaferri Decl.") at 7. These legally-mandated and operationally necessary capital expenditures are properly considered as

of negative cash flow from operations and capital investment for the past three years satisfies the financial hardship prong of the "failing" station standard.

As was the case with respect to WTXX(TV)'s ratings, these recent financial data are part of an ongoing trend; in fact WTXX(TV)'s cash flow difficulties go back to the operations of the previous owner, Counterpoint Communications.[97] When the FCC granted Tribune a permanent "failing" station waiver in 2001, it noted that "Tribune ha[d] submitted financial information . . . supporting a finding that it meets the 'poor financial condition' of the 'failing' station test."[98] And, when the Commission again granted Tribune a permanent Duopoly Rule waiver in 2007, it noted that supporting financial data demonstrated that, between 2004 and 2006, WTXX(TV) had annual negative cash flow; accumulated an operational cash flow deficit of $2.6 million; made additional capital expenditures of $1.2 million; and incurred more than $4 million in net losses.[99] In short, WTXX(TV) has faced severe financial difficulties for quite some time, and these difficulties are likely to continue.

Moreover, in the unique circumstances presented here, it is unreasonable to view WTXX(TV)'s financial situation in isolation from Tribune as a whole. As discussed above, Tribune's overall poor health and pending bankruptcy reinforce the financial challenges that WTXX(TV) faces today.

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non-discretionary expenditures when determining whether a licensee has established negative operating cash flow for the previous three years and poor financial condition as required by the "failing" station test. *See Banks-Boise, Inc.*, 23 FCC Rcd 16,508 (2008), *recon. granted*, DA 09-69 at 6 (rel. Jan. 16, 2009).

[97] *See Counterpoint*, 16 FCC Rcd at 15,046 & n.4 (¶ 5). Counterpoint Communications had consistent negative cash flow from operations prior to selling the station to Tribune. *See id.*

[98] *See id.* at 15,046 (¶ 5).

[99] *See Shareholders of Tribune*, 22 FCC Rcd at 21,280 (¶ 41).

3. Tribune's Common Ownership of the Stations Continues To Produce Tangible and Verifiable Public Interest Benefits, Without Harming Diversity.

When it initially adopted the "failing" station waiver standard, the Commission stated:

> [A] "failing" station waiver standard . . . will permit two stations to merge where at least one of the stations has been struggling for an extended period of time both in terms of its audience share and in its financial performance. Permitting such stations to merge should pose minimal harm to our diversity and competition goals, since their financial situation typically hampers their ability to be a viable "voice" in the market. These stations rarely have the resources to provide local news programming, and often struggle to provide significant local programming at all. Allowing a "failing" station to join with a stronger station in the market can greatly improve its ability to improve its facilities and programming operations, thus benefiting the public interest. This waiver standard may be of particular assistance to struggling stations in smaller markets that are not covered by the eight voice/top four ranked station test.[100]

These comments are particularly fitting here. WTXX(TV) struggled before it was acquired by Tribune, did not produce its own local news programming, and provided little local public interest programming at all. Common ownership with WTIC-TV, on the other hand, has produced significant benefits with respect to WTXX(TV)'s programming and facilities. Under Tribune's ownership, WTXX(TV) has invested steadily in its programming, including non-network and regional sports offerings, as well as in advertising and promotional support of its programming.[101] Since acquiring WTXX(TV), Tribune has spent approximately $2.8 million to maintain the station's analog physical plant, replace its analog transmitter, build out and operate the interim channel 12 digital facility, and construct the station's post-transition channel 20 digital facility. Common ownership has been crucial to WTXX(TV)'s survival, and it is almost certain that, today, an independent WTXX(TV) would be unable to survive and be a meaningful "voice" in the market. Continued common ownership of the Stations therefore will provide ongoing public interest benefits and will pose no harm to competition and diversity.

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[100] *See Television Ownership R&O*, 14 FCC Rcd at 12,938-39 (¶ 79).

[101] *See* Mazzaferri Decl., ¶ 5 (Attachment C hereto).

Among the many public interest benefits resulting from combined ownership is WTXX(TV)'s provision of seven hours per week of local news programming, simulcasting WTIC-TV's 10 pm newscast Monday through Sunday. This simulcast provides additional exposure for the Stations' hour-long 10 pm newscast and ensures that local viewers will have the option of watching it even when WTIC-TV's Fox programming, such as live NFL football and major league baseball games, delays the start of the newscast on that station. WTXX(TV) plans to implement schedule changes later this year that will result in a net increase in the news aired by the station. In addition, both WTIC-TV and WTXX(TV) broadcast *The Real Story*, a weekly public affairs program addressing local and state political issues and other matters of concern to area residents. WTIC-TV airs this program at 10:30 am on Sundays, and WTXX(TV) airs it at 11 am Sundays.

Combined operations also help the Stations cover more news developments throughout a wider area, including those that occur in WTXX(TV)'s community of license, and in the larger Naugatuck Valley.[102] In just the past two months, the Stations have aired more than 20 stories related to Waterbury and the immediate area. Recent examples include the following:

- Alleged Police Corruption. The Stations reported on the arrest and arraignment of a Waterbury police sergeant charged with illegally selling a gun that was later traced to five shootings in New Haven.

- School Renovations. The Stations reported on a Board of Education meeting regarding renovations to a Waterbury school that was closed and in a state of disrepair. The Board debated whether it should renovate the historic schoolhouse property or tear it down and build a new structure to accommodate the overflow of students in the school district.

[102] Section III.A.1. of the NBCO Waiver Request includes examples of how the Stations work with the *Hartford Courant* to provide high-quality local news and information to their communities.

- Mayoral Race. The Stations aired a report on the Waterbury Democratic Mayoral Primary. The coverage examined the contest between the current Democratic mayor and the Democratic president of the Board of Alderman.

- Job Opportunities. The Stations covered a recent Holiday Inn Job Fair in Waterbury, which was one of the largest job fairs in the area and in the state. The hotel was recruiting for 50 positions and received more than 200 applications.

- Domestic Violence. The Stations covered a tragic episode of a father charged with stabbing his own infant daughter, allegedly to retaliate against the child's mother for having an affair.

- Local Transportation. The Stations aired a report regarding the month-long closing of commuter train service in Waterbury because of track repairs. The story examined how the city was handling commuter traffic and what was being done to ease the burden.

- Severe Floods. The Stations aired coverage of extreme flooding in Waterbury and its aftermath, including numerous power outages.

WTXX(TV) also broadcasts a daily Catholic mass from Waterbury; this half-hour broadcast on weekdays expands to an hour on weekends. WTIC-TV's public affairs program, *The Stan Simpson Show*, covers issues of concern to Waterbury and frequently features Waterbury residents. For example, last year, Stan Simpson interviewed a Waterbury minister about President Obama's faith based initiatives and policies as well as another Waterbury pastor who has authored several books on what makes a successful marriage.

In February 2010, WTXX(TV) broadcast a 30-minute special on a celebrity basketball game being held and sponsored by a local community organization to raise awareness about domestic violence. On April 18, 2010, WTXX(TV) aired a half-hour special from 8:00 to 8:30 pm, highlighting the victory of the University of Connecticut women's basketball team in the national finals and covering the "welcome home" parade for the team.

Tribune's Hartford television properties are also deeply involved in local community service projects throughout the market. Among these is "Camp Courant," the nation's largest free day camp for economically disadvantaged children.

4. There Is No Other Entity Reasonably Available To Acquire and Operate WTXX(TV).

As shown above, no other entity is reasonably available to acquire and operate WTXX(TV).[103] Tribune tried unsuccessfully to sell WTXX(TV) for many years, and current economic conditions render it extremely unlikely that Tribune could sell the station today or that the station would be viable as a stand-alone property.[104]

III. GRANT OF THE REQUESTED WAIVER WOULD BE CONSISTENT WITH THE FCC'S POLICY OF AFFORDING COMITY TO THE BANKRUPTCY PROCESS.

As set forth fully in section III.E of NBCO waiver request, the Commission has repeatedly recognized its obligation to reconcile its policies with the policies of the bankruptcy laws.[105] The FCC previously has taken comity into account when granting ownership waivers and should do so again here, especially because grant of such a waiver would not create a *new*

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[103] *See supra* Section II.A.2.

[104] *See generally id.*, BIA Duopoly Report and Separation Analysis; Byrnes Decl.

[105] *See, e.g., Dale J. Parsons, Jr., Memorandum Opinion and Order*, 10 FCC Rcd 2718, 2720 (1995) (citations omitted) ("The Commission is obliged to reconcile its policies under the Communications Act with the policies of other federal laws and statutes, including the federal bankruptcy laws in particular."). The Commission has done so in cases involving permanent waiver of the Duopoly Rule. *See, e.g., In re Application of San Diego Television, Inc, Debtor-in-Possession (Assignor) and KTTY, Inc. (Assignee) for Assignment of the License of Station KTTY(TV), San Diego, California*, Memorandum Opinion and Order, 11 FCC Rcd 14,689, 14,692-93 (¶¶ 12-13) (1996); *In re Application of Channel 33, Inc. for Renewal of License of Station WBFS-TV, Channel 33, Miami, Florida*, Memorandum Opinion and Order, 4 FCC Rcd 7674, 7679-80 (¶ 13) (1988).

television combination in the Hartford DMA, but would merely maintain the *status quo* as it has existed for more than eight years under waivers previously granted by the FCC.

IV. CONCLUSION.

Permanent waiver of the Duopoly Rule to permit Reorganized Tribune to retain ownership of WTIC-TV and WTXX(TV) is fully justified. Reorganized Licensees qualify for such a waiver pursuant to either the "failed" station or "failing" station standard. Indeed, on two separate, recent occasions, the FCC granted Tribune permanent waivers of the Duopoly Rule, and the facts today present an even more compelling case justifying waiver. Finally, the Commission should grant the requested waiver to effectuate its policy of affording comity to the bankruptcy process and to enable Tribune to emerge from bankruptcy as a viable media entity equipped to survive and serve the public interest. Accordingly, Reorganized Licensees respectfully request that the Commission grant a permanent waiver of the Duopoly Rule to permit continued common ownership of the Stations.

ATTACHMENT A

DECLARATION OF BRIAN BYRNES

I, Brian Byrnes, do hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge, information and belief:

1. I am President of Paramount Media Advisors, Inc., a media and brokerage consulting firm in Chicago, Illinois. I have been with Paramount Media Advisors, Inc. and its predecessor affiliate company for nineteen years and have seven years of experience in media brokerage.

2. As the principal of Paramount Media Advisors and having owned and operated television properties over a period of thirty years, I have extensive knowledge of the television industry in general. I have owned and operated television and radio broadcast properties for both my own benefit and have operated them for the benefit of public shareholders, such as the Merrill-Lynch Media Partners partnership. I have both consulted for and appraised television stations for a variety of purposes, including acquisitions, divestitures, mergers, financings, and debt restructurings. In some instances the valuations have formed the basis for testimony in court cases involving bankruptcy for both petitioners and estates. I have been personally involved in the acquisition or sale of more than 75 television broadcast properties, including many stations in the top 50 television markets.

3. As detailed in my Declaration submitted to the Federal Communications Commission ("FCC") in 2007, I was involved in Tribune's efforts to sell WTXX(TV) (and in one limited instance, the combination of WTIC-TV and WTXX(TV)) between September 2001 and September 2006. Despite a significant up tick in station sales activity in 2005 and 2006, my efforts did not locate a buyer willing to pay anywhere close to fair value for either WTXX(TV) or the station combination.

4. Since I provided that information to the FCC, the market for selling local television stations has declined significantly. The current market for television stations has been depressed nationwide. The global financial crisis that began two years ago has negatively affected the market for local television stations in two ways. First, the economic downturn has led to declines in current advertising revenues and uncertainty regarding future revenue growth. These declines in advertising revenues make it extremely difficult for parties to agree on a value on local television properties, discourage buyers from entering the market, and make it difficult for sellers to recoup their investment. Second, even for buyers who wish to enter the market, financing has been nearly impossible to obtain over the past two years and continues to be very difficult to secure. Most lenders that previously were very active in funding the acquisition of local television stations have either withdrawn entirely from the market or severely curtailed their financing activities.

5. The consequence of these twin handicaps has been a significant downturn in the number of local television station sales in 2008 and 2009. Much of the station sales activity in 2009 revolved around the restructuring and liquidation accompanying the bankruptcy of large local television station groups such as Pappas Telecasting Companies; Equity Broadcasting Corporation; ION Media Networks, Inc.; and Young Broadcasting, Inc.

6. The depressed state of the market for local television stations has significantly limited the prospects for sales of stations with secondary affiliations, such as CW-affiliated WTXX(TV). Since the beginning of 2008, transactions involving CW affiliates have been infrequent and illustrate both the depressed state of the local television station market and the challenges facing CW affiliate owners.

7. During this two-year period (2008-2009), I am aware of only 14 deals involving CW affiliates. Two transactions involved bankruptcies and five involved duopolies (three of which required "failing station" waivers); the other seven involved properties that were not marketed or sold as duopolies. The Federal Communications Commission approved two transfers of CW affiliates as part of the bankruptcy sale of the former assets of Pappas Telecasting to New World Television Group — KFRE-TV, Sanger, California, and WCWG(TV), Lexington, North Carolina.

8. Of the seven properties that did not involve duopolies, two had previously traded hands within the last five years, and public records show that the stations were sold for less than their initial acquisition costs. For the first of these two, WFLI-TV in Cleveland, Tennessee, the FCC's database shows that Meredith Corporation acquired the station in August 2004 for $8.5 million, then sold the station in April 2008 for $6.8 million ($1.7 million less). Similarly, the FCC's database shows Roberts Broadcasting Company acquired WAZE-TV in Madisonville, Kentucky in February 2007 for $1 million, and in March 2009, sought FCC approval to sell the station for $50,000.[1] Two additional transactions involved KCEB-TV in the Tyler-Longview, Texas market and WBKI-TV in the Louisville, Kentucky market. KCEB-TV (the assignment application for which is currently pending before the FCC), is proposed for sale at $948,000, a price we believe to be less than the value of the station's hard assets. KCEB-TV was acquired by a Texas-based startup company (London Broadcasting Co., Inc.) as part of an acquisition of Texas television stations. WBKI-TV was sold at auction for $1.6 million; a price we believe that represents the approximate value of only the hard assets conveyed in the sale.

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[1] FCC records indicate that the transaction has not yet closed.

9. The five other sales of CW affiliates involved the continuation of existing or the creation of new duopolies, illustrating that, for many CW stations, duopoly operations have been the best way to maintain viable, quality local service:

- KUCW(TV), Ogden, Utah and KTVX(TV), Salt Lake City, Utah;
- WLMT(TV), Memphis, Tennessee and WPTY(TV), Memphis, Tennessee;
- KPXJ(TV), Minden, Louisiana and KTBS-TV, Shreveport, Louisiana;
- KNIN-TV, Boise, Idaho and KIVI(TV), Nampa, Idaho; and
- KWBA(TV), Sierra Vista, Arizona and KGUN-TV, Tucson, Arizona.

Duopoly waivers were not required in the first two transactions — KUCW(TV), Ogden, Utah, and WLMT(TV), Memphis, Tennessee. In the last three — KPXJ(TV), Minden, Louisiana; KNIN-TV, Boise, Idaho; and KWBA(TV), Sierra Vista, Arizona, the FCC issued "failing station" waivers, in recognition of the poor performance of the stations in their respective markets. All of these sales were to in-market buyers.

10. I was involved in the KPXJ(TV), Minden, Louisiana "failing station" situation. My efforts at marketing the station were extremely difficult when directed towards potential in-market buyers and futile when directed towards out-of-market buyers. In July 2008, Paramount Media Advisors, Inc. marketed KPXJ(TV) to a group of 32 out-of-market television station operators, most of whom I thought might be interested in acquiring television stations and some of whom operated CW-affiliated stations. Each prospect was given a summary description of the opportunity and was told that upon signing a non-disclosure agreement ("NDA"), each would receive a detailed Offering Memorandum of the station's operating performance. Only one prospect requested and executed an NDA and received the Offering Memorandum. That one prospect, who was currently operating a CW affiliate in another market, expressed no further

interest in pursuing a transaction. In short, none of the prospective purchasers exhibited any interest in acquiring KPXJ(TV) as a stand-alone CW affiliated station. Ultimately, in late 2008, the seller executed a contract with a buyer who already owned a television station in the market, and the sale was approved by the FCC in July 2009 pursuant to a "failing" station waiver. The purchase has since closed.

11. In light of the facts outlined above, along with our current day-to-day knowledge of television business activities, it is my judgment that any sales process involving a CW affiliated television station would meet with significant market resistance. I would be surprised if any buyer came forward, and I would expect that, if one did, such expressions of interest would only come from in-market operators interested in operating the station as part of a duopoly. Given my previous efforts to market WTXX(TV), my experience marketing KPXJ(TV) in Minden, Louisiana, and my familiarity with the current local television station market, I do not believe there is any likelihood that WTXX(TV) could be sold today to an out-of-market buyer for a price that would represent anything but a significant loss.

By: ______________________
Brian Byrnes
President
Paramount Media Advisors, Inc.

Executed on this 26th day of April, 2010 at Chicago, Illinois.

AN ANALYSIS OF THE COMPETITIVE AND DIVERSITY IMPACT OF THE DUOPOLY OF WTIC-TV AND WTXX(TV) IN THE HARTFORD-NEW HAVEN, CT TELEVISION MARKET

Mark R. Fratrik, Ph. D.

Vice President

February 26, 2010

BIA Advisory Services, LLC

a subsidiary of BIA Financial Network, Inc.

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AN ANALYSIS OF THE COMPETITIVE AND DIVERSITY IMPACT OF THE DUOPOLY OF WTIC-TV AND WTXX(TV) IN THE HARTFORD-NEW HAVEN, CT TELEVISION MARKET

Executive Summary

Local television stations are now confronted with significantly more competition than ever before, both from other video programming sources and non-video advertising media. This competition is increasingly diverting audiences and advertisers. One solution for meeting these challenges is for a television station to combine with another local television station in the same market to create operational efficiencies and reduce costs, so that the station can provide quality news and local programming.

One such combination is the WTIC-TV/WTXX(TV) duopoly in the Hartford-New Haven, CT market that has experienced a decline in television revenue for at least the last six years. In Hartford-New Haven, the Tribune duopoly faces very strong local competition. WTIC-TV and WTXX(TV) are ranked fourth and fifth, respectively, among the local television stations in all-day ratings. Additional competition comes from out-of-market television stations; cable and DBS delivered programming given the very high local penetration of these services; and, finally, new sources of video programming streamed via the Internet.

Under these circumstances, WTXX(TV), the financially weaker of the two stations in this duopoly, would be unable to survive if it were forced to operate separately. Previous attempts to sell this station as discussed in FCC File No. BTCCT-20070501AEZ (the "2007 Application") were unsuccessful, strongly indicating the impracticality of operating WTXX(TV) as a stand-alone.[1] Given the present anemic state of the local television station sales marketplace, we see it as even less likely than before that any company would commit the investment to purchase this station and operate it independently and highly unlikely that it could obtain financing to do so. Therefore, in order to provide the greatest amount of and highest quality local and diverse programming to the Hartford-New Haven, CT market, this local duopoly should be allowed to continue.

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[1] Tribune's previous efforts to sell were detailed in Transferee's Exhibit 18 and the Declaration of Brian Byrnes attached to the 2007 Application. The FCC recognized these efforts in its decision approving that transaction. *See Shareholders of Tribune Co.*, 22 FCC Rcd 21266, 21280-81 (2007).

AN ANALYSIS OF THE COMPETITIVE AND DIVERSITY IMPACT OF THE DUOPOLY OF WTIC-TV AND WTXX(TV) IN THE HARTFORD-NEW HAVEN, CT TELEVISION MARKET

Introduction

The local over-the-air television station industry has never been more competitive. Local television stations face competition for viewers from other over-the-air television stations, from hundreds of programming networks provided by local cable and Direct Broadcast Satellite (DBS) systems, and increasingly from the provision of programming available through national and local Internet sites. Additionally, local over-the-air television stations compete with some of these same media for advertising revenues and also with many other options now available to local and national advertisers (*e.g.*, Out-Of-Home and mobile).

Since the Federal Communications Commission ("FCC") liberalized the local television ownership ("duopoly") rules in the late 1990s, some local television stations have been able to meet this competition by forming local duopolies. The synergies available through local combinations have allowed these duopolies to maintain viable operating margins and provide local and diverse programming.

One such combination is the WTIC-TV/WTXX(TV) duopoly in the Hartford-New Haven, CT television market. Joint operation of these two stations allows them to provide substantial local and diverse programming in a very competitive local media marketplace.[2] If these stations were not

[2] In a separate study in this proceeding, "Report on the Hartford-New Haven, CT Media Market Media Diversity, Revenue Share, and Concentration Analysis in Support of the Request for Waiver of Stations WTIC-TV and WTXX(TV)," we provide a comprehensive examination of the competitive local Hartford-New Haven, CT media marketplace.

combined, the viability of WTXX(TV) would be threatened, and, even if it survived, it would be unable to provide the same level of quality news and other programming.

In this report, we will examine the impact of the WTIC-TV/WTXX(TV) combination on competition, diversity, and localism in the market. In this review, we will examine the local Hartford television market with special emphasis on its relatively poor economic performance. The recent economic downturn has only increased the economic pressure on this market's already struggling local television stations. We then show that in the Hartford market there are three other large television station groups that compete with the WTIC-TV/WTXX(TV) duopoly, which ranks fourth in terms of estimated television advertising revenues.[3] This report will also demonstrate that WTXX(TV) would be an extremely weak and likely nonviable competitor if it had to compete on its own in this market. Next, we discuss viewing of stations from adjacent markets, which increases the competition for audience and advertisers for the local stations in this market. Finally, we describe the growing amount of Internet video streaming that currently adds even more competitive pressure to the local Hartford television stations and will likely do so increasingly in the future.

Given the level of competition in this market and the certainty of even more competition in the future, the continued combination of WTIC-TV and WTXX(TV) is necessary to ensure that WTXX(TV) remains a viable competitor and provider of local and diverse programming.

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[3] All television station revenue estimates included in this report are from BIA Media Access Pro™, BIA Advisory Services, and are also included in *Investing In Television:2009*, BIA Advisory Services.

The Hartford-New Haven, CT Television Market

Market Revenue Growth

As discussed in an accompanying report,[4] the local television stations in the Hartford-New Haven, CT television market face heavy competition from other traditional media located in this area, from new media, and from other options that are available to advertisers. Adding to in-market competition is the presence of other out of market media, especially television stations located in adjacent markets that reach a substantial number of viewers in the Hartford-New Haven market. That robust competition coupled with the relatively unhealthy local economy has led to declining advertising revenues in recent years for the in-market stations. Moreover, even without the impact of the present economic downturn, prospects for improvement over the next few years would not be promising. Figure 1, which is based on data included in BIA's Media Access Pro™ , shows the recent history of the estimated television revenues generated in this market and the predicted revenues through 2013.

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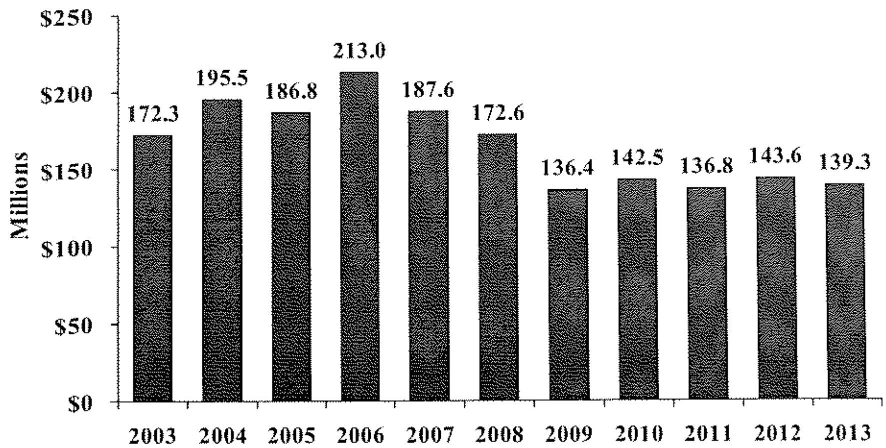
4 See footnote 2.

Figure 1
Estimated Market Revenues 2003-2013
Hartford-New Haven, CT Television Market

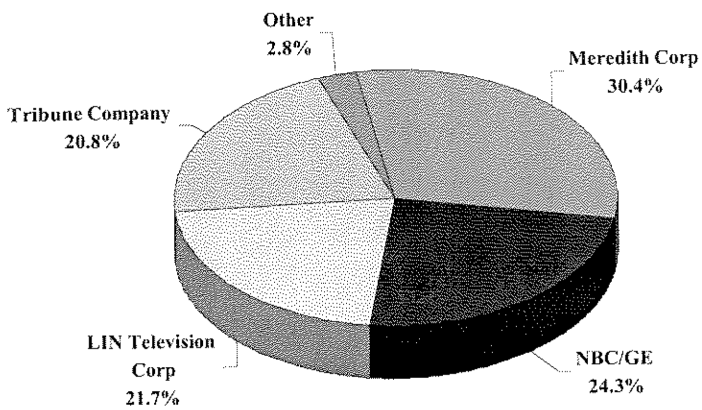


From 2007 through 2009, television revenues in this market are expected to have decreased by 27.3%. Over the next four years (2010 – 2013), market revenues are only expected to increase 2.2% in total. From 2008 through 2013, the compounded annual growth rate ("CAGR") is expected to be -4.2%. With this expected negative revenue growth, the local Hartford television stations will be hard-pressed to compete and continue their current level of local programming.

Competitive Structure of Local Television Market

Several strong television groups operate in the Hartford local television market. Meredith Corporation owns CBS affiliate WFSB(TV); NBC/GE owns WVIT(TV); LIN Television owns the ABC and My Network affiliates, WTNH(TV) and WCTX(TV), respectively; and Tribune owns the Fox and CW affiliates, WTIC-TV and WTXX(TV), respectively. Figure 2 below shows the distribution of the estimated local over-the-air television advertising revenues.

Figure 2
Group 2008 Estimated Television Revenue Shares
Hartford- New Haven, CT Market



Even with two full-power stations in this market, the WTIC-TV/WTXX(TV) combination ranks only fourth in terms of advertising revenues. The fourth place showing for this combination has been consistent in recent years. Table 1 below shows the estimated revenue shares for the six owners of Hartford local commercial television stations over the past five years.

Table 1 – Estimated Television Revenue Shares by Group: Hartford-New Haven Market 2004-2008

Owner	2004 Revenue Share	2005 Revenue Share	2006 Revenue Share	2007 Revenue Share	2008 Revenue Share
Meredith Corp	27.2%	26.8%	26.8%	28.9%	30.4%
NBC/GE	25.5%	25.2%	26.3%	25.7%	24.3%
LIN Television Corp	23.8%	24.2%	25.4%	22.2%	21.7%
Tribune Company	21.7%	21.9%	19.7%	20.9%	20.8%
Entravision Holdings	0.9%	1.2%	1.5%	1.8%	2.3%
ION Media Networks	0.9%	0.8%	0.5%	0.5%	0.5%

The share generated by the WTIC-TV/WTXX(TV) combination is somewhat misleading as the vast majority of its revenues (estimated at over three-quarters) have been generated by WTIC-TV. WTXX(TV) has earned only 3.8%-4.3% of television revenues in the Hartford-New Haven market in this five-year period. Based on these estimates, if WTXX(TV) were independently owned and operated, it would be in an extremely difficult financial position, given that so many other stations in the market have substantially larger revenues and resources. Moreover, it is highly unlikely that any out-of-market buyer would be willing or able, particularly in today's economy, to purchase this station and operate it as a stand-alone.

Competition from Television Stations in Adjacent Markets

Adding to the competitiveness in this market is its close proximity to other, larger markets with strong local television stations. Hartford is located in central Connecticut, in close proximity to Boston, New York, Providence, and Springfield – all of which are in separate DMAs. Given the signal strength of the television stations in the other large major cities located nearby, particularly New York and Boston, those stations serve significant portions of the Hartford-New Haven, CT television market, both over-the-air and on cable and satellite systems. Consequently, there is a considerable amount of viewing in the Hartford-New Haven, CT market of stations located in adjacent markets. Contributing to that adjacent market viewing is the unusually-high level of carriage of these adjacent market signals by cable systems located within the Hartford DMA. At least eight systems serving the Hartford-New Haven DMA carry five or more adjacent market broadcast stations, with at least two systems carrying seven out of market stations.

The total amount of viewing of adjacent market stations is substantial, especially when compared with other DMAs. For the November 2009, sweeps period, these adjacent market television stations garnered 6.0 percent of all the viewing of over-the-air television stations.[5] In the communities in the DMA away from its center and closer to New York City, Springfield, Providence, and Boston, these "out-of-market" stations serve as competing local outlets for news, information and entertainment. As a result of this significant adjacent market viewing in the Hartford DMA, the local commercial television stations have even fewer viewers, making it more difficult for the Hartford television stations to generate advertising revenues.

Competition from Other Sources of Video Programming

Compounding the competition from other in-market and adjacent-market over-the-air television stations is the increasing number of other alternatives for video news and information. These new competitors are delivered either by local cable and DBS systems or through Internet video streaming.

Cable and DBS Provided Video Programming

According to the National Cable & Telecommunications Association, as of 2006 there were 565 national cable programming networks providing service to 65.4 million households.[6] These national programming networks are also being provided by DBS systems throughout the U.S. In June 2008, Nielsen Media Research, Inc. estimated that 27% of all households have either a satellite or specialized antenna system installed,[7] and that the average U.S. household receives 118.6 channels.[8] In the Hartford-New Haven, CT television market, 83.4% of households subscribe to

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5 *Hartford-New Haven Television Report*, Nielsen Media Research, November 2009.

6 http://www.ncta.com/Stats/BAsicCableSubscribers.aspx.

7 http://en-us.nielsen.com/main/news/news_releases/2008/june/average_u_s__home

8 Ibid.

cable and 13.6% subscribe to an alternative delivery service (primarily DBS) for a total MVPD penetration of 96.7%. This is substantially higher than the national average in November 2009 of 89.4%. In fact, the Hartford-New Haven, CT market is tied for second highest in terms of total MVPD penetration in the nation.[9]

This increase in the number of viewing options available to households in the Hartford DMA and nationwide has taken a toll on the audience shares of all local television stations affiliated with the major television networks. The ability of affiliates in all markets to attract audiences is greatly affected by the programming provided by their parent networks. Network programming also plays an important role in cross-promoting other programs aired by local television stations. For example, the network programming preceding a station's late news programming plays an important role in attracting audiences to that news programming.

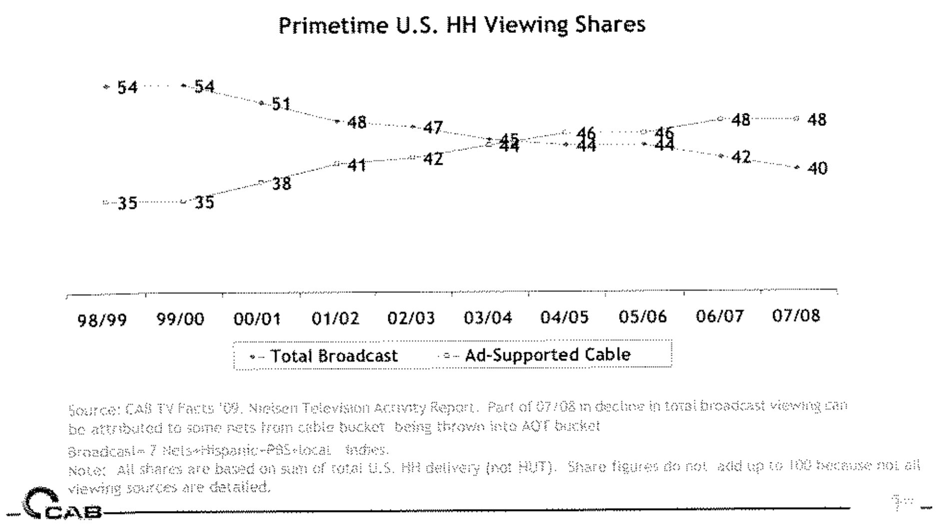
Whereas in the past, the over-the-air television networks tended to dominate the viewing of the local audiences, they now face more competition, and as a result, their shares of the viewing audiences have declined. This reduction in viewership is illustrated in the chart below depicting the annual prime-time[10] viewing shares of audiences for the over-the-air local television stations as compared to the prime-time viewing shares of audiences for ad-supported cable and DBS delivered networks (*e.g.*, USA, TNT, TBS, etc.) for the past ten television seasons (September though

9 *See* http://www.tvb.org/nav/build_frameset.aspx. Total MVPD penetration values may differ from the sum of cable and alternative penetration values because households subscribing to both are included in each category.

10 The prime-time daypart is defined as 8 PM-11 PM from Monday-Saturday, and 7 PM-11 PM on Sunday in the Eastern and Pacific Time zones, and 7 PM-10 PM from Monday-Saturday, and 6 PM-10 PM on Sunday in the Central and Mountain Time zones.

August).[11] Since 2004, primetime viewing of ad-supported cable/DBS channels has exceeded that of broadcast stations.

Figure 3
The Big Erosion: Ad-Supported Cable v. All Broadcast



Video Streaming Competition

More recently, television stations around the country have begun to face increasing competition for viewers from sources of programming available on the Internet. For example, streaming of video programming available from "amateur" programmers via YouTube, as well as the provision of popular over-the-air and cable network programming on streaming sites such as Hulu, provides virtually unlimited choices for local video consumers. In YouTube's case, a new

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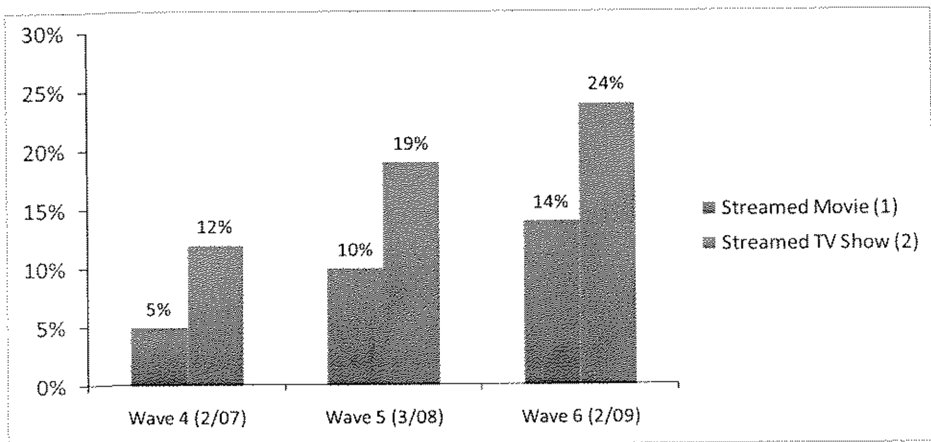
11 The shares of cable network viewing depicted in this chart do not include the viewing of any of the premium services such as HBO and Showtime, as these services are not supported by advertising revenues.

"News Near You" service provides professional and local news videos for local viewers.[12] To provide an indication of the level of this Internet streaming usage and its recent growth, Figure 4 below shows the percentage of respondents who, in response to three annual national surveys conducted by the Kelsey Group, a subsidiary of BIA, reported having streamed a movie or television series within the last month.[13]

Figure 4
Growth in Online Video Usage



(1) "Streamed a full-length movie from a website which you watched at that time."
(2) "Streamed an episode of a regular TV show from a website and watched it at that time."

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12 http://www.nytimes.com/2009/08/03/business/media/03youtube.html?_r=1&ref=technology. In addition to the competition for viewing from these new Internet sources, competition for viewers has also emerged from other sources such as news and information web sites including the major networks' web sites, Netflix delivery of movies, cable and DBS delivery of movies on demand, purchased videos to be played on video iPods, and many other sources.

13 These surveys were conducted in February 2007, March 2008 and February 2009. The surveys are random sample surveys of the general public with 300 responses and are conducted over the Internet.

Nearly a quarter of all respondents (24%) in the most recent survey indicated that they streamed a television show over the Internet in the past month—double the percentage of just two years ago. The popularity of Internet streamed programming continues to increase as more programmers (*e.g.*, over-the-air networks and cable networks) provide their programming over the Internet. Local television stations will suffer from the migration of this viewing as these audiences will not see any of the local advertising spots sold by the television station and will not be exposed to the cross-promotion of other station programming.

Given the heavy competition from within the market (both from over the air stations and through cable and DBS delivery of other programming networks) and from television stations in adjoining markets, the poor revenue performance of WTXX(TV), the CW network affiliate, is not surprising. During the years 2004 - 2008, estimates show this station only garnered between 3.8% and 4.3% of the total local television market revenues. This poor revenue position would hinder the station's ability to provide quality local and diverse programming—and, indeed, its ability to survive--if it were operated as a stand-alone station.

Benefits of Combined Operations of Local Television Stations

Being part of a local combined operation allows WTXX(TV) to benefit from both revenue and cost synergies. These synergies can be substantial, providing the needed financial strength to maintain WTXX(TV) as a viable competitor and provider of local and diverse programming. In the case of WTXX(TV), there would be additional capital and operating costs if it were to be split off from WTIC-TV and operated as a separately-owned television station. Those capital costs would include improvements to the master control room, commercial and production equipment, and other ancillary equipment necessary to operate as a full-service station. In Appendix 1, we provide a listing of additional equipment that WTXX(TV) would need to purchase in order to become a full service station. In total, we estimate that the conversion costs for this station to become a full service station would be approximately $1.265 million.[14]

In previous research, we showed that being part of a local combined television operation led to substantial increases in both audience ratings and revenues.[15] With these stronger ratings and estimated resulting revenues, we showed that "these stations are now providing another strong voice to their local communities."[16]

Stations examined in the research were in markets ranked between 17 and 72. Their share of local audiences increased by an average of 3.2 points from their average of the immediate two prior years after they became part of the combined operation.[17] This improvement in audiences in turn led to substantial increases in estimated revenues.[18] This improved performance was compared to stations of similar size to insure that these results were due to common operation. We concluded after those comparisons, that "for all seven stations[examined], the joint operation improved the revenue performance of the station as compared to similarly situated stations."[19]

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14 This cost estimate is a conservative estimate as it assumes that even though WTXX(TV) would be a full-service station, it would not have a local news operation.

15 "Television Local Market Agreements and Local Duopolies: Do They Generate New Competition and Diversity?" Attachment A, Comments of LIN Television, Raycom Communications, and Waterman Broadcasting, FCC Biennial Regulatory Review, January 2003.

16 Ibid., p. 11.

17 Ibid., p. 5

18 Ibid., p. 7.

19 Ibid., p. 9.

Our research clearly indicates that the competitive position of the "weaker" station in a duopoly was significantly improved as a result of common management. Clearly, given WTXX(TV)'s still precarious financial position even with the common ownership in the Hartford market, splitting that station off from WTIC-TV would place it at grave risk.

Conclusion

As with many established media, local television stations are now confronted with much more competition than ever before. Competition for audiences comes from other video programming sources and competition for advertisers comes from other media, some of which are just beginning to exert strong influences. Even before the recent downturn in the economy, local television stations were challenged to sustain themselves in this rapidly-changing environment while still providing local and diverse programming to their communities.

This challenge confronts all stations, but is especially severe for local television stations that are not affiliated with the four major networks (ABC, CBS, Fox, and NBC). The network programming on the smaller networks (CW and MyNetwork TV) and the programming purchased on the open market do not attract the audiences that affiliates of the four major networks garner, leading to substantially lower advertising revenues and significantly lower profitability.

In order to survive and continue providing local and diverse programming, many of these stations have entered into local duopolies, generating the needed synergies and cost savings to ensure survival. This is the case with the local combination of WTIC-TV and WTXX(TV) in the Hartford television market. Given the difficult economic conditions in this market and the vigorous competition that this duopoly faces, from in-market and out-of-market television operations as well as other forms of video competition, it is essential that these two stations remain combined in order to continue to provide service to their local communities.

Appendix 1 – Estimated Equipment Costs Associated With Converting WTXX(TV) to an Independently Owned Station

Quantity	Equipment	
	Master Control Room:	
1	Digital video commercial & program storage system std/High def.	$160,000
1	Automation Interface software and traffic automation system	40,000
1	Master control switcher with automation interfaces	40,000
1	Video Monitors (in lots)	18,000
2	Loudspeakers	1,000
2	Sync Generator (with switchover assembly)	11,000
1	Routing Switcher	60,000
4	Panasonic DVCPRO VCR's for ingest and long term storage	60,000
1	Sony BetacamSP Videocassette Player	4,000
1	Waveform monitor	3,000
	Vectorscope (2009 assumes used unit purchased)	150
1	ATSC Stream Analyzer	13,000
4	Satellite Receiver with Videocypher decoder or MPEG decoder	12,000
1	Audio and Video distribution amplifiers (in lots)	12,000
1	Equipment Racks and Studio Consoles (in lots)	6,000
1	Audio and Video Cable (in lots)	20,000
1	Misc. DVD, VHS, DVD-Blue Ray recorder/players in lots	1,200
2	Computer workstation	1,800
1	Audio Power Amplifier	625
1	Misc. UPS units (in lots)	4,000
1	Installation and wiring of master control room equipment:	168,000
	Commercial Production Edit Room:	
1	Avid or Equiv. Desktop Video Editing System / High Definition	18,000
1	Panasonic DVCPRO Videocassette Recorder	8,000
1	Video Monitors (in lots)	8,000
1	Audio Mixer	600
1	Microphone	789
1	Microphone Boom Arm	135
1	Editing Console Desk	2,000
1	Wireless intercom system	9,000
2	Loudspeakers	800
1	CD player	150
1	Blue-Ray DVD recorder/player	380
1	UPS unit	1,000
1	Video Production Switcher	12,000
1	Installation and wiring of Production Studio equipment	47,250
	Electronic Field Production Equipment:	
2	3-CCD Broadcast Quality camcorder w/flash card or disc recorder	40,000
2	Studio lens control kit for camera and studio viewfinder	3,500
2	Field production kit with tripod, lighting kit, batteries and charger	9,500
3	Wireless microphone system	3,000

	Engineering Shop:	
1	Oscilloscopes, multimeters and other misc. test equipment (in lots)	14,000
1	Misc. hand and power tools (in lots)	2,000
	Satellite Antennas:	
1	4.2 meter C-band antenna with motorized mount	12,000
1	4.2 meter Ku-band antenna with motorized mount	12,000
1	3.8 meter C-band antenna with fixed mount	6,000
1	3.8 meter Ku-band antenna with fixed mount	6,000
1	Cables, conduit, foundations and installation	10,000
1	Satellite STL microwave system and antennas	60,000
	Construction cost to convert 4,000 square feet of flex-space	
	into a TV studio and office	230,000
	Ancilliary Items:	
1	Misc. Studio furniture (in lots)	3,000
1	Misc. Office Furniture (in lots)	25,000
1	Misc. Office Equipment (in lots)	22,000
1	Office signage (in lots)	2,000
1	STL Tower and foundation	17,500
1	Relocation and realignment of Microwave STL system	10,000
1	Remote Control System Studio unit	3,000
1	Telephone System with 20 multifunction handsets	30,000
1	Misc. monitoring antennas and mast mounts (in lots)	500
	Total:	$1,264,829

REDACTED FOR PUBLIC INSPECTION

ATTACHMENT C

Declaration of Gina M. Mazzaferri

I, Gina M. Mazzaferri, do hereby declare as follows:

1. I am Senior Vice President, Administration and Chief Financial Officer for Tribune Broadcasting Company, Debtor-In-Possession ("TBC"), a position I have held for one year. Previously I held the position of Vice President, Strategy & Administration at TBC, and before that, I was Director, Strategy and Development at TBC. Prior to joining TBC in 1996, I worked in financial planning and analysis as Corporate Controller for Weigel Broadcasting and as Audit Manager for PricewaterhouseCoopers, L.L.P.

2. I am providing this Declaration with information on the financial situation and television market share for TBC-owned television station WTXX(TV), Waterbury, Connecticut, ("WTXX"). I understand that this statement will be provided to the Federal Communications Commission ("FCC") in support of a request for permanent waiver of Section 73.3555(b) of the Commission's Rules, 47 C.F.R. § 73.3555(b), in connection with the application for consent to assign the license for WTXX from WTXX, Inc., Debtor-In-Possession, to WTXX, Inc.. This is part of a larger transaction pursuant to which WTXX's ultimate parent company, Tribune Company, Debtor-In-Possession ("Tribune"), will undergo a reorganization that will substantially restructure the company and allow it to emerge from bankruptcy ("Reorganized Tribune").

3. In December 1997 Tribune acquired a minority equity interest in WTXX valued at approximately $4.8 million. In August 2001, Tribune acquired the remaining interest in WTXX for approximately $25 million. Prior to Tribune's ownership, WTXX was owned by

Tiberius Broadcasting, Inc., to which it was assigned by Counterpoint Communications, Inc. in December 1997.

4. The following table provides WTXX's February audience ratings and audience share (Monday-Sunday, 9AM-12 Midnight) as reported by Nielsen for 2008, November 2009,[1] and November 2010:

	Rating	Share
February 2008	0.8	1.6
February 2009	0.7	1.6
February 2010	0.8	1.7

5. Under Tribune's ownership, WTXX has steadily invested in its programming, including non-network and regional sports offerings, as well as in its advertising/promotion in support of its programming. However, WTXX has been unable to garner significant audience share, and consequently, advertising revenues have been insufficient to cover the station's operating costs.

6. WTXX has had a net loss in excess of **[REDACTED]** in each of the three most recent fiscal years. WTXX has had a net loss for each of the three most recent fiscal years. In addition, WTXX has generated negative cash flow from operations in two of the three most recent fiscal years and in aggregate for the three-year period. Although the station generated positive cash flow from operations in its 2008 fiscal year, that amount was insufficient to fully fund required and necessary capital expenditures.

7. For example, in connection with converting the station to digital operations, WTXX incurred capital expenditures of approximately $35,000 in 2009 and $535,000 in 2008. Other DTV-related capital expenditures included the station's investment of $65,000 in 2008 for

[1] Because of issues related to the changing deadline for the 2009 transition from analog to digital broadcasting, in non-LPM markets there was no February 2009 sweep. Non-LPM markets had a March 2009 sweep.

inductive output tubes, which were necessary to continued operation of the station's digital transmitter. All of these expenditures were required for the continued lawful operation of the station and were in excess of cash provided from operations.

8. WTXX advertising revenue has declined each year since 2004, and its financial condition remains poor despite the economic efficiencies derived from shared infrastructure and lower personnel costs of a duopoly operation.

9. Attached to this Declaration as Exhibits 1a and 1b are true and correct summaries of WTXX's Statement of Cash Flows and Statement of Operations (Income Statement) as of and for Fiscal Years 2007 through 2009.[2] WTXX's operations, finances, and financial reporting are combined with those of WTIC-TV, Hartford, Connecticut ("WTIC"). Tribune Television Company, Debtor-In-Possession ("TTC"), licensee of WTIC, is an indirect wholly owned subsidiary of Tribune, and in August 2001, TTC was granted permission to "to own and operate both WTIC and WTXX."[3] Tribune historically has not prepared a stand-alone Statement of Cash Flows or Income Statement for WTXX separate from WTIC. Accordingly, the included financial statements were prepared specifically for this application.

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[2] Exhibits 1a and 1b have been filed concurrently under a Request for Confidentiality. The information contained in these exhibits is commercially and competitively sensitive and public disclosure of this information would severely prejudice Tribune. For this reason, Tribune is entitled to confidential treatment under a protective order of the Commission that would prevent the public and unnecessary third parties from reviewing the confidential information.

[3] *See Counterpoint Communications Inc.*, 16 FCC Rcd. 15044, 15046 (2001).

The facts set forth in this Declaration are true and correct based upon my personal knowledge and my information and belief. Executed this 26th day of April, 2010 at Chicago, Illinois.

By [signature]

Gina M. Mazzaferri

Filed separately with the Commission under a Request for Confidential Treatment.

Filed separately with the Commission under a Request for Confidential Treatment.