Allow Broadcasters to Compete on a Level Playing Field in the Digital Marketplace

The issue:
For decades, the Department of Justice’s (DOJ) Antitrust Division has maintained that local broadcast television stations compete only against other broadcast television stations when analyzing mergers and other competition issues relating to the industry. This view no longer matches today’s media marketplace. With the explosive growth of internet video and digital content along with the proliferation of cable and satellite television, broadcasters face intense competition for viewers and local advertising dollars. Yet, the DOJ’s outdated viewpoint stifles broadcasters’ ability to achieve efficiencies to allow them to best serve audiences with the high-quality entertainment programming and locally-focused news, weather and sports they have come to expect. It is well past time for the DOJ to update its regulatory policies to reflect the realities of the 21st century media market.

Here’s why:
As a direct result of the DOJ’s narrow view of the media marketplace, broadcasters face strict limitations in acquiring stations and taking advantage of important economies of scale. This skews the competitive playing field because large tech companies such as Facebook and Google, giant pay-TV providers such as AT&T/DirecTV and online video providers like Netflix and Amazon are not subject to comparable limitations. Yet, broadcasters compete with all of them for local viewers and advertising dollars. Neither consumers nor advertisers believe that local TV stations are their only options for accessing content or placing advertisements:

- Broadcast TV stations are increasingly losing ad dollars to digital platforms, which have greater ability to target ads and track consumer response. In 2019, BIA Advisory Services (BIA) estimated that “pure play” digital ad platforms (online, mobile, email and internet yellow pages) would receive 31.5 percent of total ad spending across all 210 television markets combined, far outpacing the 12.4 percent of all local ad spending that TV stations would receive.
- In 2019, BIA estimated that Google’s total local advertising revenues would roughly equal the total over-the-air ad revenues for all TV stations in the U.S. and will soon exceed total TV station ad revenues. Borrell Associates reports that Facebook has become the most popular marketing vehicle for local advertisers.
- A recent survey conducted by BIA found that advertisers who report using broadcast TV also utilize a wide range of other platforms. In fact, TV advertisers reported using 31 different ad platforms in 2018, including digital. Nearly 78 percent of TV advertisers reported using targeted social media ads and almost 68 percent said they used mobile location aware ads.

(continued)
• Broadcast TV stations and pay-TV providers are both losing audiences to online options. Nielsen estimates that the weekly time adults ages 18+ spent viewing linear TV (broadcast and cable, either live or time shifted) fell by 9.6 percent just from 2014-2018, by 14.8 percent for adults ages 35-49 and much more for all age groups under 35. Analysts have found that linear TV viewing declines in close correlation with Netflix’s growth.

The bottom line:
The DOJ should recognize what broadcasters, cable and satellite providers, internet services, advertisers and consumers already know: technological advances have transformed the media landscape. As part of its pending review of the local TV ownership rule, the Federal Communications Commission is reexamining how it defines the relevant market. The DOJ similarly should reevaluate its approach for defining the market and evaluating competition when reviewing TV station mergers.