

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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September 12, 2013

The Honorable Mignon Clyburn
Acting Chairwoman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20515

Dear Chairwoman Clyburn:

Last week you announced the Commission's tentative agenda for the September open meeting. Among the items you plan to consider is a Notice of Proposed Rulemaking regarding a potential elimination of the UHF discount. While we are not convinced that the existing limitations on broadcast ownership as a whole are appropriate or necessary in today's competitive media marketplace, we have particular apprehension about this proposed change and its effect on the business decisions of broadcast station group owners. Specifically, we are concerned that elimination of the UHF discount could inequitably harm those broadcast owners with pending transactions that were initiated under the existing UHF discount rule. We urge the Commission to ensure that any changes made to the UHF discount do not penalize current licensees, including those licensees with transactions pending at the Commission, by applying any changes to the UHF discount rule prospectively to new applications and by continuing to process pending applications under the existing rules without delay.

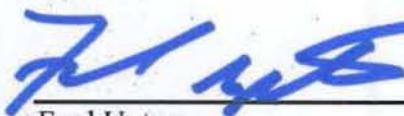
In 2004, Congress enacted legislation that permits a single entity to own any number of television stations so long as the station group's aggregate coverage is no more than 39 percent of the United States' television viewing population. The FCC calculates an entity's national coverage by determining the percentage of households that receive a signal from the group's stations. Currently, that calculation treats stations in the Very-High Frequency Band ("VHF") and Ultra-High Frequency Band ("UHF") differently when determining the coverage amount based on historical challenges associated with UHF broadcasting and a desire to encourage adoption of UHF frequencies. Owners of stations in the UHF band are 'charged' for only fifty percent of the population coverage as compared to a similar station in the VHF band. We acknowledge there have been changes in broadcast technology that militate against an allowance

like the UHF discount, but we believe consideration of such policy shifts must take into account the need for regulatory certainty for broadcast licensees.

Changes to the current calculation could potentially drive existing station groups and those with pending transactions over the new limit, forcing them to make divestitures to comply with the law or to proceed with their proposed transaction. This outcome would unfairly punish businesses that have complied with the Commission's rules in good faith and that entered into transactions in reliance on the Commission's rules. We urge the Commission to ensure that any changes it makes to the UHF discount rule respect the holdings of existing licensees and applications pending at the Commission and are only applied prospectively to applications filed after the adoption of a new rule.

If you have any questions, please contact David Redl or Grace Koh with the Committee on Energy and Commerce at (202) 225-2927.

Sincerely,



Fred Upton
Chairman



Greg Walden
Chairman, Subcommittee on Communications
and Technology

cc: Hon. Henry Waxman, Ranking Member
Hon. Anna Eshoo, Ranking Member, Subcommittee on Communications and Technology
Commissioner Jessica Rosenworcel, FCC
Commissioner Ajit Pai, FCC