



FEDERAL COMMUNICATIONS COMMISSION

Media Bureau
Video Division
445 12th Street, SW
Washington, DC 20554

June 25, 2019

**VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED AND
VIA EMAIL TO: DBGibber@sbgvtv.com**

David Gibber
Senior Vice President/General Counsel
Sinclair Broadcast Group, Inc.
10706 Beaver Dam Road
Hunt Valley, MD 21030

Re: Hearing Designation Order, MB Docket No. 17-179

Dear Mr. Gibber:

The Media Bureau is investigating Issue (a) designated for hearing in the above-referenced *Hearing Designation Order (HDO)*.¹ Specifically, we are investigating whether, in light of the issues presented in the *HDO*, Sinclair Broadcast Group, Inc. (Sinclair or Company) was the real party-in-interest to the associated WGN-TV, KDAF, and KIAH applications, and, if so, whether Sinclair engaged in misrepresentation and/or lack of candor in its applications with the Commission. Issues (b)-(d) of the *HDO* were dismissed as moot by the Administrative Law Judge (ALJ), but Issue (a) was not dismissed as moot because the ALJ found that it was not transaction specific.² The ALJ, however, determined that the issue should not be considered in the context of the Sinclair/Tribune hearing, but would be more appropriately considered by the Commission in the future.³ Consistent with the ALJ's decision, the Media Bureau initiates this inquiry. Accordingly, we direct Sinclair, pursuant to Sections 4(i), 4(j), 308(b), and 403 of the Act,⁴ to provide the information and documents requested herein no later than July 9, 2019.⁵

¹ *Applications of Tribune Media Company (Transferor) and Sinclair Broadcast Group, Inc. (Transferee) for Transfer of Control of Tribune Media Company and Certain Subsidiaries, WDCD(TV) et al.*, Hearing Designation Order, 33 FCC Rcd 6830, 6840, para. 29 (2018) (*HDO*).

² *Applications of Tribune Media Company (Transferor) and Sinclair Broadcast Group, Inc. (Transferee) for Transfer of Control of Tribune Media Company and Certain Subsidiaries, WDCD(TV) et al.*, Order, FCC 19M-01, at 3 (ALJ 2019).

³ *Id.* at 3-4.

⁴ 47 U.S.C. §§ 154(i), 154(j), 308(b), 403.

⁵ We acknowledge prior receipt of Sinclair's confidential filing dated July 31, 2018 (July 2018 Response), which addressed certain of the issues raised in the *HDO*.

This LOI constitutes an order of the Commission to produce the documents and information requested herein.⁶ To knowingly and willfully make any false statement or conceal any material fact in responses to this LOI is punishable by fine or imprisonment.⁷ **Failure to respond accurately and completely to this LOI constitutes a violation of the Act and our Rules.**⁸

The Attachment to this letter includes filing requirements and instructions for Sinclair's response and definitions for certain terms in this LOI. Requests for confidential treatment or claims of attorney-client privilege or attorney work product must strictly meet the requirements stated in the attached instructions and the Rules.

If you have any questions about this matter, please contact David Brown at 202-418-1645 or David.Brown@fcc.gov.

Sincerely,



Barbara Kreisman
Chief, Video Division
Media Bureau

Attachment

Cc (via email):

Miles Mason, Counsel to Sinclair

David Bochenek, Compliance Officer, Senior Vice President, and Chief Accounting Officer for Sinclair

⁶ See 47 U.S.C. § 155(c)(3).

⁷ See 18 U.S.C. § 1001; see also 47 CFR § 1.17.

⁸ See 47 U.S.C. 503(b)(1)(B); see also, e.g., *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15318, 15325, para. 22 (2013) (proposing a \$300,000 forfeiture for failure to provide timely and complete responses to an LOI); *SBC Commc'ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response).

ATTACHMENT

Inquiries: Information and Documents to be Provided

You must provide the following information and documents as requested below, and in accordance with the Instructions and Definitions below.

Unless otherwise indicated, the time covered by these Inquiries is June 28, 2016, to the date of Sinclair's response.

Requests for Information

Station WGN-TV:

1. Describe all discussions Sinclair had with Steven Fader and/or WGN-TV, LLC as to who would control the programming, personnel, and finances of Station WGN-TV after WGN-TV, LLC's purchase of the Station license, including but not limited to discussions regarding the following issues related to programming, personnel, and finances: (1) who would control the daily operations of Station WGN-TV; (2) who would carry out policy decisions for Station WGN-TV; (3) who would be in charge of employment, supervision, and dismissal of personnel for Station WGN-TV; (4) who would be in charge of paying financial obligations, including operating expenses for Station WGN-TV; and (5) who would receive monies and/or profits from the operation of Station WGN-TV, including but not limited to advertising revenues.
2. Describe with particularity the role, if any, Sinclair had in the creation of WGN-TV, LLC.
3. Describe with particularity the role Sinclair had in the identification and selection of Steven Fader/WGN-TV, LLC as the proposed buyer of Station WGN-TV.
4. Describe with particularity how the fair market value was determined for Station WGN-TV. Identify, by production number, any documents on which you rely to respond to this inquiry.
5. Describe with particularity how the purchase price was calculated for Station WGN-TV. Identify, by production number, any documents on which you rely to respond to this inquiry.
6. Identify the individuals involved in calculating the purchase price for Station WGN-TV.
7. Explain whether David Smith has a business relationship with Atlantic Automotive Corporation, and if so, the extent of that relationship (*e.g.*, length of time, whether David Smith has now or has ever had a controlling interest therein).

Stations KDAF and KIAH:

8. Describe all discussions Sinclair had with Michael Anderson and/or Cunningham Broadcasting Corporation (Cunningham) as to who would control the programming, personnel, and finances of Stations KDAF and KIAH after Cunningham's purchase of the Stations' licenses, including but not limited to discussions regarding the following issues related to programming, personnel, and finances: (1) who would control the daily operations of Stations KDAF and KIAH; (2) who would carry out policy decisions for Stations KDAF and KIAH; (3) who would be in charge of employment, supervision, and dismissal of personnel for Stations KDAF and KIAH; (4) who

would be in charge of paying financial obligations, including operating expenses for Stations KDAF and KIAH; and (5) who would receive monies and/or profits from the operation of Stations KDAF and KIAH, including but not limited to advertising revenues.

9. Describe with particularity how the fair market value was determined for Stations KDAF and KIAH. Identify, by production number, any documents on which you rely to respond to this inquiry.
10. Describe with particularity how the purchase price was calculated for Stations KDAF and KIAH. Identify, by production number, any documents on which you rely to respond to this inquiry.
11. Identify the individuals involved in calculating the purchase price for Stations KDAF and KIAH.

Request for Documents

Station WGN-TV:

12. Identify whether there were any agreements between Sinclair and WGN-TV, LLC that were not previously submitted to the Commission (*e.g.*, loan guarantee), and, if so, produce the agreement(s).
13. Identify whether any independent appraisal was conducted of the fair market value of Station WGN TV, and if so, produce the appraisal.
14. Identify whether Sinclair prepared an appraisal of the fair market value of Station WGN-TV, and if so, produce the appraisal.

Stations KDAF and KIAH:

15. Provide the independent appraisal identified on page 8 of Sinclair's July 2018 Response conducted by BIA Advisory Services, LLC (d/b/a BIA/Kelsey) in November 2012.
16. Provide a copy of the intercompany loan guarantee between Sinclair and Cunningham, including any amendments thereto and/or related documents.
17. Identify whether any independent appraisal was conducted of the fair market value of Station KDAF, and if so, produce the appraisal.
18. Identify whether any independent appraisal was conducted of the fair market value of Station KIAH, and if so, produce the appraisal.
19. Identify whether Sinclair prepared an appraisal of the fair market value of Station KDAF, and if so, produce the appraisal.
20. Identify whether Sinclair prepared an appraisal of the fair market value of Station KIAH, and if so, produce the appraisal.

Filing Requirements

Affidavit Requirement. We direct the Company to support its answers with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Company with personal knowledge of the representations provided in the Company's response. The affidavit or declaration must verify the truth and accuracy of the information therein, state that all of the information requested by this letter that is in the Company's possession, custody, control, or knowledge has been produced, and state that any and all documents provided in its answers are true and accurate copies of the original documents. In addition to such general affidavit or declaration of the authorized officer of the Company described above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual rather than his or her own knowledge, and if multiple Company employees contribute to the answer, the Company shall provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which answers the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with Section 1.16 of the Rules,⁹ and be substantially in the form set forth therein. Failure to so support the Company's answers could subject it to forfeiture.¹⁰

Delivery Requirements. The Company shall send its response by hand or messenger delivery, by commercial overnight courier, or by First-Class or overnight U.S. Postal Service mail, so that it is received by each Commission recipient listed below by the deadline specified in this LOI.

If sent by messenger or hand delivery, the Company should direct its response to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554, to the attention of David Brown, Video Division, Media Bureau, Room 2-A662, Federal Communications Commission, with a second copy included in the delivery to Barbara Kreisman, Chief, Video Division.¹¹

If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the attention of David Brown, Video Division, Media Bureau, Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743, with a second copy included in the mailing to Barbara Kreisman, Chief, Video Division.

If sent by first-class, Express, or Priority Mail, the response should be sent to David Brown, Video Division, Media Bureau, Federal Communications Commission, 445 12th Street, SW, Room 2-A662, Washington, DC 20554, with a second copy included in the mailing to Barbara Kreisman, Chief, Video Division.

Electronic Copy. The Company shall also transmit a copy of the response via email to David Brown, Video Division, at David.Brown@fcc.gov and Barbara Kreisman, Chief, Video Division, at Barbara.Kreisman@fcc.gov. The electronic copy shall be produced in a format that allows the Commission to access and use it (including making all information accessible via electronic search),

⁹ See 47 CFR § 1.16.

¹⁰ *SBC Commc'ns, Inc.*, 17 FCC Rcd at 7600, para. 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response).

¹¹ Originals and any copies of the response submitted via hand delivery or messenger must be held together with rubber bands or fasteners and must be submitted without envelopes. See Public Notice, FCC Announces Change in Filing Locations for Paper Documents, 24 FCC Rcd 14312 (2009).

together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source.

Instructions

Request for Confidential Treatment. In addition to providing the requested information and documents, any request for confidentiality of certain information or documents must strictly comply with the requirements of 47 CFR § 0.459, including a statement of the reasons for withholding the materials from inspection. The request must include a schedule of the information or documents for which confidentiality is requested that states, individually as to each such item, the information required by Section 0.459(b) of the Rules including, but not limited to, identifying the specific information for which confidential treatment is sought; explaining the degree to which the information is commercial or financial, or contains a trade secret or is privileged; and explaining how disclosure of the information could result in substantial competitive harm.¹² Accordingly, a "blanket" request for confidentiality or a casual request, including simply stamping pages "confidential," will not be considered a proper request for confidentiality, and those materials will not be treated as confidential.¹³

Claims of Privilege. If the Company withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item: the numbered Inquiry to which each item responds and the type, title, specific subject matter and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

Format of Answers. The response must be organized in the same manner as the Inquiries asked, *i.e.*, the response to Inquiry 1 should be labeled as responsive to Inquiry 1.

Method of Producing Documents. The Company shall submit each requested document in its entirety, even if only a portion of that document is responsive to an inquiry made herein, including all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. The Company shall not edit, cut, expunge, redact, alter, or otherwise take any action to modify any document submitted in response to this LOI. In addition to any document the Company submits in response to any Inquiry, the Company shall also submit all written materials necessary to understand any document responsive to these Inquiries.

Identification of Documents. For each document or statement submitted in response to the Inquiries stated in this LOI, indicate, by number, to which Inquiry it is responsive and Identify the persons from whose files the document was retrieved. If any document is not dated, state the date on which it was prepared. If any document does not identify its authors or recipients, state, if known, the names of the authors or recipients. The Company must Identify with reasonable specificity all documents provided in response to these inquiries.

Documents No Longer Available. If a document responsive to any Inquiry made herein existed but is no longer available, or if the Company is unable for any reason to produce a document responsive to any Inquiry, Identify each such document and explain fully why the document is no longer available or why the Company is otherwise unable to produce it.

¹² See 47 CFR § 0.459(b).

¹³ See 47 CFR § 0.459(c).

Retention of Original Documents. With respect only to documents responsive to the specific Inquiries made herein and any other documents relevant to those Inquiries, the Company is directed to retain the originals of those documents for twenty-four months from the date of this LOI unless (a) the Company is directed or informed by the Media Bureau in writing to retain such documents for some shorter or longer period of time, or (b) the Media Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, the Company must retain all such documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Media Bureau.

In accordance with *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535, 4570-71, para. 74 (2012), unless and until otherwise instructed by the Commission, the Media Bureau, or their representatives, we hereby direct that the Company shall not place into any public file or upload to any online public file this letter, any supplements thereto, or any other correspondence from the Commission or the Bureau concerning this investigation, materials related to such inquiries, Company responses to these Commission or Bureau Inquiries, or any Documents in connection with such responses not otherwise required to be placed in a public file or uploaded to an online public file.

Continuing Nature of Inquiries. The specific Inquiries made herein are continuing in nature. The Company is required to produce in the future any and all documents and information that are responsive to the Inquiries made herein but not initially produced at the time, date, and place specified herein. In this regard, the Company must supplement its responses (a) if the Company learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive documents or information are acquired by or become known to the Company after the initial production. The requirement to update the record will continue for twenty-four months from the date of this letter unless (a) the Company is directed or informed by the Media Bureau in writing that the Company's obligation to update the record will continue for some shorter or longer period of time, or (b) the Media Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the matter has been finally concluded by payment of any such monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any enforcement action brought by the United States Department of Justice, or execution and implementation of a final settlement with the Commission or the Media Bureau.

Construction. The terms "any" and "all," "and" and "or," and "each" and "every" shall be construed inclusively to bring within the scope of the requests for information and documents all information and documents that might otherwise arguably be construed as outside the scope of the requests. Likewise, the singular of any word or defined term shall include the plural and the plural of any such word or defined term shall include the singular. The words "relating to" or "relate to" shall be construed to mean, whether directly or indirectly, in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, supporting, qualifying, confirming, contradicting, or stating.

Definitions

For purposes of this LOI, the following definitions apply. The definitions in this section apply regardless of whether the first letter of the defined term appears in upper or lower case.

“Atlantic Automotive Corporation” shall mean Atlantic Automotive Corporation and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this LOI.

“Communication” shall mean the transmittal of information by any means.

“Cunningham” shall mean Cunningham Broadcasting Corporation and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this LOI.

“Document” shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, electronically-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

“Identify,” when used with reference to a person, shall mean to state his or her full legal name, job title (if any), current business address, business phone number, and e-mail address. If business address or telephone number are not available, state the person’s home address and telephone number.

“Identify,” when used with reference to a broadcast television station, shall mean to state the station’s:

- a. Call sign;
- b. Community of License;
- c. Licensee;
- d. FCC Facility Identification ID Number;
- e. Network affiliations(s), if any; and
- f. The Designated Market Area (“DMA”) in which it operates.

“Identify,” when used with reference to a Document, shall mean to state the date, author, addressee, title, type of document (*e.g.*, the types of document, as described above), a brief description of the subject matter, its present or last known location, and its custodian.

“Identify,” when used with reference to an entity other than a person or broadcast television station, shall mean to state its name, current or last known business address, current or last known business telephone number, and e-mail address.

“Sinclair” or “Company” shall mean Sinclair Broadcast Group, Inc., and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers,

employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this LOI.

“WGN-TV, LLC” shall mean WGN-TV, LLC, and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this LOI.