

Before the
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of
Applications of Tribune Company and its
Licensee Subsidiaries, Debtors in Possession, et al.
For Consent to Assignment of Licenses
Pursuant to a Plan of Reorganization
MB Docket No. 10-104

MEMORANDUM OPINION AND ORDER

Adopted: November 16, 2012

Released: November 16, 2012

By the Chief, Media Bureau:

I. INTRODUCTION

1. The Commission, by the Chief, Media, Bureau, pursuant to delegated authority, has before it Applications for Consent to the Assignment of Broadcast Station Licenses (FCC Form 314) filed by the Tribune Company, Debtor-in-Possession, and its licensee subsidiaries (collectively "Tribune"), which were filed jointly with applications seeking consent to assign certain broadcast auxiliary, satellite earth station, private land mobile, private fixed microwave, and CARS licenses in connection with Tribune's bankruptcy reorganization plan. The applications propose to assign the licenses from the current company and its subsidiary licensees as debtors-in-possession to a reorganized, post-bankruptcy Tribune and its licensee subsidiaries ("Reorganized Tribune"). (Tribune and Reorganized Tribune are collectively referred to herein as the "Applicants.")

2. The Applicants are seeking the Commission's consent to implement the "Fourth Amended Joint Plan of Reorganization for Tribune Company and its Subsidiaries Proposed by the Debtors, The Official Committee of Unsecured Creditors, Oaktree Capital Management, L.P., Angelo, Gordon & Co., L.P., and JPMorgan Chase Bank, N.A." ("DCL Plan"). Since previously granted waivers of the Commission's multiple ownership rules are not automatically granted with the subsequent transfer of stations, the transfer of licenses to Reorganized Tribune requires the Applicants to re-justify any waivers previously granted to Tribune to hold various broadcast and media interests that are not in compliance with the Commission's ownership limitations. Accordingly, the Applicants have requested: (1) permanent waivers of the newspaper/broadcast cross-ownership ("NBCO") rule in five markets or,

1 The jointly filed applications (the "Exit Applications") are listed in Attachment 1 to this Memorandum Opinion and Order.

2 "DCL Plan" is the designation used for the plan of reorganization in the Bankruptcy Court's Order and in the applications. Therefore, we will use it here.

3 See, e.g., Applications of Capital Cities/ABC, Inc. (Transferor) & the Walt Disney Co. (Transferee), et al., 11 FCC Rcd. 5841, 5848-49 (1996) ("Disney").

4 47 C.F.R. § 73.3555(d). The current NBCO Rule prohibits common ownership of a television station and a daily newspaper if the Grade A contour of the station encompasses the entire community in which the newspaper is published. Due to the digital transition, stations no longer have a Grade A contour. In these circumstances, absent (continued....)

in the alternative, temporary waivers in the relevant markets pending our current rulemaking on the issue being final and no longer subject to review;<sup>6</sup> (2) a failing station waiver<sup>7</sup> to permit common ownership of WTIC-TV, Hartford, Connecticut, and WCCT-TV, Waterbury, Connecticut;<sup>8</sup> and (3) a continuing satellite waiver<sup>9</sup> permitting common ownership of WTTV(TV), Bloomington, Indiana, and WTTK(TV), Kokomo, Indiana.

3. Petitions to deny the applications were filed by the International Brotherhood of Teamsters (“the Teamsters”), Neil Ellis (“Ellis”), and Wilmington Trust Company (“Wilmington Trust”). A petition to deny was jointly filed by Free Press, Media Alliance, NABET/CWA, the National Hispanic Media Coalition, the Office of Communication of the United Church of Christ, Inc., and Charles Benton (collectively “the Public Interest Petitioners”). Oppositions were filed by the Applicants, and a consolidated opposition was filed by JPMCB Chase Bank, N.A. (“JPMCB”). A Memorandum was filed by the Official Committee of Unsecured Creditors of Tribune Company (“Unsecured Creditors Committee”) supporting the Applicants’ FCC applications and the Applicants’ oppositions to the petitions to deny (“Memorandum”). Replies were filed by the Teamsters, Wilmington Trust, and the Public Interest Petitioners. Wilmington Trust filed a request to supplement its petition to deny (“Wilmington Supplement”), which included the report of Kenneth N. Klee (“Examiner’s Report”), the Examiner appointed by United States Bankruptcy Court for the District of Delaware and charged with investigating certain matters related to the Tribune bankruptcy cases.<sup>10</sup> That request was opposed by the Applicants, and Wilmington Trust filed a response.<sup>11</sup> The Public Interest Petitioners updated their challenge on August 24, 2012 (“2012 Supplement”). The Applicants replied on September 4, 2012 (“2012 Reply”).

4. For the reasons stated below, we deny the petitions and grant the applications subject to conditions regarding newspaper-broadcast combinations in four markets. We deny the requested permanent waivers of the NBCO Rule in the New York, Los Angeles, Miami-Ft. Lauderdale, and Hartford-New Haven markets. Instead, we grant Reorganized Tribune temporary waivers in those markets conditioned upon the requirement that it must come into compliance with the NBCO Rule no later than one year from the release date of this Order. In the alternative, if the Commission adopts a new NBCO Rule pursuant to the *2011 NPRM*, Reorganized Tribune may seek waivers of the new rule by filing waiver showings within the timeframe applicable to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending at that time.<sup>12</sup> In addition, regardless of the date by which

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substantial evidence of relevant change in the service area of the station whose analog contour conflicted with the NBCO rule, we will presume continued conflict with the rule for that station in a digital mode.

<sup>5</sup> The stations for which NBCO waivers have been requested and the relevant newspapers are listed in Attachment 2.

<sup>6</sup> See *2010 Quadrennial Regulatory Review-Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Promoting Diversification of Ownership in the Broadcast Services*, 26 FCC Rcd 17489 (2011) (“*2011 NPRM*”).

<sup>7</sup> See 47 C.F.R. § 73.3555, n.7.

<sup>8</sup> Formerly WTX(X)TV, Waterbury, Connecticut.

<sup>9</sup> See 47 C.F.R. § 73.3555, n.5.

<sup>10</sup> *In re Tribune Company, et al.*, Case No. 08-13141 (Chapter 11) (Bankr. D. Del.) (jointly administered).

<sup>11</sup> In the interest of a complete record we grant Wilmington Trust’s request to supplement. In addition to the filings listed, various parties have submitted materials in connection with *ex parte* presentations.

<sup>12</sup> Currently, the applicable deadline is 60 days after the Commission releases an order pursuant to the *2011 NPRM*. *2006 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules* (continued....)

Reorganized Tribune must come into compliance or file any waiver showing, we condition these temporary waivers on Reorganized Tribune's compliance with any other requirements the Commission may apply, in an order pursuant to the 2011 NPRM, to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending when the Commission adopts a new NBCO Rule or affirms the existing rule. We further grant a permanent waiver of the NBCO Rule in the Chicago market, the failing station waiver in the Hartford-New Haven, Connecticut market, and the continuing satellite waiver in the Indianapolis, Indiana market. We find that grant of the applications and of these waivers is in the public interest and also will facilitate the emergence of the company from bankruptcy.

5. The Commission will address the petitions for reconsideration of *Tribune I*<sup>13</sup> and related matters in a separate proceeding. Contrary to the contentions of the Public Interest Petitioners and the Teamsters, we do not agree that the subject applications must be "held in abeyance" pending the resolution of *Tribune I*, since, in deciding to close on the transactions at issue here, Tribune must accept the risk that the Commission or a court could reverse the Commission's grant of the applications in *Tribune I*.<sup>14</sup>

## I. STANDARD OF REVIEW

6. Pursuant to Section 310(d) of the Act, we must determine whether the proposed application for assignment of control of certain licenses and authorizations held and controlled by Tribune to Reorganized Tribune will serve "the public interest, convenience, and necessity." In making this determination, we must assess whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission's Rules. If an applicant seeks a waiver of a rule, the Commission determines whether the requested waiver meets the Commission's standards for granting such waivers. If the transaction would not violate a statute or rule, or a waiver is granted, the Commission considers whether a grant could result in public interest harms (by substantially frustrating or impairing the objectives or implementation of the Act or related statutes) or public interest benefits. Where, as here, the Commission has adopted rules to promote diversity, competition or other public interest concerns, those rules and the decision whether to waive them may form the basis for determining whether the transfer applications and/or waivers are on balance in the public interest. Further, our public interest authority enables us, where appropriate, to impose and enforce transaction-related conditions targeted to ensure that the public interest is served by the transaction.

7. Notwithstanding our grant of the pre-bankruptcy waivers, our standard of review requires us once again to determine whether granting waivers to Reorganized Tribune are in the public interest, in order to rule on the license transfer applications. Our findings are based upon the record before us and require that we incorporate into our analysis issues raised by petitions to deny and other comments filed in this proceeding. The Applicants bear the ultimate burden of demonstrating that the transaction (including the grant of waivers) is in the public interest.

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*Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 06-121, Order, DA 12-504 (MB rel. Sept. 17, 2012).

<sup>13</sup> *Shareholders of Tribune Company*, Memorandum Opinion and Order, 22 FCC Rcd 21266 (2007) ("*Tribune I*"), reconsideration pending.

<sup>14</sup> *Improvement Leasing Co.*, 73 FCC 2d 676, 684 (1979), *aff'd sub nom. Washington Association for Television and Children v. FCC*, 665 F.2d 1264 (D.C. Cir. 1981)

## II. PRELIMINARY MATTERS

### A. Delay of Consideration of Applications

8. As a preliminary matter, Wilmington Trust and the Public Interest Petitioners have both asserted that we should delay our consideration of the applications until after the Bankruptcy Court issues its order. Wilmington Trust states that some parties and their ownership interests may change as a result of the Examiner's Report and the Bankruptcy Court's order regarding confirmation of the DCL Plan. The Applicants and JPMCB both argue correctly that the Commission regularly accepts and reviews applications prior to the issuance of the Court's plan confirmation order so as to facilitate the efficient operation of the bankruptcy process.<sup>15</sup> Applications of a company in bankruptcy, like all applications, are subject to amendment prior to the issuance of the Commission's decision. In the case of any application(s) involving a bankrupt entity, one of the amendments that must be submitted is an amendment reflecting the Court's order confirming a bankruptcy reorganization plan. As discussed more fully below, the Bankruptcy Court issued its decision on July 23, 2012, approving the DCL Plan. The Applicants amended the applications on July 12, 2012 and July 25, 2012 to reflect, *inter alia*, modifications of the DCL Plan, some changes in the media interests of the holders of attributable interests in the licensee, and the issuance of the Court's confirmation order. None of these changes constitute major amendments to the applications. The Examiner's Report did not affect the participation of any of the attributable interest holders in Reorganized Tribune and did not raise any issues regarding their participation in the applications before us.<sup>16</sup> Therefore, the arguments that we should delay our consideration of the applications pending the decision of the Bankruptcy Court are incorrect.

### B. Teamsters' Standing

9. The Applicants argue that the Teamsters lack standing because their petition is unlikely to be redressed by a favorable decision.<sup>17</sup> The Applicants assert that the Teamsters' alleged harms are not caused by the transactions proposed in the exit applications and that denial of the applications will not address its concerns. As Tribune itself recognizes, the Teamsters have alleged that its members' "livelihoods, economic well-being, and access to a diversity of news and opinions on public events depend on the resolution of this proceeding and its impact on the Tribune's newspaper and broadcast ventures."<sup>18</sup> Among other things, the Teamsters oppose two of Reorganized Tribune's requested NBCO Rule waivers. The Teamsters have alleged that grant of the applications will have a negative effect on its members, who reside within the service area of the stations, and claim that those harms can be cured by dismissal or denial of the applications. We find that denial of the Applicants' applications would afford the Teamsters the relief it seeks, and the Teamsters therefore have standing.

## III. DISCUSSION

### A. The Bankruptcy

10. **Background.** Tribune is a multimedia company with interests in broadcasting, publishing, and interactive media. It began broadcasting in 1924 with WGN(AM) in Chicago, and began

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<sup>16</sup> In particular, the Examiner's Report did not constitute an adjudication of misconduct by any party to the applications and thus does not bear on the Applicants' qualifications. *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 FCC 2d 1179, 1194-1203 (1986); *Policy Regarding Character Qualifications in Broadcast Licensing*, Memorandum Opinion and Order, 6 FCC Rcd 3448, 3448-49 (1991).

<sup>17</sup> *Citing Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (citations omitted).

<sup>18</sup> Teamsters Petition to Deny at 2.

as a television broadcaster in 1948 with WGN-TV, Chicago, and WPIX-TV, New York, both of which are among the 23 full-service commercial television stations that it now operates.<sup>19</sup> Tribune also publishes eight major-market daily newspapers: the *Chicago Tribune*, the *Los Angeles Times*, the *Baltimore Sun*, the Ft. Lauderdale-based *Sun Sentinel*, the *Orlando Sentinel*, the *Hartford Courant*, the *Morning Call* (Allentown, Pennsylvania), and the *Daily News* (Newport News, Virginia). From 2000 until 2008, Tribune indirectly owned a 100% interest in *Newsday*, a daily newspaper serving Long Island, New York. It contributed substantially all of the assets and liabilities of *Newsday* to a limited liability company, *Newsday Holdings, LLC*, formed by it and Cablevision Systems Corporation in July 2008. Tribune retained an approximately 3% interest in the parent company of *Newsday*'s publisher.<sup>20</sup>

11. In November 2007, the Commission approved the transfer of control of Tribune and its licensee subsidiaries to the Zell Group.<sup>21</sup> The Commission granted permanent and temporary waivers of the NBCO Rule and the local ownership rules as part of that proceeding.<sup>22</sup>

12. On December 8, 2008, before Tribune was required to divest any assets subject to the temporary waivers, Tribune and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code, initiating the Tribune bankruptcy cases.<sup>23</sup> Tribune subsequently filed a series of FCC Form 316 applications to assign the broadcast licenses held by certain Tribune subsidiaries to those same subsidiaries operating as debtors-in-possession and to reflect control of those subsidiaries as debtors-in-possession. The Commission granted those applications on January 8, 2009. Although Tribune's organizational structure has remained the same, and it has continued to be governed by its ten-member Board of Directors, it has been supervised by the Bankruptcy Court since that time.

13. On April 12, 2010, Tribune submitted a plan of reorganization to the Bankruptcy Court, and it filed the Exit applications with the Commission on April 28, 2010. On October 22, 2010, Tribune; The Unsecured Creditor's Committee; certain investment funds and accounts managed by Oaktree Capital Management, L.P. and/or its affiliates ("Oaktree"); Angelo, Gordon & Co., L.P. and/or its affiliates ("Angelo Gordon"); and JPMCB filed a successor joint plan of reorganization with the Bankruptcy Court, which was subsequently amended. Other creditors of Tribune filed competing plans of reorganization. The Bankruptcy Court approved disclosure statements with respect to the various plans, scheduled and held confirmation hearings, and scheduled and received pre-hearing and post-hearing briefs.

14. On October 31, 2011, the Bankruptcy Court issued an order and an opinion in which it refused to confirm either of the plans that were pending before it at that time. In the opinion, the Bankruptcy Court identified specific elements that, if properly addressed in an amended plan, would result in a confirmable plan. Tribune and its fellow proponents amended their plan accordingly. The proponents of the competing plan did not submit an amended or modified plan. The DCL Plan was

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<sup>19</sup> See Attachment 2. Tribune also operates an additional full-power station, WTTK-TV, Kokomo, Indiana, as a satellite of WTTV(TV), Bloomington, Indiana.

<sup>20</sup> The Applicants have stated that the interest in *Newsday* is fully attributable. WPIX-TV Application, as amended March 16, 2012. Exhibit 16 at 2.

<sup>21</sup> *Tribune I*, 22 FCC Rcd 21266 (2007). Zell, the ESOP Plan, the Tribune Trust and EGI-TRB will be collectively referred to as the Zell Group.

<sup>22</sup> *Id.* at 21284-85. *Supra* n.12.

<sup>23</sup> *In re Tribune Company, et al.*, Case No. 08-13141 (Chapter 11) (Bankr D. Del.) (jointly administered).

confirmed by the Bankruptcy Court on July 23, 2012.<sup>24</sup>

15. The DCL Plan differs from the Tribune plan iterations that preceded the DCL Plan as described in the Exit Application, principally in relation to the treatment of litigation matters and to the allocation of certain distributions among creditors that are unrelated to the Exit Applications. The DCL Plan provisions that are related to company organization and ownership certification remain substantially the same.

16. **The DCL Plan.** Under the DCL Plan, Reorganized Tribune will be a widely held corporation with two classes of common stock. The first class of stock – New Class A Common – will be standard voting stock. The majority of these shares will be held by distinct and unrelated entities that will each own less than 5% of the New Class A Common Stock. Accordingly, these interests will not be attributable under the Commission’s Rules.<sup>25</sup> Three entities, JPMCB, Angelo Gordon, and Oaktree, each will own, directly or through affiliates, 5% or more of the New Class A Common Stock and will be deemed to hold attributable interests in Reorganized Tribune.<sup>26</sup> The DCL Plan does not contemplate any additional attributable owners.<sup>27</sup>

17. The second class of stock – New Class B Common Stock – would have limited voting rights that are designed to correspond to standard investor protections<sup>28</sup> and be non-attributable. Holders of New Class B Common Stock will not be entitled to vote for members of the Board of Directors of

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<sup>24</sup> *In re Tribune Company, et al.*, Case No. 08-13141 (Chapter 11) (Bankr D.Del. July 23, 2012) (“*Confirmation Order*”).

<sup>25</sup> See 47 C.F.R. § 73.5555, Note 2(a). (Any voting stock interest amounting to 5% or more of a corporate broadcast licensee, cable television system or daily newspaper will be cognizable.) See also *Reexamination of the Commission's Rules and Policies Regarding the Attribution of Ownership Interests in Broadcast, Cable Television and Newspaper Entities*, 97 FCC 2d 997, 1006 (1984), *reconsidered in part*, 58 Rad. Reg. (P & F) 2d 604 (1985), *further reconsidered*, 1 FCC Rcd 802 (1986).

<sup>26</sup> *Id.*

<sup>27</sup> The Applicants state that any entity seeking an attributable interest in Reorganized Tribune was required to submit a Media Compliance Certification listing its media interests. Only these three entities supplied the required certifications.

<sup>28</sup> These include voting on actions that are not in the ordinary course of business such as: (1) any authorization of, or increase in the number of authorized shares of, any class of capital stock ranking *pari passu* with, or senior to, the New Class A Common Stock or New Class B Common Stock as to dividends or liquidation preference; (2) any amendment to the Restated Certificate of Incorporation or the Bylaws of Reorganized Tribune; (3) any amendment to any stockholders or comparable agreement; (4) any sale, lease, or other disposition of all or substantially all of the assets of the company; (5) any recapitalization, reorganization, share exchange, merger or consolidation of the company; (6) any issuance or entry into agreement for the issuance of capital stock or stock options of the company; (7) any redemption or repurchase of the capital stock of Reorganized Tribune; and (7) and liquidation, dissolution, distribution of assets or winding-up of the company. They can also vote as a separate class on any amendment, modification, or repeal of the Restated Certification of Incorporation that adversely affects their rights in a manner different from the rights of holders of Class A Common Stock. These protections are consistent with those the Commission has previously approved as permissible for nonvoting shareholders over fundamental corporate matters and do not rise to the level of attributable influence. See, e.g., *Shareholders of Hispanic Broadcasting Corporation and Univision Communications, Inc.*, 18 FCC Rcd 18834, 18849-50 (2003); *Paxson Management Corporation and Lowell W. Paxson*, 22 FCC Rcd 22224, 22231-32 (2007).

Reorganized Tribune.<sup>29</sup>

18. Under the DCL Plan, no party may receive any stock in Reorganized Tribune unless it certifies to the amount of its foreign ownership, calculated both as a percentage of voting rights and as a percentage of equity, prior to Tribune's emergence from bankruptcy. If a party does not provide the certification, it will be deemed to be 100% foreign owned and controlled for purposes of the applicant's foreign ownership compliance and analysis.<sup>30</sup> If the final analysis reveals that Reorganized Tribune's level of foreign ownership would exceed 25%,<sup>31</sup> Reorganized Tribune will issue New Common Stock Warrants ("New Warrants"),<sup>32</sup> New Common Stock, or a combination of the two, as necessary, to ensure that the company's foreign ownership level remains within the statutory limit.<sup>33</sup> Following consummation, the Applicants state that Reorganized Tribune will have mechanisms in place to ensure that the company stays within the statutory limits before any of the New Warrants can be exercised.<sup>34</sup> First, the form of the warrants will specify that warrant holders will be permitted to exercise New Warrants only if doing so would not violate the Communications Act or Commission rules or policies.<sup>35</sup> Second, Reorganized Tribune's Certificate of Incorporation will give it the authority to prohibit the ownership of New Common Stock when ownership would be inconsistent with either the Communications Act or Commission rules or policies.<sup>36</sup>

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<sup>29</sup> Wilmington Trust contends that the structure with Class A and Class B Common Stock is inconsistent with the Bankruptcy Code. The Bankruptcy Court approved the DCL Plan, *Confirmation Order* at 2, which specifically includes the two classes of stock, and we defer to the Bankruptcy Court on this issue.

<sup>30</sup> In its petition to deny, Wilmington Trust appears to have confused "non-attributable" shareholders with "anonymous" shareholders and to believe that Reorganized Tribune does not plan to determine the citizenship status of shareholders that are not attributable. That is not the case. Reorganized Tribune must undertake to determine the citizenship status of its shareholders, both attributable and non-attributable, whether voting or non-voting, and the record indicates that the Applicants have taken steps to do so through the use of their stringent certification requirements.

<sup>31</sup> See 47 U.S.C. § 310(b)(4). Section 310(b)(4) prohibits granting a broadcast license to:

[A]ny corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by any foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the revocation or refusal of such license.

<sup>32</sup> Contrary to Wilmington Trust's assertions, stock warrants, like other future interests and debt, do not create an attributable interest, standing alone, and do not implicate our foreign ownership limitations. See *Univision Holdings, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 6672, 6674 (1992), *recon. denied*, 8 FCC Rcd 393 (1993). ("We have ruled that convertible instruments are not relevant in our determinations [regarding the calculation of foreign ownership] until converted and that, in this context, there is no presumption that the warrants will be converted.... Given that position and the Buyer's representation [that the warrants will not be converted unless consistent with the Communications Act], the warrants are not material to our determination."), *citing WWOR-TV, Inc.*, 6 FCC Rcd 6569, 6572, n.13 (1991). Wilmington Trust's statements regarding what may or may not happen in the future regarding the warrants here are speculative.

<sup>33</sup> Reorganized Tribune will issue New Warrants to certain entities that would otherwise not be entitled to receive New Common Stock, if such action is necessary to ensure compliance with the Commission's foreign ownership limitations. See 47 U.S.C. § 310(b)(4).

<sup>34</sup> See, e.g. WGN-TV Application, BALCDT-2010428AEL ("WGN-TV Application"), Revised Comprehensive Exhibit, July 2012, at 11.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

19. As noted above, following consummation, Reorganized Tribune will have three attributable shareholders: JPMCB, Angelo Gordon, and Oaktree.<sup>37</sup> Oaktree will hold approximately 22% of the voting interest in the company. Angelo Gordon will hold approximately 9% of the voting interest in it. JPMorgan Chase and Co. (“JPMC&Co.”), parent of JPMCB, through various subsidiaries, currently holds debt in Tribune that, when converted pursuant to the DCL Plan, will be valued at approximately 10% of Reorganized Tribune. JPMCB will hold approximately 8% of the voting interest in Reorganized Tribune via a subsidiary named Isolieren Holding Company (“Isolieren”).<sup>38</sup> The remainder of the JPMC&Co. interest will be converted to either New Class B Common Stock or to New Warrants to be held by other JPMC&Co. subsidiaries.

#### **B. The NBCO Rule Waivers**

20. **Introduction.** As discussed above, Reorganized Tribune requests waivers of the NBCO Rule to permit the common ownership of:

- KTLA(TV), Los Angeles, California,<sup>39</sup> and the *Los Angeles Times* (“*LA Times*”);
- WPIX(TV), New York, New York,<sup>40</sup> and *Newsday*;
- WSFL(TV), Miami, Florida,<sup>41</sup> and the Ft. Lauderdale *South Florida Sun-Sentinel*;
- WGN-TV and WGN(AM), Chicago, Illinois,<sup>42</sup> and *The Chicago Tribune*; and
- WTIC-TV, Hartford, Connecticut;<sup>43</sup> WCCT-TV, Waterbury, Connecticut,<sup>44</sup> and the *Hartford Courant*.<sup>45</sup>

In each case, the Applicants seek a permanent waiver of the rule or, in the alternative, a temporary waiver of the rule until 18 months after the Commission completes its review of the NBCO Rule and that action becomes a final order no longer subject to judicial review. In their petitions to deny, the Public Interest Petitioners, Wilmington Trust, the Teamsters, and Ellis oppose the requested waivers.

21. For the reasons stated below, we deny the requested NBCO permanent waivers sought by Reorganized Tribune in all markets except Chicago. We grant Reorganized Tribune conditional temporary waivers in New York, Los Angeles, Miami, and Hartford, under which Reorganized Tribune must come into compliance with the NBCO Rule in those markets no later than one year from the release date of this Order. In the alternative, if the Commission adopts a new NBCO Rule pursuant to the 2011

<sup>37</sup> The Applicants state that it is not anticipated that any individual entity will hold more than 33% of Reorganized Tribune’s Total Asset Value, as that term is defined under Section 73.3555 of the Commission’s Rule (the Equity/Debt Plus Rule). See 47 C.F.R. § 73.3555, Note 2(i).

<sup>38</sup> Other JPMCB subsidiaries will hold New Class B Stock.

<sup>39</sup> File No. BALCDT-20100428ADV (“KTLA Application”), Exhibit 16.

<sup>40</sup> File No. BALCDT-20100428ADP (“WPIX Application”), Exhibit 16.

<sup>41</sup> File No. BALCDT-20100428ADY (WSFL Application”), Exhibit 16.

<sup>42</sup> WGN-TV Application, Exhibit 16.

<sup>43</sup> File No. BALCDT-20100428ADQ (“WTIC-TV Application”), Exhibit 16.

<sup>44</sup> File No. BALCDT-20100428ADX (“WCCT-TV Application”), Exhibit 16. The NBCO showings in each case were amended on March 16, 2012 and on May 11, 2012.

<sup>45</sup> As discussed in paras. 39-49, *infra*, Tribune also seeks a failing station waiver to permit continued ownership of both WTIC-TV and WCCT-TV.

*NPRM*, Reorganized Tribune may seek a waiver of the new rule by filing a waiver showing within the timeframe applicable to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending at that time. In addition, regardless of the date by which Reorganized Tribune must come into compliance or file any waiver showing, we condition these temporary waivers on Reorganized Tribune's compliance with any other requirements the Commission may apply, in an order pursuant to the 2011 *NPRM*, to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending when the Commission adopts a new NBCO Rule or affirms the existing rule.

22. **Background.** The Commission first prohibited the cross-ownership of newspapers and broadcast stations in 1975 as a way to promote viewpoint diversity.<sup>46</sup> As part of the 2006 Quadrennial Proceeding, the Commission concluded that, although some limitations on newspaper/broadcast cross-ownership were still necessary to support viewpoint diversity, some combinations in other contexts could support its localism goal.<sup>47</sup> As a result, the Commission released a revised NBCO Rule ("2008 Rule"),<sup>48</sup> which was subsequently stayed by the Third Circuit.<sup>49</sup> The revised rule was ultimately vacated and remanded by the Third Circuit,<sup>50</sup> with the result that the original 1975 Rule is now in effect.

23. The NBCO Rule as currently in effect prohibits cross-ownership of a full-service broadcast station and a daily newspaper if: (1) a television station's Grade A service contour completely encompasses the newspaper's city of publication; (2) the predicted or measured 2 mV/m contour of an AM station completely encompasses the newspaper's city of publication; or (3) the predicated 1 mV/m contour for an FM station completely encompasses the newspaper's city of publication.

24. At the time of adoption, the Commission expressly contemplated waivers of the rule for those situations where application would be "unduly harsh" and could disserve the purposes of the rule.<sup>51</sup> The Commission contemplated waivers in four situations: (1) where there is an inability to dispose of an interest to conform to the rules; (2) where the only possible sale is at an artificially depressed price; (3) where separate ownership of the newspaper and station cannot be supported in the locality and; (4) where the purposes of the rule would not be served by divestiture.<sup>52</sup> The Commission contemplated both temporary and permanent waivers.<sup>53</sup>

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<sup>46</sup> *Amendment of Sections 73.34, 73.240 and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations*, Docket No. 18110, Second Report and Order, 50 FCC 2d 1046, 1075, 1076, 1079-81 (1975) ("1975 Order").

<sup>47</sup> *2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Cross Ownership of Broadcast Stations and Newspapers; et al.*, 23 FCC Rcd 2010 (2008) ("2008 Order") (The NBCO Rule adopted in the 2008 Order will be referred to as the "2008 Rule.")

<sup>48</sup> *Id.*

<sup>49</sup> *See, e.g., Prometheus Radio Project v. FCC*, No. 08-3078, 2010 WL 1133326 (3d Cir. March 23, 2010).

<sup>50</sup> The court vacated and remanded the 2008 Rule on the basis that the Commission had failed to provide adequate public notice of its proposed rules as required by the APA. The court did not reach consideration of the Commission's substantive changes to the NBCO Rule. *Prometheus Radio Project v. FCC*, 652 F.3d 431 (3d Cir. 2011) ("*Prometheus II*").

<sup>51</sup> *1975 Order*, 50 FCC 2d at 1074.

<sup>52</sup> *Id.* at 1084-85.

<sup>53</sup> *Id.* *See also, e.g., UTV of San Francisco*, 16 FCC Rcd 14975, 14985-90 (2001) (grant of both a permanent and temporary NBCO waiver).

25. On December 22, 2011, the Commission released the Notice of Proposed Rulemaking in the *2011 NPRM*,<sup>54</sup> in which it proposed to adopt a revised NBCO Rule. The proposed rule would prohibit common ownership of a daily newspaper and (1) a full power commercial television station within the same DMA; (2) an AM station with a predicted or measured 2m/Vm contour service area that encompasses the newspaper's city of publication; or (3) an FM station with a predicted 1 m/Vm contour service area that encompasses the newspaper's city of publication. The proposed rule would presume a waiver to be consistent with the public interest if: (1) a daily newspaper in a top-20 DMA sought to combine with a radio station; (2) or a daily newspaper in a top-20 DMA sought to combine with a television station, so long as (a) the television station is not ranked among the top-four stations in the market and (b) at least eight independent "major media voices" remain in the market.<sup>55</sup> In all other circumstances, the rule would presume a waiver to be inconsistent with the public interest. The *2011 NPRM* tentatively concludes to consider waivers on a case-by-case basis, while proposing a bright-line test as an alternative.<sup>56</sup>

26. In the *2011 NPRM*, the Commission asked whether, in case-by-case considerations, it should utilize the four factors relied on in the 2008 Rule when deciding whether a specific newspaper/broadcast combination is in the public interest.<sup>57</sup> Those factors are: (1) the amount of local news that would be produced post-transaction; (2) the extent to which the affected media outlets would exercise independent news judgment; (3) the level of concentration in the DMA; (4) the financial condition of the applicant; and, if financially distressed, the applicant's commitment to newsroom operations.<sup>58</sup> The Commission also asked whether to adopt the factors that were adopted in the *2008 Order* to overcome a negative presumption in two limited circumstances: (1) situations involving a failed/failing station or newspaper and (2) when the proposed combination was with a station that was not offering local news broadcasts prior to the combination and the station would initiate at least seven hours of local news per week after the combination.

27. **The Tribune Waivers.** In its initial applications, after giving a lengthy recitation of the history of the NBCO Rule,<sup>59</sup> Reorganized Tribune makes its NBCO waiver requests based primarily on the 2008 Rule, and provides a lengthy discussion of how each combination complies with the recently vacated NBCO Rule.<sup>60</sup> In their original petitions to deny, the Public Interest Petitioners, Neil Ellis, and

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<sup>54</sup> 26 FCC Rcd 17489 (2011).

<sup>55</sup> 47 C.F.R. § 73.3555(d)(3). "Major media voices" are defined as full power commercial and non-commercial television stations and major newspapers. Major newspapers are newspapers that are published at least four days a week within the DMA and have a circulation exceeding 5% of the households in the DMA. *2008 Order*, 23 FCC Rcd at 2042 and n.183.

<sup>56</sup> The *2011 NPRM* also proposes to grandfather existing combinations and asks whether to permit those combinations to be transferred in perpetuity, a right which Tribune has sought in its waiver requests and which is opposed by the Public Interest petitioners. *See* 26 FCC2d at 17526, 17531.

<sup>57</sup> *2008 Order*, 23 FCC Rcd at 2049; *2011 NPRM*, 26 FCC Rcd at 17531.

<sup>58</sup> *Id.*

<sup>59</sup> The Public Interest Petitioners point out that the Applicants makes several arguments regarding the Commission's past treatment of the NBCO Rule and its ongoing validity that are appropriate for a rulemaking proceeding, not for an adjudicatory proceeding such as this one. We agree that such arguments are not relevant here. Likewise, in regard to the First and Fifth Amendment arguments on the NBCO Rule raised by the Applicants, we note that the *Prometheus II* Court recently upheld the constitutionality of the media ownership rules. *Prometheus II*, 652 F.3d at 464.

<sup>60</sup> This discussion also illustrates how the combinations would or would not comply with the rule proposed in the *2011 NPRM*.

the Teamsters opposed only the waiver requests in Chicago and Hartford-New Haven, which were the only ones that did not comply with the 2008 Rule.<sup>61</sup> To the extent that the parties base their positions on the 2008 Rule, those arguments are now moot because the Third Circuit, as discussed above, vacated that version of the rule, and we are now applying the 1975 Rule.<sup>62</sup> On March 16, 2012, the Applicants amended the relevant applications to reflect the change in the rule and they refreshed those applications on May 11, 2012.<sup>63</sup> In their 2012 Supplement, the Public Interest Petitioners updated their filing to reflect the Third Circuit's decision.<sup>64</sup> Reorganized Tribune also argues that we should grant its waiver requests under the 1975 standard or, in the alternative, that we should grant it temporary waivers pending the outcome of our pending rulemaking.

28. In each of its waiver requests, Reorganized Tribune confines the portion of its argument relevant to the 1975 NBCO standard to the fourth element of the Commission's NBCO waiver standard, situations where the purposes of the rule would not be served by divestiture.<sup>65</sup> The arguments presented are fundamentally the same for each newspaper/station combination, with minor factual distinctions for each market. In each case, Reorganized Tribune argues that the market at issue is highly competitive.<sup>66</sup> Tribune also presents evidence to show that the combination has provided significant news and public

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<sup>61</sup> Wilmington Trust argues that the Commission previously denied permanent NBCO waivers to Tribune in all of the requested markets except Chicago and then makes conclusory statements that granting the requested waivers would lead to further "non-competitive markets" and that to grant them would not be in the public interest. Wilmington Trust Petition to Deny at 20-21.

<sup>62</sup> Reorganized Tribune's arguments that it would qualify under the "failed" property standard likewise were made in regard to the 2008 Rule, as were the petitioners' counter-arguments on that point. These arguments therefore are moot.

<sup>63</sup> WGN-TV Application, Exhibit 16, amended March 16, 2012 and May 11, 2012; KTLA(TV) Application, Exhibit 16, Amended March 16, 2012 and May 11, 2012; WSFL-TV Application, Exhibit 16, Amended March 16, 2012 and May 11, 2012; WPIX-TV Application, at Exhibit 16, amended March 16, 2012 and May 11, 2012; WTIC-TV Application, Exhibit 16, amended March 16, 2012 and May 11, 2012.

<sup>64</sup> In the 2012 Supplement, the Public Interest Petitioners urge the Commission to require Tribune to divest itself of all noncompliant properties *prior* to approving the transaction citing *Applications of Comcast Corp. General Elec. Co. and NBC Universal, Inc.*, 26 FCC Rcd 4238, 4344-47 (2011). 2012 Supplement at 2. In that case, the Commission required NBC place a station in a divestiture trust. That station formed part of a triopoly, a combination not permitted under our rules, which NBC had been under Commission order to divest for 8 years prior to the order. *Id.* In contrast, Tribune has been operating under permanent and temporary waivers since *Tribune I*. Also, the Public Interest Petitioners do not cite to any authority to justify a pre-approval divestiture in either the NBCO or bankruptcy context. Therefore, we deny their request here.

<sup>65</sup> In its waiver requests, Reorganized Tribune states that the grant of permanent waivers "would permit a subsequent sale of those properties in tandem." *See, e.g.* Application for Consent to Assignment filed by WGN Continental Broadcasting Company, Debtor-in-Possession, File No. BALCDT-20100248AEL, Exhibit 16, at 123. This is an incorrect interpretation of the Commission's rules and waiver policy. Any time there is a substantial change in ownership requiring the filing of a "long-form" transfer or assignment application, all multiple- or cross-ownership waivers must be resubmitted to the Commission by the proposed new owners. *K. Rupert Murdoch*, Memorandum Opinion and Order, 21 FCC Rcd 11499, 11500 (2006). The one exception is for an assignment of license or transfer of control to heirs or legatees by will or intestacy, if no new or increased concentration of ownership would be created among commonly owned, operated or controlled media properties. *See* 47 C.F.R. § 73.3555, Note 4.

<sup>66</sup> WGN-TV Application, Exhibit 16 at pp. 58-94; KTLA(TV) Application, Exhibit 16 at 49-83; WSFL-TV Application, Exhibit 16 at 44-79; WPIX-TV Application, Exhibit 16, at 42-77; WTIC-TV Application, Exhibit 16, at 50-58; *see also* March 2012 Amendments WGN-TV Application, Exhibit 16, at 5-14; KTLA(TV) Application, Exhibit 16, at 5-13; WSFL-TV Application, Exhibit 16, at 5-14; WPIX-TV Application, Exhibit 16, at 5-13; WTIC-TV Application, Exhibit 16, at pp. 5-13. Reorganized Tribune reiterates these arguments in its September Reply.

affairs programming. For example, Reorganized Tribune states that WSFL-TV broadcasts 20 hours per week of self produced local news and works jointly with the *Sun Sentinel* to produce more news than either could produce alone.<sup>67</sup> Reorganized Tribune provides data for all of the combined properties and claims that their accomplishments would be in jeopardy should the combination be dissolved.<sup>68</sup> In each case, Reorganized Tribune argues that marketplace conditions make it highly unlikely that a qualified buyer could be found who would pay market price for the properties in a forced divestiture situation.<sup>69</sup> Reorganized Tribune further argues that, even if such a buyer could be found, it is highly unlikely that the buyer would undertake to produce the extensive news operations that Tribune currently maintains at the combined properties absent the synergies between the print and broadcast operations that are currently present at those properties.<sup>70</sup>

29. For all of the markets, Reorganized Tribune argues that the case for a permanent waiver is at least as compelling as other situations in which the agency has granted such relief.<sup>71</sup> Reorganized Tribune argues that the Commission granted those past waivers *inter alia*, because of the length of time the combinations at issue had been in existence and the uncertainty surrounding the status of the NBCO Rule, both of which it argues are applicable to each of the properties in this proceeding. In the various applications, Reorganized Tribune lays out the facts relevant to support its contention that the markets at issue are highly diverse and competitive both in terms of the number and types of voices that are relevant to compliance with our rules, and in terms of other indicia of diversity and competition, such as the number of multichannel video program providers and consumers' broadband usage, that Reorganized Tribune contends should be considered as part of viewpoint diversity.<sup>72</sup> Reorganized Tribune updated this information on May 11, 2012.<sup>73</sup>

30. Reorganized Tribune provides detailed information about each of the media markets in which it seeks waivers. It states that in New York City, the number one ranked DMA in the country, the combination of WPIX(TV), which is not a top-four station, and *Newsday* would leave more than eight independently owned television voices in the market and several daily newspapers.<sup>74</sup> In Los Angeles, the number two ranked DMA in the country, Reorganized Tribune states that the combination of KTLA(TV), which also is not a top-four station, and the *LA Times* would leave more than eight independently owned

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<sup>67</sup> WSFL-TV Application, as amended March 16, 2012, Exhibit 16, at 35-36.

<sup>68</sup> WGN-TV Application, Exhibit 16, at 94-98; KTLA(TV) Application, Exhibit 16, at 83-88; WSFL-TV Application, Exhibit 16, at 79-83; WPIX-TV Application, Exhibit 16, at 77-81; WTIC-TV Application, Exhibit 16, at 86-90.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Citing 2008 Order*, 23 FCC Rcd at 2055-56. (Commission granted permanent NBCO waivers in four markets to Gannett and Media General.) *See also, Fox Television Stations*, Declaratory Ruling, 8 FCC Rcd 5341 (1993)(Commission granted permanent NBCO waiver to Fox Television Stations so that a subsidiary of its parent company could acquire the *New York Post* out of bankruptcy.)(“*Fox/WNYW*”).

<sup>72</sup> *See, e.g.* Application of KTLA(TV), File No. BALCDT-20100428ADV, as amended March 16, 2012, Exhibit 16, at 61-80.

<sup>73</sup> *See, e.g.* Application of KTLA(TV), File No. BALCDT-20100428ADV, as amended May 11, 2012, Exhibit 16A, 16B.

<sup>74</sup> WPIX Application, Exhibit 16, Attachment 4, *Report on the New York, NY Media Market*, Mark D. Fratrick, Ph.D., Vice President, BIA Advisory Services, February 26, 2010.

television voices in the market and multiple daily newspapers.<sup>75</sup> In Miami-Ft. Lauderdale, the seventeenth ranked DMA in the country, the combination of WSFL(TV), which is not a top-four station, and the *South Florida Sun-Sentinel* would leave more than eight independently owned television voices in the market and more than one daily newspaper.<sup>76</sup> In Hartford-New Haven, Connecticut, the 30<sup>th</sup> ranked DMA, Tribune currently owns WTIC-TV, Hartford, Connecticut; WCCT-TV, Waterbury, Connecticut; and the *Hartford Courant*. WTIC-TV is ranked in the top-four stations in the market, and seven independently owned and operated television voices would remain in the market following the assignment. WCCT-TV, however, is operating pursuant to a failing station waiver and is receiving a new failing station waiver in this proceeding.<sup>77</sup> Furthermore, there is more than one daily newspaper published in the market. Reorganized Tribune states that in Chicago, the third ranked DMA and the third largest media market in the country, there are 16 full power television stations with 13 separate owners, 166 commercial and noncommercial radio stations, and 23 daily newspapers.<sup>78</sup> In addition, WGN-TV, a CW affiliate, is not usually a top four-ranked station in the market.<sup>79</sup>

31. **Discussion.** We find that Reorganized Tribune has not shown that permanent waivers of the NBCO Rule in New York, Los Angeles, Miami, or Hartford-New Haven are in the public interest. When the Commission adopted the 1975 Rule, it held that the public interest standard in Section 309(d) of the Communications Act encompasses many factors, including “the widest possible dissemination of information from diverse and antagonistic sources.”<sup>80</sup> In order to add to local diversity, the rule prohibited the creation of new newspaper/broadcast combinations in the same area and the perpetuation of existing combinations through assignments or transfers to a single party.<sup>81</sup> Although the Commission believed that its goal of achieving diversity was best achieved if the properties were independently operated by competitors<sup>82</sup> it specified four instances in which it would consider permanent and temporary waivers of the NBCO Rule. The Commission has stated, however, that there is a heavy burden for a party requesting a permanent waiver of the NBCO Rule<sup>83</sup> and has granted a very limited number of such waivers.<sup>84</sup> For the reasons explained below, we do not believe that Reorganized Tribune has shown that permanent waiver of the NBCO Rule for these four combinations is in the public interest, and we

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<sup>75</sup> WSFL-TV Application, Exhibit 16, Attachment 4, *Report on the Miami-Ft. Lauderdale Media Market*, Mark D. Fratrick, Ph.D., Vice President, BIA Advisory Services, February 26, 2010.

<sup>76</sup> *Id.*

<sup>77</sup> *Infra* paras. 42-54.

<sup>78</sup> WGN-TV Application, Exhibit 16, Attachment 4, *Report on the Chicago, IL Media Market*, Mark D. Fratrick, Ph.D., Vice President, BIA Advisory Services, February 26, 2010.

<sup>79</sup> *Id.* At the time the application was originally filed, the station was tied for fourth place.

<sup>80</sup> *Second Report and Order*, 50 FCC 2d at 1048 (quoting *Associated Press v. United States*, 326 U.S. 1, 20 (1945)).

<sup>81</sup> *Renaissance Communications*, 12 FCC Rcd at 11879.

<sup>82</sup> *Id.*, citing *FCC v. National Citizens Comm. for Broadcasting*, 436 U.S. 775, 797 (1978).

<sup>83</sup> *Renaissance Communications*, 12 FCC Rcd at 11884.

<sup>84</sup> See *Field Communications Corporation*, 65 FCC 2d 959, 961 (1977) (grant of waiver in Chicago market); *Application of Hopkins Hall Broadcasting*, 10 FCC Rcd 9764, 9766 (declining to grant waiver when doing so would eliminate one of only three independent voices in small community, and contrasting the local market of 32,000 people to the “major market[s]” of Chicago and New York.); see also, e.g., *Fox Television Stations, Inc.*, Declaratory Ruling, 8 FCC Rcd 5341, 5351 (1993) (granting a permanent waiver for a New York licensee); *Disney*, 11 FCC Rcd at 5890–91, 5892–93 (declining to grant permanent waivers); *2008 Order*, 23 FCC Rcd at 2055-56 (granting permanent waivers in four markets to Gannett and Media General).

therefore deny Reorganized Tribune's request for permanent waivers in these four markets.

32. All of these combinations represent properties that Tribune knew were non-compliant when it acquired them. Tribune acquired the *LA Times*, *Newsday*, and the *Courant* following its merger with the Times Mirror Company. Under the terms of the 1975 Order, Tribune was permitted to own the newspaper(s) and the television station in each market, without requesting a waiver, through the end of the stations' respective license terms.<sup>85</sup> In the case of Hartford, Connecticut, Tribune already owned WTIC-TV when it acquired the *Hartford Courant* in June, 2000. At that time, its application to acquire what was then WTXS(TV) was pending. Tribune ultimately received a temporary waiver permitting the cross-ownership of the two television stations and the *Hartford Courant* until the end of the stations' renewal cycle.<sup>86</sup> When it filed the stations' renewal applications, it requested either permanent waivers or temporary waivers of the NBCO Rule pending the outcome of the *Media Ownership Proceeding*, to permit it to continue holding the newspaper/broadcast combinations.<sup>87</sup> Tribune acquired WSFL(TV) as part of its acquisition of Renaissance Communications Corporation.<sup>88</sup> At that time, Tribune already owned the *South Florida Sun-Sentinel*. Tribune received a temporary waiver of the NBCO Rule permitting the newspaper/broadcast combination to continue pending the outcome of the *Media Ownership Proceeding*.<sup>89</sup>

33. Applicants have not demonstrated that changed circumstances compel a different result than the Commission reached in *Tribune I* and have not shown that grant of permanent waivers in these markets is in the public interest. Applicants do not seek waivers under the first three prongs of the 1975 Rule. As a result, they have not provided evidence demonstrating an inability to dispose of a non-compliant property. Although Applicants state that Tribune unsuccessfully attempted to sell WCCT-TV for more than six years,<sup>90</sup> such a sale would have still left the combination of WTIC-TV and the *Hartford Courant* intact. Applicants also have not demonstrated that the only possible sale is at an artificially depressed price or that separate ownership of the newspaper and station cannot be supported in the locality. Applicants have argued that severing the properties would disserve the purpose of the rule, but they have only made a generalized argument that a "permanent waiver is appropriate when, for whatever reason, the purposes of the rule would be disserved by divestiture."<sup>91</sup> Applicants assert that another party, operating one of the properties separately, would not provide the same level of service that Reorganized Tribune will provide by operating both properties in combination, but they overlook the 1975 Rule's paramount emphasis on viewpoint diversity. Furthermore, these four properties have been subject to divestiture since they were acquired by Tribune. We find that Applicants have not

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<sup>85</sup> 1975 Order, 50 FCC 2d at 1046, n.25.

<sup>86</sup> *Counterpoint Communications*, Memorandum Opinion and Order, 20 FCC Rcd 8582 (2005).

<sup>87</sup> As in the case of KTLA(TV) and WPIX(TV), Tribune's request for a permanent waiver of the NBCO Rule for WTIC-TV and WTXS(TV) is moot.

<sup>88</sup> *Renaissance Communications*, Memorandum Opinion and Order, 12 FCC Rcd 11866 (1997).

<sup>89</sup> *Renaissance Communications*, Letter by Chief, Mass Media Bureau, 13 FCC Rcd 4717 (1998).

<sup>90</sup> WCCT-TV Application, Exhibit 16-A at 6; Tribune Opposition to Neil Ellis at 5.

<sup>91</sup> WGN-TV Application, Exhibit 16, Request for Cross-Ownership Waiver at 121. The Applicants attempt to rely on *Fox/WNYW*, but that case by its own terms was limited to the special circumstances before it. *Fox/WNYW*, 8 FCC Rcd at 5349. The Commission was concerned that failure to grant the permanent waiver would eliminate Rupert Murdoch as a bidder before the Bankruptcy Court and would be a real and substantial threat to the financial viability of the *Post*. There is no evidence in the record of a similar threat to any of the newspapers at issue here. There is also no evidence of such a threat in the case of the Chicago combination, but we find that the other factors we enumerate, *see infra* paras. 37-40, support the grant of a waiver there.

demonstrated that application of the rule in these markets would be unduly harsh or would disserve the purposes of the rule.

34. To facilitate an orderly disposition of these assets from bankruptcy, we will grant temporary waivers in these markets under which Tribune must be in compliance with the then-effective NBCO Rule no later than one year from the release date of this Order. In the alternative, if the Commission adopts a new NBCO Rule pursuant to the *2011 NPRM*, Tribune may seek a waiver of the new rule by filing a waiver showing within the timeframe applicable to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending at that time.<sup>92</sup> In addition, regardless of the date by which Tribune must come into compliance or file a waiver showing, we condition these temporary waivers on Tribune's compliance with any other requirements the Commission may apply, in an order pursuant to the *2011 NPRM*, to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending when the Commission adopts a new NBCO Rule or affirms the existing rule.

35. We believe that a one year temporary waiver is warranted to allow Reorganized Tribune an opportunity to come into compliance. This approach will facilitate the company's emergence from bankruptcy by providing reasonable stability and continuity of operations. On the other hand, by limiting it to a specific time period, we avoid the concerns of Public Interest Petitioners that we would grant a temporary waiver that is effectively permanent.<sup>93</sup> All of the markets at issue are reasonably large, in two cases very large, and all are competitive, with multiple broadcast voices and more than one daily newspaper. With only one exception, none of the combinations at issue includes a top-four station. Further, all the properties at issue are existing combinations, and the waivers simply preserve the *status quo*. Finally, any potential harm to competition or diversity as a result of the waiver is less likely given that these assets are competing in diverse, competitive markets. In any event, any potential harm will be short-term under temporary waivers. As a result, we find that the temporary waivers will strike a reasonable balance between the goals of facilitating an expeditious resolution of the bankruptcy proceeding and promoting competition and diversity. Therefore, we believe that the public interest benefit in granting these temporary waivers will outweigh any potential public interest harm.

36. The Chicago combination presents a different case. Tribune began publishing *The Chicago Tribune* in 1847 and began broadcasting on WGN(AM) in 1924.<sup>94</sup> In 1948, it entered the television market and began broadcasting on WGN-TV.<sup>95</sup> This cross-ownership combination was grandfathered as a result of the *1975 Order*.<sup>96</sup> In its application, Reorganized Tribune states that WGN(AM) currently broadcasts two local newscasts each hour during the broadcast day.<sup>97</sup> According to the Applicants, WGN(AM) recently began broadcasting from a new, state-of-the-art news studio facility adjacent to the *Chicago Tribune* newsroom.<sup>98</sup> Reorganized Tribune claims that the proximity between the

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<sup>92</sup> Currently, the applicable deadline is 60 days after the Commission releases an order pursuant to the *2011 NPRM*. *2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 06-121, Order, DA 12-504 (MB rel. Sept. 17, 2012).

<sup>93</sup> Public Interest Petitioners Petition to Deny at 50.

<sup>94</sup> *Id.* at 3-4.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 5-6; *Multiple Ownership of Standard, FM & Television Broadcast Stations*, Second Report and Order, 50 FCC 2d 1046, *aff'd* *FCC v. Nat'l Citizens Comm. for Broad.*, 436 U.S. 775 (1978) ("Second Report and Order").

<sup>97</sup> WGN-TV, Application as amended March 16, 2012, Exhibit 16, at 41.

<sup>98</sup> *Id.* at 38.

radio station and the newspaper facilitates interaction between reporters from the two entities, enhancing the timeliness and depth of WGN(AM)'s coverage.<sup>99</sup> Reorganized Tribune also states that WGN-TV, which is a CW affiliate, provides 42 hours of local news programming per week, which Tribune asserts is far more than any of its competitors.<sup>100</sup> Reorganized Tribune argues that it is highly unlikely that, if the properties were separated, any other owners would produce a similar level of news coverage.<sup>101</sup> As was recognized in *Tribune I*, the Chicago Tribune properties are unique.<sup>102</sup> In *Tribune I*, the Commission found that the nature of the Chicago market combined with the “uniquely long-term symbiotic relationship between the broadcast stations and the newspaper” justified the permanent waiver.<sup>103</sup> The Commission agreed with Tribune's assertion that “myriad public interest benefits [] have resulted over the almost 60 years of Tribune's common ownership of WGN-TV, WGN(AM), and the *Chicago Tribune* in the Chicago DMA.”<sup>104</sup>

37. In this proceeding, Reorganized Tribune has provided evidence that the combination continues to provide extensive and exemplary news service to the Chicago DMA, and WGN-TV often out-performs Big Four network-affiliated stations in television news ratings.<sup>105</sup> According to the record, WGN(AM) is an all news station that relies almost entirely on locally produced content.<sup>106</sup> These two broadcast properties interact with one of the community's and the country's leading newspapers in a long-standing relationship that predates the cross-ownership rule by nearly three decades.<sup>107</sup> Consistent with the findings in *Tribune I*, we conclude that the record here continues to show that the *Tribune/WGN* combination is unique and long standing and has resulted in public interest benefits over decades.<sup>108</sup> The combined entity has played a key role in the news and information culture of Chicago over generations in a manner that is not likely to be replicated by separate ownership of these two properties. Because of the investment that would be required<sup>109</sup> and the difficulty of replicating the distinctive character of this combination in the Chicago community, we find it unlikely that divestiture of the entities to separate new owners would enhance the public interest within the Chicago community. When it adopted the 1975

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<sup>99</sup> *Id.* at 42.

<sup>100</sup> *Id.* at 40.

<sup>101</sup> *Id.* at 97.

<sup>102</sup> *Tribune I*, 22 FCC Rcd at 21277.

<sup>103</sup> *Id.*

<sup>104</sup> Application BTCCT-20070501AGE, Transferee's Exhibit 18 (Request for Waiver) at 30.

<sup>105</sup> WGN-TV Application, Exhibit 16, as amended March 16, 2012 at 41.

<sup>106</sup> *Id.* at 4–42.

<sup>107</sup> *Id.* at 36–58. The Public Interest Petitioners and Reorganized Tribune take opposing positions on whether the Commission's Report on *The Information Needs of Communities*, available at [http://transition.fcc.gov/osp/inc-report/The\\_Information\\_Needs\\_of\\_Communities.pdf](http://transition.fcc.gov/osp/inc-report/The_Information_Needs_of_Communities.pdf), does or does not support the position that broadcast/newspaper combinations can produce synergies that are beneficial to the public interest. 2012 Supplement at 2-3; see, e.g. KTLA-TV Application, as amended March 16, 2012, Exhibit 16 at 31. The Report offers a global view regarding the current issues facing media outlets engaged in news and public affairs reporting. In this case, the record demonstrates that the Chicago combination has produced substantial public benefits.

<sup>108</sup> The Public Interest Petitioners raise allegations regarding Tribune's use of Journatic, LLC to outsource news gathering on its website and its suburban newspapers. 2012 Supplement at 4. Tribune states that it is investigating Journatic, LLC's editorial practices and has indefinitely suspended its use of Journatic, LLC. 2012 Reply at 3. Thus, we do not find the allegations regarding Journatic, LLC relevant to our review.

<sup>109</sup> WGN-TV Application, Exhibit 16, as amended March 16, 2012 at 97.

Rule, the Commission considered whether to require the break-up of pre-1975 combinations. The Commission recognized that many combinations that predated the rule had a long record of service to the public and that a “mere hoped for gain in diversity” was not enough to disturb the combinations.<sup>110</sup> The same reasoning applies to the Chicago combination, which has consistently maintained high levels of public service that has resulted, at least in part, from the benefits of combined ownership. As the Supreme Court recognized in affirming the 1975 Rule, “the Commission has consistently acted on the theory that preserving continuity of meritorious service furthers the public interest, both in its direct consequence of bringing proven broadcast service to the public, and in its indirect consequence of rewarding-and avoiding losses to licensees who have invested the money and effort necessary to produce quality performance.”<sup>111</sup>

38. We further find that Reorganized Tribune has met the burden set by our precedent for justifying a permanent waiver of the NBCO Rule.<sup>112</sup> The Commission has never set out bright-line rules for applying the fourth exception to the NBCO Rule for good reason: the very point of a catch-all exception is to deal with unforeseen circumstances without arbitrary strictures. Although the Commission has previously granted waivers where an applicant with a prior ownership interest sought to re-acquire control of a property that had fallen into financial distress,<sup>113</sup> the Commission has not stated that this is the only context in which a waiver under the fourth prong would be justified. The Commission repeatedly has considered the size and diversity of the market at issue as one of the factors in considering whether the purposes of the NBCO Rule would be served or disserved by its application in each case.<sup>114</sup> We are also free to consider other “unique or special circumstances” in reaching our decision,<sup>115</sup> such as Tribune’s unique relationship to Chicago, and its history of service that the record indicates is unlikely to be duplicated if the properties are broken apart.

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<sup>110</sup> *1975 Order*, 50 FCC Rcd at 1078.

<sup>111</sup> *FCC v. Nat'l Citizens Comm. for Broad.*, 436 U.S. 775, 805(1978); *see also id.* at n.24 (“We agree with the Court of Appeals that ‘[p]rivate losses are a relevant concern under the Communications Act only when shown to have an adverse effect on the provision of broadcasting service to the public.’ Private losses that result in discouragement of investment in quality service have such an effect.”) (citation omitted). The Commission reached a contrary result in *Disney*, 11 FCC Rcd 5891, 5895 (1996) (rejecting argument that improved news coverage, operating expertise, and operating efficiencies justified a waiver because Commission considered and rejected similar arguments when it adopted the 1975 Rule). In contrast with our analysis in this case, however, the Commission in *Disney* did not consider the uniqueness of the combination, and as the applications at issue there were not necessitated by bankruptcy, the exigencies of facilitating the applicant’s emergence from bankruptcy was not a factor in the Commission’s decision.

<sup>112</sup> *Disney*, Memorandum Opinion and Order, 11 FCC Rcd 5841, 5887 (1996); *see also Application of Hopkins Hall Broadcasting, Inc. and Shelbyville Publishing Co., Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 9764, 9766 (1995).

<sup>113</sup> *See Field Communication*, 65 FCC 2d at 961; *Fox/WNYW*, 8 FCC Rcd at 5349-50.

<sup>114</sup> *See Application of Hopkins Hall Broadcasting*, 10 FCC Rcd at 9766 (stating that “[i]n analyzing the impact of a waiver [of the NBCO rule] on competition and diversity, it is necessary to first determine the relevant market,” declining to grant waiver when doing so would eliminate one of only three independent voices in small community, and contrasting the local market of 32,000 people to the “major market[s]” of Chicago and New York); *see also, e.g., Fox Television Stations, Inc.*, Declaratory Ruling, 8 FCC Rcd 5341, 5351 (1993) (granting a permanent waiver for a New York licensee, and “focus[ing] upon those media voices available in the city of New York which are responsive to the local problems and needs of the residents there”); *Disney*, 11 FCC Rcd at 5890–91, 5892–93 (declining to grant waivers where Applicants failed to analyze the effects of the proposed combinations on the communities of license, which were smaller than the DMAs the Applicants used as the basis for their analysis.)

<sup>115</sup> *Disney*, 11 FCC Rcd at 5888 (1996).

39. In this case, Reorganized Tribune has shown that the Chicago combination is likely to continue to produce the public interest benefits that formed the basis of prior permanent waivers in that market.<sup>116</sup> Permitting the combination to continue would enable Reorganized Tribune to provide the same benefits to the public in the future. As a result, we find that breaking up these properties would dissuade the goals of the 1975 Rule, and strict adherence to the rule therefore is inconsistent with the public interest. Further, a waiver will not harm competition and diversity, because Chicago is already a vibrant and diverse market served by numerous media outlets.<sup>117</sup>

40. Accordingly, we grant a permanent waiver to Reorganized Tribune in Chicago to permit it to own WGN(AM), WGN-TV, and the *Chicago Tribune*. We deny the requested permanent and temporary NBCO waivers sought by Reorganized Tribune in the other markets. Instead, we grant Reorganized Tribune temporary waivers in those markets that require it to come into compliance with the NBCO Rule no later than one year from the release date of this Order. In the alternative, if the Commission adopts a new NBCO Rule pursuant to the *2011 NPRM*, Reorganized Tribune may seek a waiver of the new rule by filing a waiver showing within the timeframe applicable to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending at that time.<sup>118</sup> In addition, regardless of the date by which Reorganized Tribune must come into compliance or file any waiver showing, we condition these temporary waivers on Reorganized Tribune's compliance with any other requirements the Commission may apply, in an order pursuant to the *2011 NPRM*, to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending when the Commission adopts a new NBCO Rule or affirms the existing rule.

#### IV. THE FAILED AND FAILING STATION WAIVERS

41. In the transfer applications for WTIC-TV, Hartford, Connecticut, and WCCT-TV, Waterbury, Connecticut, the Applicants request a "failed" station or, in the alternative, a continuing "failing" station waiver of section 73.3555(b)(2) of the Rules,<sup>119</sup> the television duopoly rule, to permit the joint ownership of the stations. WTIC-TV and WCCT-TV are both located in Hartford-New Haven, Connecticut DMA, and WCCT-TV currently operates pursuant to a "failing" station waiver.<sup>120</sup> Ellis and the Public Interest Petitioners oppose the Applicants' request for a "failing" station waiver. For the

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<sup>116</sup> *Tribune I*, 22 FCC Rcd at 21278.

<sup>117</sup> In their 2012 Supplement, the Public Interest Petitioners contend that forced divestiture could provide an opportunity for minority ownership and better service to underserved communities. 2012 Supplement at 2. Section 301(d) confines our review of a transfer of control application to consideration of only the qualifications of the proposed transferee and does not permit us to consider whether a different transferee might better serve the public interest.

<sup>118</sup> Currently, the applicable deadline is 60 days after the Commission releases an order pursuant to the *2011 NPRM*. *2006 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 06-121, Order, DA 12-504 (MB rel. Sept. 17, 2012).

<sup>119</sup> 47 C.F.R. § 73.3555(b)(2).

<sup>120</sup> Tribune has twice received a "failing" station waiver permitting the duopoly at issue. *Counterpoint Communications Inc.*, Memorandum Order and Opinion, 16 FCC Rcd 15044 (2001); *Shareholders of Tribune Co.*, Memorandum Opinion and Order, 22 FCC Rcd 21266 (2007). Like all ownership waivers, this waiver must be re-evaluated in the context of a long-form change of control application. See *K. Rupert Murdoch*, Memorandum Opinion and Order, 21 FCC Rcd 11499, 11500 (2006).

reasons stated below, we grant the continuing “failing” station waiver.<sup>121</sup>

42. Under section 73.3555(b)(2) of the Rules currently in effect,<sup>122</sup> two television stations licensed in the same DMA that have Grade B<sup>123</sup> overlap may be commonly owned if: (1) at least one of the stations is not ranked among the top four stations in the DMA; and (2) at least eight independently owned and operating, full power commercial and non-commercial educational television stations would remain in the DMA after the merger.<sup>124</sup> At the time the applications were filed, WTIC-TV and WCCT-TV were ranked fourth and sixth, respectively, in the Hartford DMA,<sup>125</sup> and therefore the first criterion is satisfied. However, the Hartford-New Haven DMA does not have eight independently owned and operated full-power television voices. Therefore, the Applicants are requesting a waiver on the basis that WCCT-TV is a “failing” station.<sup>126</sup>

43. The Commission’s *Local Ownership Order* established the criteria for a waiver of the television duopoly rule for a “failing” station, as one that has been struggling for “an extended period of time both in terms of its audience share and financial performance.” These criteria are:

- a) One of the merging stations has had a low all-day audience share (*i.e.* 4% or lower);
- b) The financial condition of one of the merging stations is poor. “A waiver is more likely to be granted where one...of the stations has had a negative cash flow for the previous three years;”
- c) The merger will produce public interest benefits. “A waiver will be granted where the applicant demonstrates that the tangible and verifiable public interest benefits of the merger outweigh any harm to competition and diversity;” and
- d) The in-market buyer is the only reasonably available candidate willing and able to acquire and operate the station and selling the station to an out-of-market buyer would result in an artificially depressed price.<sup>127</sup>

If the Applicant satisfies each criterion, a waiver of the rule will be presumed to be in the public interest.

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<sup>121</sup> As we are granting the “failing” station waiver request, there is no need to discuss the merits of the “failed” station waiver request with regard to the WTIC-TV and WCCT-TV duopoly.

<sup>122</sup> 47 C.F.R. § 73.3555(b)(2).

<sup>123</sup> The stations’ historic analog Grade B contours overlapped. In these circumstances, absent substantial evidence of relevant change in the service area of the stations whose analog contours conflicted with the television duopoly rule, we will presume continued conflict with the rule for those stations in digital mode.

<sup>124</sup> 47 C.F.R. § 73.3555(b)(2).

<sup>125</sup> WCCT-TV Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission’s Rules at 2.

<sup>126</sup> See 47 C.F.R. § 73.3555, Note 7(2); See also *Review of the Commission’s Regulations Governing Television Broadcasting, Report and Order*, 14 FCC Rcd 12903, 12938-40 (1999)(“*Local Ownership Order*”), *recon. granted in part*, 16 FCC Rcd 1067 (2001).

<sup>127</sup> *Local Ownership Order*, 14 FCC at 12939.

44. As for the first criterion, the Applicants provide a table showing WCCT-TV's Nielsen all-day audience share figures for February 2008, March 2009,<sup>128</sup> and February 2010. The table shows that WCCT-TV's all-day audience shares were as follows: February 2008 – 1.6%; March 2009 – 1.6%; and February 2010 - 1.7%.<sup>129</sup> Furthermore, the Applicants state that “these numbers are not an aberration, but rather a continuation of an ongoing trend.”<sup>130</sup> The Applicants explain that in 2001, when the Commission first granted a “failing” station waiver for WCCT-TV, WCCT-TV's all-day audience share was 2% during the relevant 3-year period, and in 2007, when the Commission again granted a “failing” station waiver for WCCT-TV, WCCT-TV averaged a 2.3% share for the 12 month period preceding the waiver request.<sup>131</sup>

45. With respect to WCCT-TV's financial condition, the Applicants submit financial data to demonstrate negative cash flow for the station for 2007-2011.<sup>132</sup> The Applicants explain that WCCT-TV's negative cash flow is “due to difficulties generating revenue and significant capital expenditures associated with compliance with the mandated digital transition.”<sup>133</sup> Moreover, the Applicants state that WCCT-TV's “recent financial data [is] part of an ongoing trend,” and that WCCT-TV's cash flow difficulties go back prior to Tribune's acquisition of the station in 2001 from Counterpoint Communications.<sup>134</sup> Finally, the Applicants assert that “Tribune's overall poor health and pending bankruptcy reinforce the financial challenges that [WCCT-TV] faces today.”<sup>135</sup>

46. The Applicants contend that grant of the waiver will produce tangible and verifiable public interest benefits without harming diversity. They state that common ownership of WTIC-TV and WCCT-TV “has produced significant benefits with respect to [WCCT-TV]'s programming and facilities,” and note that WCCT-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.”<sup>136</sup> The Applicants explain that Tribune has invested steadily in WCCT-TV's local programming and has spent approximately \$2.8 million dollars to upgrade the station's facilities.<sup>137</sup> They assert that “an independent [WCCT-TV] would

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<sup>128</sup> The Applicants explain that “Because of issues related to the changing deadline of 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.” WCCT-TV Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission's Rules at n.93.

<sup>129</sup> *Id.* at 19.

<sup>130</sup> *Id.* at 20.

<sup>131</sup> *Id.*

<sup>132</sup> The Applicants requested confidential treatment for this information and we granted a protective order. *In the Matter of Applications of Tribune Company*, Order, 26 FCC Rcd 2011 (2011).

<sup>133</sup> WCCT-TV Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission's Rules at 20.

<sup>134</sup> *Id.* at 21 (citing *Counterpoint Communications Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 15044, 15046 (2001) (Counterpoint Communications had consistent negative cash flow from operations prior to selling the station to Tribune).

<sup>135</sup> *Id.*

<sup>136</sup> *Id.* at 22.

<sup>137</sup> *Id.*

be unable to survive and be a meaningful ‘voice’ in the market.”<sup>138</sup> The Applicants also list the public interest benefits that have resulted from the combined ownership of WTIC-TV and WCCT-TV, which include: the simulcasting of 9.5 hours per week of WTIC-TV’s local news programming on WCCT-TV;<sup>139</sup> public affairs programming addressing local and state political issues on WCCT-TV, as well as other matters of concern to area residents; and enabling WTIC-TV and WCCT-TV to cover more news developments throughout a wider area, including Waterbury and the larger Naugatuck Valley.<sup>140</sup> Finally, Applicants note that “Tribune’s Hartford television properties are also deeply involved in the local community service projects throughout market,” such as Camp Courant, “the nation’s largest free day camp for economically disadvantaged children.”<sup>141</sup>

47. In regard to the fourth criterion, the Applicants refer to *Tribune I*<sup>142</sup> where the Commission found that Tribune’s efforts to sell WCCT-TV were unsuccessful and state that “[t]oday, it is even less likely that Tribune could find a purchaser for [WCCT-TV].”<sup>143</sup> The Applicants explain that Tribune expended extensive resources between April 2000 through late 2006, including engaging a broker and an affiliated investment firm and researching for parties that might be interested in purchasing or swapping WCCT-TV.<sup>144</sup> The Applicants state that “Although Tribune distributed information and solicitations numerous times, it was unable to find a buyer for [WCCT-TV].”<sup>145</sup> The Applicants conclude that the “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,”<sup>146</sup> and therefore “the Commission should find that Tribune satisfies this element ....”<sup>147</sup>

48. Moreover, the Applicants rely on a report, dated February 26, 2010, by Mark R. Fratrick, Ph.D., Vice President of BIA Advisory Services, LLC, a financial consulting firm specializing in the appraisal and fair market value of broadcasting, cable, and telecommunication properties, to satisfy the fourth criterion.<sup>148</sup> Dr. Fratrick concludes that, “Given the present anemic state of the local television sales market, 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.”<sup>149</sup> Furthermore, Dr. Fratrick states that WCCT-TV “would be unable to survive if it were forced to

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<sup>138</sup> *Id.*

<sup>139</sup> WCCT-TV Application, Exhibit 16A, March 2012 Supplement for Cross-Ownership Waiver at 17.

<sup>140</sup> WCCT-TV Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission’s Rules at 23-24.

<sup>141</sup> *Id.* at 25.

<sup>142</sup> 22 FCC Rcd 21266.

<sup>143</sup> WCCT-TV Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission’s Rules at 6.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.* at 25.

<sup>147</sup> *Id.* at 6.

<sup>148</sup> *Id.* at Attachment B, Statement of Mark R. Fratrick, Ph. D, Vice President of BIA Advisory Services, LLC “An Analysis of the Competitive and Diversity Impact of the Duopoly of WTIC-TV and [WCCT-TV] in the Hartford-New Haven, CT Television Market” (February 26, 2010) (“BIA Duopoly Report”).

<sup>149</sup> BIA Duopoly Report at i.

operate separately.”<sup>150</sup> Finally, Dr. Fratrick concludes that “in order to provide the greatest amount of and highest quality local diverse programming to Hartford-New Haven, Connecticut market, this local duopoly should be allowed to continue.”<sup>151</sup>

49. Furthermore, the Applicants submit a sworn declaration by Brian Byrnes, president of Media Advisors, Inc., a media and brokerage consulting firm, who was extensively involved in Tribune’s efforts to sell WCCT-TV between September 2001 and September 2006.<sup>152</sup> Mr. Brynes states that since Tribune’s last efforts to sell WCCT-TV, “the market for selling local television stations has declined significantly” due to the economic downturn.<sup>153</sup> According to Mr. Brynes, the economic downturn led (1) to declines in advertising revenues and to uncertainty in future revenue growth, making it difficult for parties to agree on a value of a television property and for sellers to recoup their investment and (2) to the scarcity of lenders willing to fund the acquisition of local television stations.<sup>154</sup> Mr. Byrnes further explains that “[t]he depressed state of the market for local television stations has significantly limited the prospects for sales of stations with secondary affiliations, such as CW.”<sup>155</sup> Mr. Byrnes concludes he does not “believe there is any likelihood that [WCCT-TV], [a CW affiliate], could be sold today to an out-of-market buyer for a price that would represent anything but a significant loss.”<sup>156</sup>

50. Both Ellis and the Public Interest Petitioners oppose the applicant’s request for a “failing” station waiver to permit the joint ownership of stations WCCT-TV and WTIC-TV. Both parties challenge the waiver request as to the fourth criterion and claim that the Applicants have not made “a showing that the in-market buyer is the only ready, willing and able to operate the stations [or] that sale to an out-of-market applicant would result in an artificially depressed price.”<sup>157</sup> Furthermore, both Public Interest Petitioners and Ellis argue that the Applicants have not provided an adequate affidavit from an independent broker stating that active and serious attempts have been made to sell the station and that a reasonable offer from an entity outside the market has not been received.<sup>158</sup>

51. Based on the showings submitted under the “failing” station waiver criteria established in the *Local Ownership Order*, we are persuaded that grant of a waiver is warranted on the grounds that WCCT-TV is a “failing” station. Specifically, the Applicants demonstrate that WCCT-TV has a low audience share that has not even approached 4% during the relevant period. In addition, the financial documents submitted by the Applicants show that the station has consistently had a poor financial condition and continues to do so. Furthermore, the financial documents demonstrate that WCCT-TV is

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<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> WCCT-TV Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission’s Rules, Attachment A, Declaration of Brian Byrnes, President, Paramount Media Advisors, Inc. (April 26, 2010) (“Byrnes Declaration”).

<sup>153</sup> *Id.* at 2.

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Id.* at 5.

<sup>157</sup> Public Interest Petitioners Petition to Deny at 42 (citing 47 C.F.R. §73.3555, Note 7); Ellis Petition to Deny at 4.

<sup>158</sup> Public Interest Petitioners Petition to Deny at 43 (citing *Local Ownership Order* at 12937, n.133); Ellis Petition to Deny at 4.

failing to such an extent that its ability to be a viable voice in the Hartford-New Haven market will be severely hampered absent the waiver. In spite of these problems, Tribune has made substantial efforts to make WCCT-TV a strong news presence in the market, in Waterbury in particular, and has expanded local programming.<sup>159</sup> In addition, Tribune has made substantial investments in the physical facilities of WCCT-TV. We believe that these efforts have had substantial public interest benefits.

52. Based on the record presented here, we find that the Applicants have demonstrated that Reorganized Tribune is the only reasonably available candidate willing and able to acquire and operate WCCT-TV and that selling the station to an out-of-market buyer would result in an artificially depressed price. As instructed by Note 7 of the Commission's local television ownership rule, a station's qualification for a "failing" station waiver is reviewed on a "case-by-case basis."<sup>160</sup> Although both Public Interest Petitioners and Neil Ellis object on the grounds that the Applicants have not satisfied the fourth criterion, we find that given the unique situation and based on the totality of the circumstances, the Applicants have made an adequate showing. The Commission last granted Tribune a "failing" station waiver for station WCCT-TV in 2007,<sup>161</sup> and Tribune subsequently assigned the license to debtor-in-possession status, subject to the jurisdiction of the Bankruptcy Court, in 2008,<sup>162</sup> approximately one year after receiving the "failing" station waiver. This application, therefore, marks Reorganized Tribune's exit from bankruptcy,<sup>163</sup> and consequentially, the waiver request is for a continuing failing station waiver, as opposed to the creation of a new combination. Although we would not ordinarily accept predictive judgments by brokers or analysts in this context absent recent, unsuccessful efforts to sell, the circumstances here are unusual. The Applicants document unsuccessful, active efforts to sell WCCT-TV over an extended period between 2001 and 2006<sup>164</sup> – a period that enjoyed considerably better economic conditions than the present. In this case, given the expert opinions marshaled by Reorganized Tribune concerning the likelihood of sale to an out-of-market buyer in these deteriorated conditions,<sup>165</sup> we believe it is appropriate for us to accept as well founded the Applicants assertion that sale of WCCT-TV at anything other than a significantly depressed price,<sup>166</sup> is highly unlikely.<sup>167</sup>

53. Consistent with the *Local Ownership Order*, we find that continued combined operations of

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<sup>159</sup> WCCT-TV Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission's Rules at 23-25.

<sup>160</sup> 47 C.F.R. § 73.3555, Note 7.

<sup>161</sup> *Tribune I*, 22 FCC Rcd 21279 – 81.

<sup>162</sup> File No. BALCT - 20081217AFE (granted December 24, 2008).

<sup>163</sup> See *Ion Media Networks* at 14582 ("We agree ... that given the economic climate and ION's exit from bankruptcy, obtaining financing for capital investments would be difficult.")

<sup>164</sup> WCCT Application, Exhibit 16-A, Request for Waiver of Section 73.3555(b) of the Commission's Rules at 6 – 7, n.22.

<sup>165</sup> BIA Duopoly Report at i; Byrnes Declaration at 2; See also BIA/Kelsey, *Investing in Television Market Report 2012*, 2<sup>nd</sup> Edition.

<sup>166</sup> Byrnes Declaration at 5.

<sup>167</sup> See *Ltr. from Barbara A. Kreisman, Chief, Video Division, Media Bureau to Freedom Broadcasting of New York Licensee, L.L.C.*, 27 FCC 2498, 2500 (Vid. Div. 2012) (The fourth prong of the failing station waiver standard was supported by a broker's opinion that "based on the station's financial history, the history of the attempts to sell Freedom, the significant expenditures required to operate the station on a stand-alone basis, the current economic and competitive environment, and his own experience, that it is unlikely that an out-of-market buyer would be interested in purchasing WCWN(TV) on a stand-alone basis.")

WTIC-TV and WCCT-TV will pose minimal harm to our diversity and competition goals because WCCT-TV's financial situation hampers its ability to be a viable voice in the market absent a "failing" station waiver. Under these circumstances, allowing the continuation of the combined ownership, which has already resulted in improved news coverage, will benefit the public interest. Therefore, we will grant the "failing" station waiver for station WCCT-TV, Waterbury, CT.

## V. THE SATELLITE WAIVER

54. The Applicants have requested a continuing satellite exception to the local ownership rule<sup>168</sup> permitting common ownership of WTTV(TV), Bloomington, Indiana,<sup>169</sup> and WTTK(TV), Kokomo, Indiana. WTTK(TV) currently operates as a satellite of WTTV(TV). Both stations are located in the Indianapolis, Indiana, DMA and broadcast the CW network. Tribune has twice received a satellite exception permitting the combination at issue.<sup>170</sup> Like all ownership waivers, this waiver must be re-evaluated in the context of a long-form transfer of control or assignment application.<sup>171</sup> The Applicants request for a continuing satellite waiver is unopposed. For the reasons stated below, we find that grant of the satellite waiver permitting common ownership of WTTK(TV) and WTTV(TV) is in the public interest.

55. In *Television Satellite Stations*,<sup>172</sup> the Commission established the requirement that all Applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite waiver standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station.<sup>173</sup> If an applicant does not qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis and grant the application if there are compelling circumstances that warrant approval.<sup>174</sup>

56. With respect to the first criterion, we note that, following the digital transition, full-power

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<sup>168</sup> See 47 C.F.R. § 73.3555, Note 5.

<sup>169</sup> WTTV(TV) and WTTK(TV) will also be under common ownership with another station, WXIN(TV), Indianapolis, Indiana, which is also in the Indianapolis, Indiana DMA. Applicants correctly state that the WTTV(TV) and WXIN(TV) duopoly complies with the provisions of the local ownership rule, 47 C.F.R. §73.3555(b). File No. BALCDT-20100428ADX, Exhibit 16, Request for Continuation of Satellite Status at n.3.

<sup>170</sup> *Counterpoint Communications Inc.*, Memorandum Order and Opinion, 16 FCC Rcd 15044 (2001); *Shareholders of Tribune Co.*, Memorandum Opinion and Order, 22 FCC Rcd 21266 (2007).

<sup>171</sup> See *K. Rupert Murdoch*, Memorandum Opinion and Order, 21 FCC Rcd 11499, 11500 (2006).

<sup>172</sup> *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212 (1991) (subsequent history omitted)("Television Satellite Stations").

<sup>173</sup> *Id.* at 4213-14.

<sup>174</sup> *Id.* at 4214; *Tribune I*, FCC Rcd 21281 - 83(satellite waiver granted on an *ad hoc* basis); *Ion Media Network Liquidating Trust*, Memorandum Opinion and Order, 24 FCC Rcd 14579 (MB 2009) (satellite waiver granted on an *ad hoc* basis); *Selenka Communications, LLC*, Memorandum Opinion and Order, 25 FCC Rcd 278 (MB 2009) (satellite waiver granted on an *ad hoc* basis).

television stations have a digital Principal Community contour that serves a much larger area than their former analog City Grade contour.<sup>175</sup> Prior to the digital transition, WTTK(TV)'s City Grade contour did not overlap with that of its parent, WTTV(TV).<sup>176</sup>

57. With respect to the second criterion, the Applicants' showing employs the Commission's "transmission test" in order to show that the proposed satellite community is underserved. Under the "transmission test," a proposed satellite community of license is considered underserved if there are two or fewer television stations already licensed to it.<sup>177</sup> WTTK(TV) is the only full-service station licensed to Kokomo, Indiana.

58. Regarding the third criterion, an applicant must show that no alternative operator is ready and able to construct, or to purchase and operate, the proposed satellite as a full-service station.<sup>178</sup> Initially, we note that the Applicants do not make a showing based upon efforts to sell station WTTK(TV), as Tribune is exiting bankruptcy. Rather, they argue that WTTK(TV) is unlikely to be viable as a stand-alone station.<sup>179</sup> Furthermore, Applicants note that WTTK(TV) has been on the air since 1988 and has been operated continuously as a satellite of WTTV(TV) since that time and that on five separate occasions the Commission has approved the transfer of WTTK(TV) as a satellite of WTTV(TV).<sup>180</sup>

59. In support of the assertion that WTTK(TV) is not viable as a stand-alone station, the Applicants state that WTTK(TV) faces numerous obstacles to successful operation as a stand-alone station. The Applicants rely on a report, dated February 26, 2010,<sup>181</sup> and a supplemental statement, dated May 2012,<sup>182</sup> by Mark R. Fratrick, Ph. D., Vice President of BIA Advisory Services, LLC. Dr. Fratrick concludes that "full-service, independent television operations for WTTK(TV) would be extremely unlikely to be economically viable."<sup>183</sup> Dr. Fratrick explains that "advertising revenues in the Indianapolis market will not be sufficient to support an additional full service station under current or forecast[ed] conditions."<sup>184</sup> Since the Commission last approved WTTK(TV)'s satellite status in 2007, the Fratrick Supplemental Statement maintains, there has been a 7.2% decrease in over-the-air advertising revenues in

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<sup>175</sup> Applicants provide WTTV(TV) and WTTK(TV)'s digital service contours. File No. BALCDT-20100428AED, Exhibit 16A: June 2010 WTTV(TV)/ WTTK(TV) Contour Maps at 2 ("WTTV and WTTK Application").

<sup>176</sup> *Id.* at 1.

<sup>177</sup> *Television Satellite Stations*, 6 FCC Rcd at 4215.

<sup>178</sup> *Id.*

<sup>179</sup> *Tribune I*, 22 FCC Rcd at 2182-83 (satellite waiver granted based in part upon showing that station is unlikely to be viable as a stand alone station); *Ion Media Network Liquidating Trust*, 24 FCC Rcd 14579 (satellite waiver granted based in part upon showing that station is unlikely to be viable as a stand alone station); *Ks Family Television, Inc.*, 12 FCC Rcd (MB 1997) (satellite waiver granted based in part upon showing that station is unlikely to be viable as a stand alone station).

<sup>180</sup> WTTV and WTTK Application, Exhibit 16, Request for Continuation of Satellite Status at 2.

<sup>181</sup> WTTV and WTTK Application at Attachment 1, Statement of Mark R. Fratrick, Ph. D, Vice President of BIA Advisory Services, LLC "The Economic Viability of WTTK(TV), Kokomo, Indiana if Operated as a Full-Service Television Station" (February 26, 2010) ("Fratrick Report").

<sup>182</sup> *Id.* at Attachment 1, Statement of Mark R. Fratrick, PH. D., Vice President of BIA Advisory Services, LLC (May 2012) ("Fratrick Supplemental Statement").

<sup>183</sup> *Id.* at 5.

<sup>184</sup> *Id.* at 4.

the Indianapolis market.<sup>185</sup> Next, Dr. Fratrick submits that, as was the case in 2007, a major network affiliation is not available to WTTK(TV) because the major network affiliates, with the exception of the Spanish - language networks, are already represented in the Indianapolis market. Dr. Fratrick states that he does not believe that a Spanish-language network would be successful in Indianapolis as the Hispanic population is relatively low at 5.2%.<sup>186</sup> Thus, as Dr. Fratrick explains, the station would be required to obtain its programming independently and “[g]iven that there are already a number of stations in the market airing the most desirable syndicated programming, WTTK(TV) would likely be relegated to airing ‘evergreen’ programming with very limited audience appeal, further hindering its prospects of success.”<sup>187</sup> Moreover, Dr. Fratrick explains that conversion to a stand-alone station would cost \$1,337,629, assuming that WTTK(TV) would not have local news operations,<sup>188</sup> and operating costs would exceed \$9.7 million<sup>189</sup> Dr. Fratrick therefore concludes that given the revenue and expense challenges and “in light of the condition of the financial markets, we believe that it is extremely unlikely that funds would be available to anyone seeking to convert WTTK(TV) to a full-service station and that any attempt would almost certainly fail.”<sup>190</sup> While this analysis is compelling, it does not substantiate actual efforts to sell the station as a stand-alone facility. It does, however, provide highly credible evidence that WTTK(TV) is not viable as a stand-alone station.

60. While the instant request does not satisfy the Commission’s presumptive satellite exception standard,<sup>191</sup> we find that the Applicants have set forth information sufficient to warrant continued operation of station WTTK(TV) as a satellite under our *ad hoc* analysis. WTTK(TV) has a long history of operating as a satellite of station WTTV(TV), and the proposed satellite community is underserved. Additionally, the Applicants have made a showing that WTTK(TV) is unlikely to be viable as a full-service station due to the revenue decline of the Indianapolis television market, the station’s inability to acquire its own network affiliation, and the expense required to convert and to operate WTTK(TV) as a stand-alone station amidst the current financial market. Furthermore, because this application marks Reorganized Tribune’s exit from bankruptcy, it may prove difficult in the current economic environment to raise the capital necessary to convert a satellite station to a stand-alone station.<sup>192</sup> In light of these factors, we find that compelling circumstances warrant grant of a satellite waiver so that Reorganized Tribune may continue to operate WTTK(TV) as a satellite of WTTV(TV), and that grant of this waiver would serve the public interest.

## VI. CURRENT RENEWALS

61. Two Tribune licensees have applications pending before the Commission for renewal of broadcast licenses. Reorganized Tribune has submitted a statement explicitly agreeing to stand in the stead of the assignor in any renewal application that is pending at the time of the consummation of the assignment. It is Commission policy, in multi-station transactions, to grant transfer of control

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<sup>185</sup> *Id.* at Figure 3.

<sup>186</sup> *Id.*

<sup>187</sup> Fratrick Report at 9-10.

<sup>188</sup> Fratrick Supplemental Statement at 4.

<sup>189</sup> *Id.* at 5.

<sup>190</sup> Fratrick Report at 9.

<sup>191</sup> 6 FCC Rcd 4212, 4212-15.

<sup>192</sup> *Ion Media Networks* at 14582 (“We agree ... that given the economic climate and ION’s exit from bankruptcy, obtaining financing for capital investments would be difficult.”)

applications while renewal applications are pending as long as there are no basic qualification issues pending against the transferor or transferee that could not be resolved in the context of the transfer proceeding, and the transferee explicitly assents to standing in the stead of the transferor in the pending renewal proceeding.<sup>193</sup> We conclude that it is in the public interest to apply this policy to applications for assignment as well, where, as here, all licenses are being assigned to a single entity as part of a comprehensive agreement to facilitate the emergence of a multi-station, multi-market licensee from long-standing bankruptcy proceedings.

62. We have reviewed the proposed merger, the assignment applications, the petitions to deny, and related pleadings. We conclude that the assignee is fully qualified to hold the licenses and that grant of the applications, subject to the conditions set forth herein and with the waivers granted herein, will serve the public interest, convenience, and necessity.

## VII. ORDERING CLAUSES

63. ACCORDINGLY, IT IS ORDERED, that the petitions to deny filed by the International Brotherhood of Teamsters, Neil Ellis, Wilmington Trust Company and jointly filed by Free Press, Media Alliance, NABET/CWA, the National Hispanic Media Coalition, the Office of Communication of the United Church of Christ, Inc., and Charles Benton ARE DENIED.

64. IT IS FURTHER ORDERED that the request by Reorganized Tribune for a permanent waiver of the newspaper/broadcast cross-ownership rule, 47 C.F.R. § 73.3555(d)(3), to permit the common ownership of WGN(AM)/WGN-TV and the *Chicago Tribune* IS GRANTED.

65. IT IS FURTHER ORDERED that the request by Reorganized Tribune for permanent or temporary waivers of the newspaper/broadcast cross-ownership rule, 47 C.F.R. § 73.3555(d)(3), to permit the common ownership of KTLA(TV) and *The Los Angeles Times*; WPIX(TV) and *Newsday*; and WTTX(TV), WTIC-TV and *The Hartford Courant* ARE DENIED.

66. IT IS FURTHER ORDERED, that the Transferee's requests for waiver of the local television multiple ownership rules, 47 C.F.R. § 73.3555(b)(3), to permit the common ownership of station WTIC-TV, Hartford, Connecticut and station WCCT-TV, Waterbury, Connecticut, pursuant to Note 7 of that rule, and to permit satellite operation of station WTTK(TV), Kokomo, Indiana by station WTTV(TV), Bloomington, Indiana, pursuant to Note 5 of that rule ARE GRANTED.

67. IT IS FURTHER ORDERED, that the applications for assignment of license for the stations from Tribune Company, Debtor-in-Possession, and its licensee subsidiaries to Reorganized Tribune as listed in Exhibit 1 hereto, pursuant to Part 73 of the Commission's Rules, are GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:<sup>194</sup> In the case of KTLA(TV), Los Angeles, California (File No. BALCDT- 20100428ADV), WSFL-TV, Miami, Florida (File No. BALCDT-20100428ADY), WTIC(TV), Hartford, Connecticut (File No. BALCDT- 20100428ADR), WCCT-TV, Waterbury, Connecticut (File No. BALCDT- 20100428ADX), Reorganized Tribune shall, no later than one year from the release date of this Order to come into full compliance with the newspaper/broadcast cross-ownership sections of 47 C.F.R. § 73.3555. In the alternative, if the Commission adopts a new NBCO Rule in 2010 *Quadrennial Regulatory Review-Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Promoting Diversification of Ownership in the Broadcast Services*, MB Docket No. 09-192, 07-294, Reorganized Tribune may seek a waiver of the new rule by filing a waiver showing within the timeframe applicable to

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<sup>193</sup> *Shareholders of CBS Corporation*, 16 FCC Rcd 16072, 16072-73.

<sup>194</sup> License assignments listed in Exhibit 1 pursuant to other parts of the Commission's Rules are being granted simultaneously by the Wireless and International Bureaus.

other holders of temporary NBCO waivers or to licensees whose waiver requests are pending at that time. In addition, regardless of the date by which Reorganized Tribune must come into compliance or file a waiver showing, we condition these temporary waivers on Reorganized Tribune's compliance with any other requirements the Commission may apply, in the above-referenced *2010 Quadrennial Regulatory Review* proceeding, to other holders of temporary NBCO waivers or to licensees whose waiver requests are pending when the Commission adopts a new NBCO Rule or affirms the existing rule.

68. These actions are taken pursuant to Section 0.61 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61, 0.283, and Sections 4(i) and (j), 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), 309, 310(d).

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake  
Chief  
Media Bureau

## Attachment 1

Part 73<sup>195</sup>

Call Sign	Facility ID	File No. Prefix	File No. ARN	Service	Community of License	State	Licensee <sup>196</sup>
WXIN	146	BALCDT	20100428ADU	DT	INDIANAPOLIS	IN	TRIBUNE BROADCASTING INDIANAPOLIS, LLC, DIP
WTIC-TV	147	BALCDT	20100428ADR	DT	HARTFORD	CT	TRIBUNE BROADCASTING HARTFORD, LLC, DIP
KRCW-TV	10192	BALCDT	20100428AED	DT	SALEM	OR	KRCW, LLC, DIP
WSFL-TV	10203	BALCDT	20100428ADY	DT	MIAMI	FL	WSFL, LLC, DIP
KTXL	10205	BALCDT	20100428ACL	DT	SACRAMENTO	CA	KTXL, LLC, DIP
WPMT	10213	BALCDT	20100428ADS	DT	YORK	PA	WPMT, LLC, DIP
K20ES	12671	BALTTT	20100428AEE	TX	PENDLETON, ETC.	OR	KRCW, LLC, DIP
K24DX	12678	BALTTT	20100428AEF	TX	PENDLETON, ETC	OR	KRCW, LLC, DIP
WCCT-TV <sup>197</sup>	14050	BALCDT	20100428ADX	DT	WATERBURY	CT	TRIBUNE BROADCASTING HARTFORD, LLC, DIP
KDAF	22201	BALCDT	20100428ADQ	DT	DALLAS	TX	KDAF, LLC, DIP
KIAH	23394	BALCDT	20100428ACS	DT	HOUSTON	TX	KIAH, LLC, DIP
WDCW	30576	BALCDT	20100428ACT	DT	WASHINGTON	DC	WDCW, LLC, DIP
KCPQ	33894	BALCDT	20100428ACE	DT	TACOMA	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
K42CM-D	33895	BALTT	20100428ACG	LD	CENTRALIA/CHEHALIS	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
K07ZC-D <sup>198</sup>	33896	BALTTT	20100428ACH	LD	ELLENSBURG/KITTITAS	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
K25CG-D	33898	BALTT	20100428ACF	LD	ABERDEEN	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
K28KJ-D <sup>199</sup>	33899	BALTTT	20100428ACI	LD	CHELAN	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
KRCW-LP	35151	BALTVL	20100428AEG	TX	PORTLAND	OR	KRCW, LLC, DIP
KPLR-TV	35417	BALCDT	20100428ADH	DT	ST. LOUIS	MO	KPLR, INC., DIP
KTLA	35670	BALCDT	20100428ADV	DT	LOS ANGELES	CA	KTLA, LLC, DIP
KWGN-TV	35883	BALCDT	20100428ACD	DT	DENVER	CO	KWGN, LLC, DIP
WNOL-TV	54280	BALCDT	20100428ADA	DT	NEW ORLEANS	LA	TRIBUNE BROADCASTING COMPANY, LLC, DIP
WTTV	56523	BALCDT	20100428AEH	DT	BLOOMINGTON	IN	TRIBUNE BROADCASTING INDIANAPOLIS, LLC, DIP
WTTK	56526	BALCDT	20100428AEI	DT	KOKOMO	IN	TRIBUNE BROADCASTING INDIANAPOLIS, LLC, DIP
KSWB-TV	58827	BALCDT	20100428ADD	DT	SAN DIEGO	CA	KSWB, LLC, DIP
W42CB-D	64440	BALTT	20100428ACQ	LD	HESPERIA	MI	WXMI, LLC, DIP
W17DF-D <sup>200</sup>	64442	BALTT	20100428ACR	LD	MUSKEGON	MI	WXMI, LLC, DIP

<sup>195</sup> Since Tribune's filing of the Exit Applications on April 28, 2010, two translator licenses/ permits that were included in the Exit Applications have been cancelled. The two licenses/ permits are: 1) W51CY, Chambersburg, PA, Fac. ID. 64680 and (2) K13ZE, Prineville, OR., Fac. ID. 129666.

<sup>196</sup> The below listed entities are subject to consummation of Form 316 transactions granted by the Commission on June 28, 2012.

<sup>197</sup> Formerly, WTX(X)(TV), Waterbury, CT.

<sup>198</sup> Formerly, K54DX, Ellensburg/ Kittitas, WA.

<sup>199</sup> Formerly, K64ES, Chelan, WA.

<sup>200</sup> Formerly, W52DB, Muskegon, MI.

WXMI	68433	BALCDT	20100428ACP	DT	GRAND RAPIDS	MI	WXMI, LLC, DIP
KZJO <sup>201</sup>	69571	BALCDT	20100428ACM	DT	SEATTLE	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
K29ED-D	69574	BALTT	20100428ACO	LD	EVERETT	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
K25CH-D	69575	BALTT	20100428ACN	LD	NORTH BEND	WA	TRIBUNE BROADCASTING SEATTLE, LLC, DIP
WGN	72114	BAL	20100428AEM	AM	CHICAGO	IL	WGN CONTINENTAL BROADCASTING COMPANY, LLC, DIP
WGN-TV	72115	BALCDT	20100428AEL	DT	CHICAGO	IL	WGN CONTINENTAL BROADCASTING COMPANY, LLC, DIP
WGNO	72119	BALCDT	20100428ACZ	DT	NEW ORLEANS	LA	TRIBUNE TELEVISION NEW ORLEANS, INC., DIP
WPHL-TV	73879	BALCDT	20100428ADT	DT	PHILADELPHIA	PA	WPHL, LLC, DIP
WPIX	73881	BALCDT	20100428ADP	DT	NEW YORK	NY	WPIX, LLC, DIP

### Earth Station Licenses- Part 25

#### Transmit/Receive and Temporary-Fixed Earth Station

<u>Licensee:</u> <sup>202</sup>	<u>File No.:</u>	<u>Call Sign:</u>
Tribune Broadcasting Seattle, LLC Debtor-In-Possession	SES-ASG-20120615-00521 SES-ASG-20100504-00521	E030207
Tribune Broadcasting Seattle, LLC Debtor-In-Possession	SES-ASG-20120615-00540 SES-ASG-20100504-00522	E050057
Tribune Broadcasting Seattle, LLC Debtor-In-Possession	SES-ASG-20120615-00539 SES-ASG-20100504-00524	E990062
KTXL, LLC, Debtor-In-Possession	SES-ASG-20120615-00568 SES-ASG-20100504-00525	E070263
WPIX, LLC, Debtor-In-Possession	SES-ASG-20120615-00547 SES-ASG-20100504-00526	E040317
Chicagoland Television News, LLC, Debtor-In-Possession	SES-ASG-20120615-00593 SES-ASG-20100504-00527	E040146
WPIX, LLC, Debtor-In-Possession	SES-ASG-20120615-00560 SES-ASG-20100504-00528	E970060
KIAH, LLC, Debtor-In-Possession	SES-ASG-20120615-00522 SES-ASG-20100504-00529	E000330
KSWB, LLC, Debtor-In-Possession	SES-ASG-20120615-00541 SES-ASG-20100504-00530	E080179

<sup>201</sup> Formerly, KMYQ(TV), Seattle, WA.

<sup>202</sup> Licensee names listed assume consummation of pro forma transactions approved on July 23, July 24, August 1, and August 16, 2012.

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WPIX, LLC, Debtor-In-Possession	SES-ASG-20120615-00557 SES-ASG-20100504-00531	E860695
KTLA, LLC, Debtor-In-Possession	SES-ASG-20120615-00532 SES-ASG-20100504-00532	E870836
Tribune Television New Orleans, Inc., Debtor-In-Possession	SES-ASG-20100504-00533 SES-T/C-20120615-00544	E090031 E960025
KTLA, LLC, Debtor-In-Possession	SES-ASG-20120615-00572 SES-ASG-20100504-00534	E010013 E040245
KWGN, LLC, Debtor-In-Possession	SES-ASG-20120615-00598 SES-ASG-20100504-00535	E990179
WXMI, LLC, Debtor in Possession	SES-ASG-20120615-00546 SES-ASG-20100504-00536	E980505
KWGN, LLC, Debtor-In-Possession	SES-ASG-20120615-00597 SES-ASG-20100504-00537	E020240
WGN Continental Broadcasting Company, LLC, Debtor-In-Possession	SES-ASG-20120615-00581 SES-ASG-20110810-00942	E090016
Tribune Broadcasting Indianapolis, LLC, Debtor-In-Possession	SES-ASG-20120615-00589 SES-ASG-20100504-00539	E010294
Tribune Broadcasting Indianapolis, LLC, Debtor-In-Possession	SES-ASG-20120615-00587 SES-ASG-20100504-00540	E940358
WGN Continental Broadcasting Company, LLC, Debtor-In-Possession	SES-ASG-20120615-00531 SES-ASG-20100504-00541	E030276 E040339
Tribune Broadcasting Indianapolis, LLC, Debtor-In-Possession	SES-ASG-20120615-00583 SES-ASG-20100504-00542	E050094
WPHL, LLC, Debtor-In-Possession	SES-ASG-20120615-00579 SES-ASG-20100504-00543	E861091
WGN Continental Broadcasting Company, LLC, Debtor-In-Possession	SES-ASG-20120615-00595 SES-ASG-20100504-00544	E980088
WPMT, LLC, Debtor-In-Possession	SES-ASG-20120615-00570 SES-ASG-20100504-00545	E030089
KDAF, LLC, Debtor-In-Possession	SES-ASG-20120615-00548	E000143
Tribune Broadcasting Indianapolis,	SES-ASG-20120615-00584	E000117

LLC, Debtor-In-Possession	SES-ASG-20100504-00547	
Tribune Broadcasting Hartford, LLC Debtor-In-Possession	SES-ASG-20100504-00548 SES-ASG-20120615-00573	E090014 E960251
<u>Receive-Only Earth Stations</u>		
Tribune Television New Orleans, Inc., Debtor-In-Possession	SES-ASG-20100428-00491 SES-T/C-20120615-00545	E060339 E070143
Tribune Broadcasting Hartford, LLC, Debtor-In-Possession	SES-ASG-20120615-00577 SES-ASG-20120615-00599 SES-ASG-20100428-00493	E880192
WPMT, LLC, Debtor-In-Possession	SES-ASG-20120615-00526 SES-ASG-20100428-00494 SES-ASG-20120615-00527	E910286
Tribune Broadcasting Indianapolis, LLC, Debtor-In-Possession	SES-ASG-20120615-00525 SES-ASG-20120615-00529 SES-ASG-20100428-00495	E940434
KTXL, LLC, Debtor-In-Possession	SES-ASG-20120616-00528 SES-ASG-20120615-00567 SES-ASG-20100428-00490	KG62
WSFL, LLC, Debtor-In-Possession	SES-ASG-20120615-00537 SES-ASG-20100428-00492 SES-ASG-20120615-00596	E5159

Licenses/Registrations granted after release of DA 10-840, Released May 13, 2010-Assignment 30 day Public Notice, Report No. SES-01383 issued 9/21/2011

<u>Licensee</u>	<u>File Nos.</u>	<u>Call Sign</u>
Tribune Broadcasting Indianapolis, LLC, Debtor-in-Possession	SES-ASG-20110810-00941 SES-ASG-20120615-00591	E110039
KTLA, LLC, Debtor-in-Possession	SES-ASG-20110810-00943 SES-ASG-20120615-00534	E110041
WPIX, LLC, Debtor-in-Possession	SES-ASG-20110810-00944 SES-ASG-20120615-00563	E110038
WGN Continental Broadcasting Company, LLC, Debtor-in- Possession	SES-ASG-20110810-00942 SES-ASG-20120615-00581	E090016

Licenses/Registrations granted after release of DA 10-840, Released May 13, 2010-Assignment 30 day Public Notice, Report No. SES-01469 issued 7/25/2012

<u>Licensee</u>	<u>File Nos.</u>	<u>Call Sign</u>
Tribune Broadcasting Seattle, LLC, Debtor-in-Possession	SES-ASG-20120507-00477 SES-ASG-20120615-00555	E120001
WPIX, LLC, Debtor-in- Possession	SES-ASG-20120507-00478 SES-ASG-20120615-00565	E120002

**Parts 90 and 101**

<b>Application File No.</b>	<b>Licensee</b>	<b>Lead Call Sign</b>	<b>Radio Services</b>
0004227587	Tribune Television Northwest, Inc., Debtor-In-Possession	WPLP484	RS, MG
0004227624	Channel 40, Inc., Debtor-In-Possession	WNEU600	MG
0004227599	KIAH Inc., Debtor-In-Possession	WNSZ973	GU
0004219681	KTLA Inc., Debtor-In-Possession	KA69871	IG, MG
0004227620	Tribune Television Holdings, Inc., Debtor-In-Possession	WNDA663	IG, MG
0004227592	Tribune Television Company, Debtor-In-Possession	WPPB659	IG, MG
0004219969	WGN Continental Broadcasting Company, Debtor-In-Possession	KNNI895	IG, MG
0004220020	KWGN Inc., Debtor-In-Possession	KNGW910	IG, MG
0004220048	Tribune Television New Orleans, Inc., Debtor-In-Possession	WPJD417	MG
0004220294	WPIX, Inc., Debtor-In-Possession	WPNM862	MG
0004220306	KPLR, Inc., Debtor-In-Possession	WPWC614	MG
0004220399	Chicagoland Microwave Licensee, Inc., Debtor-In-Possession	WNTQ776	MG, BR
0004220408	Chicago Tribune Company, Debtor-In-Possession	WQP427	IG
0004220412	The Morning Call, Inc., Debtor-In-Possession	KER671	IG
0004227663	Sun Sentinel Company, Debtor-In-Possession	WPVI791	IG
0004220429	The Hartford Courant Company, Debtor-In-Possession	WQDX448	IG
0004220437	Los Angeles Times Communications, LLC, Debtor-In-Possession	KD26376	IG, YG
0004220445	Orlando Sentinel Communications Company, Debtor-In-Possession	KIM936	IG, MG

**Part 78**

Assignment of License From: Chicagoland Microwave Licensee, Inc.,  
Debtor-in-Possession

To: Chicagoland Microwave Licensee, Inc.

CARS License

WLY-387

WLY-388

KB-60125

File Number

CAR-20100511AA-08

CAR-20100511AB-08

CAR-20200511AC-08

## ATTACHMENT 2

<b>Station</b>	<b>Community</b>	<b>Newspaper</b>
KTLA(TV)	Los Angeles, California	<i>Los Angeles Times (LA Times)</i>
WPIX(TV)	New York, New York	<i>Newsday</i>
WGN-TV/WGN(AM)	Chicago, Illinois	<i>The Chicago Tribune,</i>
WSFL(TV)	Miami, Florida	<i>South Florida Sun-Sentinel</i>
WTIC(TV)	Hartford, Connecticut	<i>Hartford Courant</i>
WCCT-TV	Waterbury, Connecticut	<i>Hartford Courant</i>