



Federal Communications Commission
Washington, D.C. 20554

June 22, 2020

Nashville License Holdings, L.L.C.
Dennis Breckey Chief Operator
11400 West Olympic Blvd.
Suite 590
Los Angeles, CA 90064
dbreckey@wnab.com

WNAB(TV), Nashville, TN
Facility ID No. 73310
LMS File No. 0000115867

Dear Licensee:

This letter is in reference to the above captioned application for legal special temporary authority (Legal STA) filed by Nashville License Holding L.L.C. (Nashville Holdings), licensee of full power television station WNAB(TV), Nashville, Tennessee (WNAB or Station).¹ In its Legal STA, Nashville Holdings requests authorization to allow WNAB's non-primary programming streams (multicast streams) to be aired in an ATSC 1.0 format, with no ATSC 3.0 simulcast, on the facility licensed to WTVF(TV), Nashville, Tennessee (WTVF), licensed to Scripps Broadcasting Holdings LLC (Scripps).² This arrangement between Scripps and Nashville Holdings has been entered into in connection with WNAB's transition of its facility to the ATSC 3.0 transmission standard. Although Nashville Holdings has agreed to indemnify Scripps from all liabilities or claims resulting from the airing of WNAB's multicast streams over WTVF's facility,³ Nashville Holdings has requested the instant authorization to make clear that Nashville Holdings will remain responsible from a statutory and regulatory perspective for WNAB's multicast streams. Specifically, Nashville Holdings requests that WNAB be treated as if it is still originating the multicast streams and be considered the responsible party for compliance with any obligations under the Communication Act of 1934, as amended (Act), and the Commission rules and regulations in the same manner as an ATSC 1.0 primary simulcast stream is treated under the Commission's ATSC 3.0 rules and regulations.⁴ For the reasons below, we grant Nashville Holdings request.

Background. On June 10, 2020, the Video Division granted WNAB's application for modification of license to convert its existing broadcast facility to ATSC 3.0 transmissions.⁵ As required

¹ Application of Nashville License Holdings, LLC for Legal Special Temporary Authority as amended, LMS File No. 0000115867 (filed June 18, 2020) (WNAB Legal STA).

² WTVF is licensed to operation on RF channel 36.

³ WNAB Legal STA at 1.

⁴ See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9931, para. 79-82 (2017) (*Next Gen TV Report and Order*) (requiring Next Gen TV broadcasters to comply with all Commission broadcast rules, including, but not limited to, our rules regarding foreign ownership, political broadcasting, children's programming, equal employment opportunities, public inspection file, indecency, sponsorship identification, etc.).

⁵ Application of Nashville License Holdings, LLC for Modification of License, LMS File No. 0000115868 (filed June 08, 2020) (WNAB License Modification).

by section 73.3801 of the Commission's rules,⁶ WNAB's primary stream will be simulcast in an ATSC 1.0 format over the facility of WKRN-TV, Nashville, Tennessee (WKRN-TV).⁷ In addition to its primary stream, WNAB currently broadcasts three multicast channels: Stadium, Charge!, and Dabl. In order to avoid the loss of WNAB's over-the-air multicast programming to its current ATSC 1.0 viewers, Nashville Holdings has entered into a written agreement with Scripps to broadcast its multicast streams using the facilities and channel of WKRN-TV. As part of the same agreement, Scripps has been provided capacity as an ATSC 3.0 guest station on WNAB's facility.⁸

As noted in the Legal STA, because of ATSC 1.0 capacity constraints, WNAB is not able to air its multicast streams on the same channel as its primary ATSC 1.0 signal, which is being hosted on WKRN-TV.⁹ Furthermore, due to capacity and other constraints Nashville Holdings is not able to simulcast an ATSC 3.0 version of WNAB's multicast streams.¹⁰ Pursuant to an engineering study conducted by Nashville Holdings, under its arrangement with Scripps, 100% of WNAB's current over-the-air ATSC 1.0 viewers will retain access to WNAB's multicast programming.¹¹ Absent this arrangement and grant of the instant request, Nashville Holdings states that "all over-the-air viewers would lose access to WNAB(DT)'s multicast streams."¹² Sinclair's engineering study also shows that its multicast streams will continue to serve WNAB's community of license (which is the same as the one assigned to WTVF).¹³

Nashville Holdings goes on to state that it provided the requisite 120-day notice regarding relocation of WNAB's primary ATSC 1.0 stream and its multicast streams.¹⁴ WNAB also has been airing the requisite over-the-air announcements¹⁵ and posted to its website consumer notices regarding its transition to the ATSC 3.0 standard and the need for over-the-air viewers to rescan their television sets in order to continue to receive WNAB's ATSC 1.0 programming streams. In order to alleviate any viewer confusion, the PSIP (virtual) channels for each of WNAB's program streams will remain unchanged and

⁶ 47 CFR § 73.3801(b).

⁷ WKRN-TV is licensed to operate on RF channel 27 and is licensed to Nexstar Broadcasting, Inc.

⁸ Application of Scripps Broadcasting Holdings, LLC, LMS File No. 0000115766 (filed Jun. 3, 2020).

⁹ WNAB Legal STA at 1.

¹⁰ Specifically, Nashville Holdings states that in order to air an ATSC 3.0 simulcast of the Station's multicast streams, WNAB would not be able to accommodate current ATSC 3.0 guests as arranged. According to Nashville Holdings, to do so would not only require a reworking of existing ATSC 3.0 agreements, but impact stations' abilities to offer enhanced ATSC 3.0 offerings, such High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels, and non-real time interactive data delivery. Furthermore, Nashville Holdings notes that additional engineering work would be required to accommodate simulcasting WNAB's multicast streams in both an ATSC 1.0 and ATSC 3.0 format, at a minimum, delaying the rollout of ATSC 3.0 in the Nashville market, which is expected to launch on June 23. *Id.*

¹¹ *Id.*, WNAB-WTVF STA Engineering Exhibit at 1, 3. We note that WNAB's ATSC 1.0 primary simulcast that is being aired over the facility of WKRN-TV will approximately serve 99.8% of its current ATSC 1.0 service population. *See* WNAB License Modification, WNAB-WKRN ATSC 3.0 Engineering Statement at 1, 3.

¹² WNAB Legal STA at 1.

¹³ *Id.*, WNAB-WTVF STA Engineering Exhibit at 1, 4.

¹⁴ WNAB Legal STA at 2. *See* 47 CFR § 73.3801(g) (Notice to MVPDs).

¹⁵ WNAB Legal STA at 2. *See* 47 CFR § 73.3801(f) (Consumer Education for Next Gen TV stations).

will be identified to viewers as being associated with WNAB.¹⁶ WNAB plans to convert its facility to ATSC 3.0 and commence its ATSC 1.0 operations over the facilities of WKRN-TV (primary stream) and WTVF (multicast streams) on June 23, 2020.¹⁷

Discussion. We conclude, based on the facts and circumstances presented, that the public interest would be served by the grant of Nashville Holding's Legal STA. Under the Commission's rules, Next Gen TV Broadcasters are not required to simulcast or continue airing their existing multicast streams.¹⁸ Grant of the instant Legal STA will not only promote continued transmission of those programming streams to viewers, but by providing WNAB an authorization to air these signals over WTVF's facility, this grant will make clear that Nashville Holdings is responsible for the content of those signals from a regulatory compliance and Commission enforcement perspective. Therefore, for purposes of all statutory and regulatory obligations related to WNAB multicast streams (Stadium, Charge!, and Dabl), we will treat those signals as multicast streams being originated by WNAB even though they are being transmitted over WTVF's facility. Nashville Holdings is the sole party responsible for ensuring compliance with all statutory and regulatory requirements with regards to WNAB's three multicast streams. This includes, but is not limited to, our rules regarding political broadcasting, children's programming,¹⁹ equal employment opportunities, public inspection file, indecency, sponsorship identification, station identification, contests, the CALM Act, and the Emergency Alert System. Furthermore, because the Commission's rules do not require that a multicast stream be simulcasted,²⁰ we will not require that WNAB air an ATSC 3.0 version of the ATSC 1.0 multicast streams being aired over WTVF's facility.

Given that the current arrangement is temporary and is in furtherance of an ATSC 3.0 simulcasting arrangement, we will not apply the broadcast ownership rules to the extent that the arrangement would result in a potential violation of those rules. We find this approach is consistent with the Commission's decision and underlying basis to "not apply the broadcast ownership rules in any situation where airing an ATSC 3.0 signal or an ATSC 1.0 simulcast on a temporary host station's facility would result in a potential violation of those rule."²¹ For purposes of the instant Legal STA, we find compelling the capacity and engineering constraints that Sinclair has set forth.²²

We are taking this temporary measure in order to help facilitate the deployment of ATSC 3.0 and in light of the evolving nature of ATSC 3.0 deployment and related agreements. To the extent that existing Commission rules and regulations do not provide sufficient clarity or guidance on issues related

¹⁶ WNAB Legal STA at 1.

¹⁷ See WNAB License Modification.

¹⁸ *Next Gen TV Report and Order*, 32 FCC Rcd at 9937-38, para. 13, n.40.

¹⁹ Nashville Holdings notes in its Legal STA that WNAB "does not currently, and does not intend to, rely on its multicast streams for compliance with the Commission's Children's Television Programming requirements....As such, WNAB(DT)'s compliance with the Commission's Children's Television Programming requirements nor viewers' access to the station's required core programming will be affected by the proposed changes." WNAB Legal STA at 1.

²⁰ See *supra* note 18.

²¹ *Next Gen TV Report and Order*, 32 FCC Rcd at 9972, para. 80, n.237. See also *Promoting Broadcast Internet Innovation through ATSC 3.0*, MB Docket No. 20-145, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 20-73, para. 15 (rel. Jun. 9, 2020).

²² See *supra* note 10.

to the relocation of ATSC 1.0 multicast streams (simulcasted or non-simulcasted) and any other arrangements that have become necessary as part of broadcasters' voluntary transition to ATSC 3.0 since the Commission's ATSC 3.0 rules were adopted over two years ago, we encourage licensees to formally seek modification or clarification of the Commission's existing rules prior to seeking renewal of the instant Legal STA.

As explained above, we will continue to consider these program streams to be WNAB's multicast streams even though they are being aired on a different channel than WNAB's ATSC 1.0 primary stream. Multicast signals are not entitled to mandatory carriage rights,²³ and this authorization does not modify or alter WNAB's mandatory carriage rights. Ultimately any impact on an MVPD's ability to carry WNAB's multicast streams pursuant to a retransmission consent agreement are subject to the terms of the private contractual relationship between Sinclair and the affected MVPD. According to Sinclair, the current arrangement between WNAB and WTVF "will preserve access to those WNAB(DT) multicast streams currently received for most, if not all, viewers who are receiving them via MVPDs."²⁴ Nashville Holdings states it has provided written notice to all impacted MVPDs, is coordinating with all impacted MVPDs, and will continue to coordinate as needed with potentially affected MVPDs to ensure they continue to receive a good quality signal of the multicast streams over-the-air or via alternative delivery methods, such as direct fiber feed.²⁵ As a result, we do not expect there to be any adverse impact on MVPD viewers.

Accordingly, the above captioned Legal STA requested by Nashville License Holding L.L.C., licensee of WNAB(TV), Nashville, Tennessee, **IS GRANTED** for a period of six months from date of this letter – hereby expiring on December 22, 2020. For purposes of the Act, and the Commission's rules and regulations we will consider the multicast program streams of Stadium, Charge!, and Dabl to be originated by WNAB even though they are being aired over WTVF's facility. Further, we will not apply our ownership rules to the extent the instant temporary arrangement would otherwise result in a potential violation of those rules so long as WNAB's multicast streams are being aired on WTVF's facility pursuant to an active and Commission authorized ATSC 3.0 simulcasting arrangement (i.e., WNAB is operating an authorized ATSC 3.0 facility and its primary stream, absent waiver, is being aired over the facility of an ATSC 1.0 simulcast host). Any additional multicast streams, a change in the multicast streams being aired over WTVF's facility by WNAB or relocating WNAB's multicast streams to a new ATSC 1.0 host, will require the filing of a new request. Nashville Holdings agrees to coordinate with MVPDs as necessary. While renewal of the instant authorization may be requested, there is no guarantee

²³ See *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket Nos. 98-120, 00-96 and 00-2, First Report and Order and FNPRM, 16 FCC Rcd 2598, 2621-22, para. 54 (2001); *affirmed by Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, Second Report and Order and First Order on Reconsideration, CS Docket No. 98-120, 20 FCC Rcd 4516, 4518, para. 3 (2005) (*DTV Must-Carry Second R&O*) (declining to require cable systems to carry a licensee's multicast streams). In the *DTV Must-Carry Second R&O*, the Commission affirmed its decision in the First Report and Order to interpret the statutory term "primary video" to mean only a single programming stream. If a digital broadcaster elects to divide its digital spectrum into several separate programming streams, only one of these streams is entitled to mandatory carriage. *Id.* at 4530-37, paras. 28-44.

²⁴ WNAB Legal STA at 1.

²⁵ *Id.*

of renewal and whether renewal is granted will be subject to any additional Commission or Bureau decisions on the treatment of multicast streams pursuant to an ATSC 3.0 simulcasting arrangement.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc: (via electronic mail):
Christina H. Burrow, Esq.
Jason Rademacher, Esq.
Coe Ramsey, Esq.