

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
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November 13, 2017

The Honorable David L. Hunt  
Inspector General  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Mr. Hunt:

We write to seek your assistance in investigating whether Federal Communications Commission (FCC) Chairman Ajit Pai has taken actions to improperly benefit Sinclair Broadcast Group (Sinclair). The Chairman has repeatedly refused to adequately respond to Congressional inquiries on this subject. His refusals – contrary to his stated commitment to be responsive to all Congressional members – only increase our concerns.

A number of press reports have also indicated that Chairman Pai may have timed FCC action to assist Sinclair. To clear up this issue, the Ranking Member of the Committee on Energy and Commerce repeatedly asked for all correspondence between Chairman Pai, his office and Sinclair. Because of the number of incidences where members of this administration have used personal communications services for government business, we also inquired whether the Chairman or his staff have used personal e-mail or social media messaging applications to communicate with Sinclair.

The Chairman has repeatedly refused to answer these inquiries, raising questions about whether he is appropriately following Commission rules. The Chairman's actions include:

- *Sinclair-Bonten License Transfer Application*: Chairman Pai rescinded a guidance in February, effectively loosening the scrutiny the staff applied to deals that could skirt local TV ownership restrictions by using a sharing agreement.<sup>1</sup> The FCC approved a deal three months later where Sinclair used several of these sharing agreements, potentially to circumvent the rules.

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<sup>1</sup> Federal Communications Commission, Media Bureau, *Rescission of March 12, 2014, Broadcast Processing Guidance Relating to Sharing Arrangements and Contingent Interests*, Public Notice, DA 17-130 (rel. Feb. 3, 2017).

- Reinstatement of the UHF Discount Rule: Press reports indicated in March of this year that Sinclair was in talks with Tribune Media Company (Tribune) about a potential merger, but analysts remarked that the deal would likely require the FCC to reinstate an outdated rule called the UHF discount. Chairman Pai announced his plan to reinstate the FCC's outdated UHF discount rule the same month as the initial Sinclair reports.<sup>2</sup>
- Sinclair-Tribune Merger: Sinclair announced its proposed acquisition of Tribune just two weeks after the FCC reinstated the UHF discount.<sup>3</sup> If approved, the transaction would solidify Sinclair as the country's largest TV group owner with a potential reach to nearly 70 percent of the nation.<sup>4</sup>
- Next Gen TV (ATSC 3.0): Sinclair has been one of the main proponents of the ATSC 3.0 (or Next Gen TV) transition,<sup>5</sup> and its subsidiary holds patents that reports indicate could provide billions of dollars in licensing fees to the patent owner.<sup>6</sup> Chairman Pai announced during his first full month in office a proposal to allow the TV industry to transition to the new standard.<sup>7</sup> Chairman Pai plans to take up an item approving ATSC

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<sup>2</sup> Federal Communications Commission, *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, Order on Reconsideration, MB Docket No. 13-236 (rel. Apr. 20, 2017) ([apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-40A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-40A1.pdf)).

<sup>3</sup> Alex Sherman, *Sinclair Buys Tribune in \$3.9 Billion Deal, Creating TV Goliath*, Bloomberg (May 7, 2017).

<sup>4</sup> Sydney Ember and Michael J. de la Merced, *Sinclair Unveils Tribune Deal, Raising Worries It Will Be Too Powerful*, New York Times, (May 8, 2017).

<sup>5</sup> Mike Dano, *With ATSC 3.0, TV Broadcasters Might Try to Steal Some Wireless Business After FCC's Incentive Auction*, Fierce Wireless (Nov. 9, 2015) ([fiercewireless.com/wireless/atsc-3-0-tv-broadcasters-might-try-to-steal-some-wireless-business-after-fcc-s-incentive](http://fiercewireless.com/wireless/atsc-3-0-tv-broadcasters-might-try-to-steal-some-wireless-business-after-fcc-s-incentive)); John Eggerton, *ONE Media Strikes Deal to Advance ATSC 3.0 Chipsets*, Broadcasting and Cable (Mar. 28, 2017) ([broadcastingcable.com/news/washington/one-media-strikes-deal-advance-atsc-30-chipsets/164463](http://broadcastingcable.com/news/washington/one-media-strikes-deal-advance-atsc-30-chipsets/164463)).

<sup>6</sup> Sinclair Broadcast Group, Inc., *ONE Media 3.0, LLC to Launch Next Generation Broadcast Products and Services*, PR Newswire (Apr. 14, 2016) ([prnewswire.com/news-releases/one-media-30-llc-to-launch-next-generation-broadcast-products-and-services-300251684.html](http://prnewswire.com/news-releases/one-media-30-llc-to-launch-next-generation-broadcast-products-and-services-300251684.html)); Doug Halonen, *Billions of \$ At Stake in ATSC Next Gen Effort*, TV News Check (Feb. 18, 2017) ([tvnewscheck.com/article/83062/billions-of--at-stake-in-atsc-nextgen-effort](http://tvnewscheck.com/article/83062/billions-of--at-stake-in-atsc-nextgen-effort)).

<sup>7</sup> Federal Communications Commission, Notice of Proposed Rulemaking, *In the Matter of Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard* (GN Docket No. 16-142) at ¶ 2 (Feb. 23, 2017).

3.0 at the Commission's November open meeting,<sup>8</sup> even though questions remain about how such a transition will impact consumers.<sup>9</sup>

- Main Studio Rule: The FCC voted in October to eliminate rules that would require local broadcast stations to maintain a physical presence in the market in which it operates. This move would make Sinclair's potential merger more profitable by eliminating many of the costs of maintaining local stations.
- Broadcast Ownership Rules: The Chairman plans to vote at the November meeting to significantly change the existing broadcast media ownership limits.<sup>10</sup> If adopted, this action will clear away virtually all remaining obstacles to Sinclair increasing its reach beyond the Tribune merger proposal.

All of these actions – when taken in context with reported meetings between the Trump Administration, Sinclair, and Chairman Pai's office – have raised serious concerns about whether Chairman Pai's actions comply with the FCC's mandate to be independent. Reports indicate that Sinclair's Executive Chairman and President Trump have met where “potential FCC rule changes were discussed.”<sup>11</sup> This reported meeting occurred after the Trump campaign indicated it had “struck a deal” with Sinclair to “secure better media coverage”<sup>12</sup> during the election. Chairman Pai has met with the President at least two times – one before being named Chairman and once in March.<sup>13</sup> The Chairman or his staff also have met with Sinclair representatives on numerous occasions.<sup>14</sup>

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<sup>8</sup> Federal Communications Commission, *FCC announces Tentative Agenda for November Agenda Meeting*, News Release, at 2 (October 26, 2017).

<sup>9</sup> Statement of Commissioner Mignon Clyburn, *Re: Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, GN Docket No. 16-142 (Feb. 23, 2017).

<sup>10</sup> News Release, *supra* n. 8, at 2.

<sup>11</sup> Claire Atkinson and Josh Kosman, *Sinclair is close to buying all of Tribune's TV stations*, New York Post (Mar. 14, 2017).

<sup>12</sup> Josh Dawsey and Hadas Gold, *Kushner: We struck deal with Sinclair for straighter coverage*, Politico (Dec. 16, 2016). *See also*, Paul Farhi, *How the nation's largest owner of TV stations helped Donald Trump's campaign*, Washington Post (Dec. 22, 2017) (reporting that Sinclair-owned stations devoted broadcast time to 15 exclusive interviews with then-candidate Trump and also required stations to air “must-run” segments during the stations' morning or evening newscasts that were favorable to then-candidate Trump or that were critical of his opponent).

<sup>13</sup> Letter from Ajit V. Pai, Chairman, FCC, to Rep. Frank Pallone, Ranking Member, House Committee on Energy and Commerce (Sept. 15, 2017).

<sup>14</sup> *Id.*

Ranking Member Pallone sent a letter to Chairman Pai in August to provide him with the opportunity to respond to these allegations. In his initial response, Chairman Pai failed to provide all of the requested answers and correspondence to complete our Congressional oversight. Ranking Member Pallone also followed up with a second letter at the end of September allowing the Chairman to correct his initial answer, but he has yet to receive a response. A copy of both letters and Chairman Pai's initial response are enclosed for your convenience.

We request that you examine how the FCC has conducted its business with regard to Sinclair. Specifically, we request that you find answers to the following questions:

- Whether actions taken by the FCC under Chairman Pai's leadership show a pattern and practice of preferential treatment for Sinclair, and
- Whether a series of interactions between Chairman Pai's office, the Trump Campaign and Trump Administration, and Sinclair demonstrate inappropriate coordination, including whether use of nongovernmental email and/or social media messaging tools complied with the Federal Records Act and the Freedom of Information Act.

Thank you for your attention to this matter. We request that you inform our Committees regarding any other issues of concern that you may uncover during your review. If you have any questions please contact the minority committee staff of the Energy and Commerce Committee at (202) 225-3641 or the minority committee staff of the Oversight and Government Reform Committee at (202) 225-5051.

Sincerely,



Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce



Elijah E. Cummings  
Ranking Member  
Committee on Oversight and  
Government Reform