

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
DISSENTING**

Re: *In the Matter of Sinclair Broadcast Group*, File No. EB-IHD-16-00021748.

In this consent decree the Federal Communications Commission ignores its rules and bends the facts in order to assist Sinclair Broadcast Group with sweeping its past digressions under the rug. For this reason, I dissent.

This consent decree represents the culmination of three different investigations into the practices of Sinclair Broadcast Group by the FCC.

The first of these investigations arises from the company's effort to acquire Tribune Media Company. This transaction, now abandoned, would have created the nation's largest broadcaster, with as many as 233 stations across the country. During the FCC's review of this merger, Sinclair Broadcast Group appeared to make a series of material misrepresentations to the agency, namely that it was not the real party-in-interest in entities associated with the transfer of television stations KDAF, KIAH, and WGN TV. Misrepresentations like these would allow the company to evade national limits on television ownership. Accordingly, the FCC sent a letter of inquiry to Sinclair Broadcasting seeking further information about the ownership of these stations and the company's lack of candor with the agency.

As the FCC has long acknowledged, honesty with the agency is a foundational requirement for a license. Full and clear disclosure of all material facts is essential to the efficient administration of the agency's licensing process. Moreover, an inquiry into misrepresentation and lack of candor is inherently an assessment of whether a licensee possesses the requisite character qualification to continue to hold a license under Sections 308 and 309 the Communications Act.

That is why under Section 1.93(b) of the FCC's rules, consent orders "may not be negotiated with respect to matters which involve a party's basic statutory qualifications to hold a license." Yet here the agency addresses material misrepresentations behind closed doors and then summarily dismisses them in a consent decree. Doing so is a clear end run around this rule. Why are we violating our own rules to assist this company with the termination of an investigation? This consent decree offers no explanation.

The second investigation involves the duty to negotiate in good faith for consent to retransmit commercial television broadcast signals pursuant to Section 325 of the Communications Act. In 2014 Congress amended this law to restrict joint negotiation for retransmission consent by television stations without common ownership. An earlier investigation by the FCC following this change in the law found that Sinclair Broadcast Group had violated this provision with 36 different stations. This resulted in a compliance plan that required the company to periodically report to the agency on retransmission consent. Through this reporting process Sinclair Broadcast Group acknowledged that by providing accounting services to a number of stations it did not own it continued to have access to their retransmission consent agreements but insists this information was not used by the company. I question how speedily this agency offers the company the benefit of the doubt after 36 prior violations of the law. Moreover, by lumping the penalty for this together with other investigations, it is impossible to know what fine is even associated with this repeated failure to comply with the Communications Act.

The third investigation concerns pay-for-play programming. Here again, the repeated failure to follow the law matters. Over the course of roughly six months, Sinclair Broadcasting aired sponsored programming on 77 stations 1,723 times. This is the kind of content that gets dressed up like real news but makes no mention of who paid for it to be on the air. Doing so is a violation of Sections 317 and 507 of the Communications Act, as well as Section 73.1212 of the Commission's rules. The sheer volume of these pay-for-play violations is unprecedented. It deserves an unprecedented response. But the

underlying notice of liability for these violations inexplicably offers the company a significant discount from the total penalty permissible under our rules.

Finally, these investigations do not stand alone. Sinclair Broadcast Group has a history of difficulty complying with FCC rules, as demonstrated by multiple forfeiture orders, notices of apparent liability, and admonishment from this agency. I respect the desire of the company to remedy past behavior but find suspect this agency's willingness to contort the law and its rules to allow them to do so.