Broadcast Ownership Rules Should Reflect the Competitive Marketplace

The issue:
The internet has transformed the media marketplace, yet TV and radio broadcasters are still subject to outdated rules restricting the number and type of outlets they may own. Policymakers should support the modernization of these rules to account for the rise, and increasing influence, of digital media.

Here’s why:
TV and radio stations are best able to serve their local communities when allowed to compete effectively in the marketplace. Congress recognized this in the 1996 Telecommunications Act by requiring the Federal Communications Commission (FCC) to review its broadcast ownership rules every four years and to repeal or modify those no longer necessary in the public interest as the result of competition.

For years, NAB opposed the FCC’s continued application of analog regulation in the digital age. Given the explosion of new media sources, such as online video and audio services, social media, blogs and websites, rules from the last century were no longer needed to ensure competition or diverse points of view. Applying restrictions only to broadcasters and not their competitors makes it increasingly difficult for local stations to compete successfully and invest in providing local and national news, weather, emergency information and highly-valued entertainment and sports programming.

In 2017, the FCC finally attempted to update many of the local broadcast ownership rules by:
- Eliminating the 1975 newspaper/broadcast cross-ownership ban;
- Eliminating the 1970s-era radio/TV cross-ownership rule;
- Reforming the local TV ownership rule to permit the ownership of two TV stations in smaller markets, as well as the largest ones; and
- Eliminating the rule treating the joint sale of advertising time by TV stations as equivalent to common ownership.

Broadcasters applauded the long overdue modernization of these rules. Unfortunately, however, a federal appeals court, by a 2-1 vote in the fall of 2019, failed to properly account for dramatic changes in marketplace competition and vacated the FCC’s commonsense updates. As a result, broadcasters again are subject to analog-era rules that the FCC had found were no longer in the public interest. In April 2020, both the Commission and NAB requested the Supreme Court to review the Third Circuit’s decision rejecting the FCC’s update of the broadcast ownership restrictions.

The FCC began its mandated 2018 quadrennial review of the ownership rules in December 2018. Among other actions, the FCC should update its local radio ownership caps, which have not changed since 1996, prior to the advent of satellite radio, audio streaming services and smart phones.
The bottom line:
Local stations are a critical source of information and entertainment in every community across this country, and it takes significant resources to provide up-to-the minute news and emergency journalism, among other services. No other medium has the responsibility, the ability or incentive to serve the public’s needs.

As competition from unregulated outlets continues to grow, policymakers should support the FCC’s modernization of radio and TV ownership rules to reflect the current marketplace. To continue offering free, over-the-air service, broadcasters must be able to compete on a level playing field for audiences, advertising and investment.