

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
2010 Quadrennial Regulatory Review –	)	MB Docket No. 09-182
Review of the Commission’s Broadcast	)	
Ownership Rules and Other Rules Adopted	)	
Pursuant to Section 202 of the	)	
Telecommunications Act of 1996	)	

**REPLY COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

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## **Executive Summary**

In response to the Federal Communications Commission's recent notice of inquiry regarding broadcast ownership, the National Association of Broadcasters ("NAB") urged the Commission to approach its review of the local ownership restrictions with an eye toward maintaining the vibrancy of America's radio and television stations. Fair and rational rules will allow local broadcasters to continue to provide the many vital, free services that all Americans have come to expect, including local news and emergency journalism.

On the merits, NAB and other commenters demonstrated that technological and competitive developments have dramatically and irrevocably altered the media landscape. In fact, these changes have continued to transform the industry at a rapid pace since the time of the FCC's last quadrennial review. Commenters further established that the intense competition for audiences and advertising revenues that exists in this multichannel, multiplatform environment has rendered the current broadcast ownership restrictions not just obsolete, but affirmatively harmful to the public interest.

Thus, the record in this proceeding, along with myriad studies previously conducted by the Commission and other parties, shows that the current local ownership restrictions are not necessary to promote the traditional goals of competition, diversity and localism. Competition in the 21<sup>st</sup> century marketplace has fragmented audiences and eroded the advertising revenues critical to free, over-the-air broadcasting. Because current ownership limits inhibit broadcasters' options for responding to changing market forces, many stations (especially those in smaller markets) are today facing grave

economic difficulties. Reforming asymmetric ownership limitations that disfavor locally-oriented radio and television stations vis-a-vis their competitors will help ensure the continued ability of local stations to provide costly local news, emergency journalism and popular entertainment programming.

In addition, the record makes clear, as the Commission previously found, that common ownership can enhance localism by leading to the increased production of local news and other programming preferred by audiences. Not only do consumers today enjoy access to an unprecedented diversity of programming and information from an ever-increasing number of providers, but studies also have found consistently that common ownership increases the diversity of programming offered by local stations. Finally, a large and growing body of empirical and economic evidence demonstrates that commonly-owned media outlets offer diverse viewpoints as well.

In short, those who would deny the radical changes that have taken place in the broadcast industry and the wider media marketplace since the ownership rules were adopted, or the benefits that joint ownership can bring, would deny both reality and the public interest. In light of overwhelming record evidence that competition has dramatically transformed the media landscape, Section 202(h) of the 1996 Telecommunications Act and basic principles of administrative law require that the Commission take prompt action to bring the broadcast ownership rules into the 21<sup>st</sup> century.

Specifically, as set forth in NAB's opening comments and further supported below, the Commission should (1) eliminate the severe restrictions on the cross-ownership of newspapers and broadcast outlets; (2) reform the television duopoly rule

to allow more freely the formation of duopolies in markets of all sizes; (3) reject the call of a few commenters to reduce the current radio ownership levels set by Congress nearly 15 years ago in a less competitive marketplace, and instead continue relaxation of such limits; and (4) adopt flexible, market-based approaches for encouraging new entry into the broadcast industry, such as incubator and other programs designed to promote opportunities for members of minority groups, women and other new entrants. Given the number of important issues it must address in this quadrennial review, the Commission should not consider here cable operators' repetitive and irrelevant claims regarding retransmission consent, which have been thoroughly refuted in other proceedings.

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The National Association of Broadcasters (“NAB”)<sup>1</sup> submits this reply to certain comments on the Commission’s *Notice of Inquiry* in this proceeding.<sup>2</sup> In the *Notice*, the Commission initiated a comprehensive reexamination of the broadcast ownership rules in light of changing competitive conditions in the marketplace, as required by Section 202(h) of the Telecommunications Act of 1996. In light of the “[d]ramatic changes in the marketplace” noted by the Commission,<sup>3</sup> numerous commenters including broadcasters large and small, newspaper publishers and trade associations submitted comments strongly supporting reform of the decades-old ownership restrictions. As these commenters demonstrated, there is no basis for retaining the current, broadcast-only local ownership limitations in a marketplace characterized by ever-increasing

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<sup>1</sup> The National Association of Broadcasters is a nonprofit trade association that advocates on behalf of free, local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the Courts.

<sup>2</sup> *Notice of Inquiry*, MB Docket No. 09-182 (rel. May 25, 2010) (“*Notice*”).

<sup>3</sup> *Notice* at ¶ 1.

competition for audiences and advertisers. Indeed, under existing marketplace conditions, the FCC's current rules disserve its goals of competition, localism and diversity.

After decades of experience with its local ownership rules, the Commission, under both general administrative law and Section 202(h), has the burden of empirically demonstrating the benefits that flow from these rules, or demonstrating the existence of concrete harms that these rules directly ameliorate, and can no longer rely on speculation, assumptions or unverified predictions to retain the rules unchanged.<sup>4</sup> Although several media advocacy groups and unions call for retention – or even tightening – of the existing restrictions, they do not, and, indeed, cannot justify their position. Supporting such views would require evidence demonstrating that the media marketplace has not changed over the past several decades and that the media marketplace is *less* competitive and diverse now than it was before the development of digital technology, numerous multichannel video and audio services, and the Internet. As the record in this and in previous ownership proceedings demonstrate, such a position is clearly untenable.

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<sup>4</sup> See, e.g., *Bechtel v. FCC*, 10 F.3d 875, 880 (D.C. Cir. 1993) (court invalidated FCC criterion for licensing broadcast applicants because, after 28 “years of experience with the policy,” the FCC had “no evidence to indicate that it achieve[d]” the “benefits that the Commission attribute[d] to it,” and the agency could no longer rely on “unverified predictions”); *Cincinnati Bell Telephone Company v. FCC*, 69 F.3d 752, 764 (6<sup>th</sup> Cir. 1995) (court found ownership limitations in wireless industry to be arbitrary because they were based on “generalized conclusions” and “broadly stated fears,” rather than “documentary support”); *HBO, Inc. v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977) (“a regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist”) (internal citations omitted).

**I. Calls For Retaining Outmoded Restrictions On Broadcast Stations Are Based On Erroneous Assumptions, Unsupported Claims, And Willful Blindness As To The Fundamental Changes In The Media Marketplace**

**A. Opponents of Reform Attempt to Deny or Ignore the Structural Changes Occurring in the Digital, Multichannel Marketplace**

To justify a position that decades-old local ownership restrictions should not be updated, the opponents of reform either ignore, or attempt to discount, the emergence of multichannel and online outlets that compete with local broadcast stations for audiences and advertising revenues. For example, reform opponents ignore the profound competitive effects that multichannel video providers have had on local television stations, including as growing competitors for vital local ad revenues. As shown in Attachment A, the average share of local television advertising garnered by local cable operators in the top-10 Designed Market Areas (“DMAs”) grew from about 9.6 percent of market television ad revenues in 1999 to 24.3 percent in 2008. In DMAs 11-25, local cable’s share of the television ad “pie” rose from 9.4 percent of local market television ad revenues in 1999 to 21.8 percent in 2008.<sup>5</sup> Clearly, the competition provided by cable operators for local television ad revenues has increased since 1999, the last time revisions to the duopoly rule went into effect. Such factors must be taken into account under Section 202(h)’s directive to determine whether ownership rules remain necessary “as the result of competition.”

Similarly, the opponents of reform ignore the effects that the emergence of innumerable online (as well as mobile) outlets have had on the advertising marketplace.

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<sup>5</sup> See Attachment A, “Cable Share of Local TV Revenues, 1999/2004/2008.” In DMAs 26-50 and 51-100, local cable’s share of local television ad revenues approximately doubled between 1999 and 2008. *Accord* Comments of NAB in MB Docket No. 09-182 at 79-80 & Attachment E (July 12, 2010) (“NAB Comments”).

Virtually no mention is made of shifting advertising revenues from traditional to online media, or the effects this shift is having on the viability of local stations and newspapers and their services to the public.<sup>6</sup> Indeed, to the limited extent that opposing parties acknowledge the recent economic conditions of broadcast stations at all, they merely claim that stations have experienced a cyclical downturn and are well on their way to economic recovery.<sup>7</sup>

These claims are at odds with reality. Although revenue projections for broadcasters are up for 2010, after very difficult years in 2008 and 2009, SNL Kagan projects that neither radio nor television station ad revenues will, even by 2019, recover to the level of ad revenues for broadcast stations in 2006.<sup>8</sup> As NAB documented in its comments, leading media, communications and advertising analysts have concluded that a “structural” change has occurred in local media markets, with spending on traditional media advertising (broadcast stations and newspapers) projected to decline while spending on online/interactive advertising is expected to rise during the next few

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<sup>6</sup> See NAB Comments at 11-15; 63-71; Comments of Newspaper Association of America (“NAA”) in MB Docket No. 09-182 at 12-18 (July 12, 2010); Gray Television, Inc. in MB Docket No. 09-182 at 9-11 (July 12, 2010); A.H. Belo Corporation in MB Docket No. 09-182 at 16-18 (July 12, 2010) (demonstrating fundamental changes in advertising marketplace and their effects on provision of local journalism).

<sup>7</sup> See, e.g., Comments of Office of Communication of United Church of Christ, Inc., et al. in MB Docket No. 09-182 at 5-6 (July 12, 2010) (“UCC Comments”) (“downturn in the broadcast industry over the last four years, namely advertising revenues, is cyclical and *not* necessarily a sectoral aspect of the industry”); Communications Workers of America, et al. in MB Docket No. 09-182 at 9 (July 12, 2010) (“CWA Comments”) (“Recent reports show television revenue hits were due to a cyclical downturn and not a major shift for advertisers.”).

<sup>8</sup> See NAB Comments at 68, citing Robin Flynn, SNL Kagan, “Radio Station Revenue Projections Update” (May 27, 2010) and “TV Station Ad Revenue Projections” (May 26, 2010), *available at* [www.snl.com](http://www.snl.com)

years.<sup>9</sup> This continuing shift of advertising revenues away from traditional ad-supported media to online outlets, although not addressed by parties opposing modernization of broadcast restrictions, is a reality that local stations and newspapers continue to face as they work to provide costly, locally-oriented services.<sup>10</sup>

Opponents of reform would have the Commission ignore these market changes, stating that “it is not the FCC’s responsibility to prop up the broadcast industry.”<sup>11</sup> It is, however, the FCC’s responsibility to ensure that its own rules do not unnecessarily handicap local broadcasters by disadvantaging them in the marketplace and hindering their ability to compete against other outlets, including subscription-based ones. It is also the FCC’s responsibility to ensure that locally-oriented broadcast services upon which consumers still rely are not jeopardized by out-of-date rules. While reform opponents seemingly would prefer that local stations cease serving the public altogether

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<sup>9</sup> See NAB Comments at 13-15; 67-70, citing, *inter alia*, BIA/Kelsey, News & Events, “BIA/Kelsey Forecasts U.S. Local Advertising Revenues to Reach \$144.9B in 2014” (Feb. 22, 2010) (not anticipating “rapid recovery among traditional media” even “with improvements in the overall economy” because the “structural change in the local media industry has accelerated”); Veronis Suhler Stevenson, *Communications Industry Forecast 2009-2013* at Chapter 2, Advertising (23<sup>rd</sup> ed. 2009). See also Project for Excellence in Journalism (“PEJ”), “The State of the News Media 2010: Local TV Summary Essay” (concluding that the local TV industry “is facing a structural challenge”), available at [www.stateofthemediamedia.org/2010/local\\_tv\\_summary\\_essay.php](http://www.stateofthemediamedia.org/2010/local_tv_summary_essay.php)

<sup>10</sup> See, e.g., NAB Comments at 61-71 and Attachment C, “Television Station Financial Data 1998-2008” (showing very significant declines in profits by television stations in markets of all sizes and actual losses by lower performing stations in all markets); PEJ, “The State of the News Media 2010: Local TV Summary Essay” (television stations “may be nearing a point where they can no longer add new newscasts or new revenue opportunities . . . to its old ones”); NAA Comments at 12-18.

<sup>11</sup> UCC Comments at 6.

rather than be commonly-owned,<sup>12</sup> the Commission has not found such a position consistent with the public interest.<sup>13</sup>

Beyond ignoring or discounting the economic and financial impact multichannel and online outlets have in today's media marketplace, parties opposing reform also insist that the emergence of the Internet and its innumerable applications have had no real effect in the information marketplace. For instance, the American Federation of Television and Radio Artists claims that "internet sources" do "not substantially increase the diversity of viewpoints" and that "new media sources act as an 'echo chamber' whereby the visibility of otherwise unimportant or inaccurate stories is over-amplified."<sup>14</sup>

It would be arbitrary and capricious for the Commission to dismiss the Internet – which the Supreme Court, as far back as 1997, said provides access to content as "diverse as human thought"<sup>15</sup> – as having little or no impact in the information marketplace. As the Pew Internet and American Life Project has stated, the Internet is "at the center of the story of how people's relationship to news is changing."<sup>16</sup> NAB and other commenters have in this and earlier proceedings provided ample evidence of the

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<sup>12</sup> See *id.* ("If the financial condition of a station is so poor that it is unable to serve the public, consolidation is not the solution.").

<sup>13</sup> See, e.g., *Revision of Radio Rules and Policies*, Report and Order, 7 FCC Rcd 2755, 2760 (1992) (in loosening its local radio rules, FCC concluded that the "industry's ability to function in the 'public interest, convenience and necessity' is fundamentally premised on its economic viability").

<sup>14</sup> Comments of American Federation of Television and Radio Artists ("AFTRA") in MB Docket No. 09-182 at 12 (July 12, 2010). While slightly more temperate in tone, other parties declare that "[t]here is no rational reason" to count the Internet "as an independent source of local news and information." CWA Comments at 28.

<sup>15</sup> *Reno v. ACLU*, 521 U.S. 844, 870 (1997).

<sup>16</sup> Pew Research Center, Internet & American Life Project, "Understanding the Participatory News Consumer: How Internet and Cell Phone Users Have Turned News into a Social Experience," at 2 (March 1, 2010).

myriad ways in which the Internet has transformed the market for information, including political information.<sup>17</sup> Indeed, for over a decade now, nontraditional online outlets have been an origin of major news stories, which were then picked up by traditional outlets.<sup>18</sup> The Internet simply cannot be dismissed as an “echo-chamber” for “unimportant” stories.

Claims that the Internet should not even be counted as a source in the local information marketplace are similarly misplaced. An FCC staff study, conducted as part of the national broadband plan found that 75 percent of *all* Internet users obtain local or community news online – a *higher* percentage than those who obtain international or national news (73 percent).<sup>19</sup> Among broadband users specifically, 78 percent say that “keeping up with the news *in my community*” is either a “very” or “somewhat” important

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<sup>17</sup> See, e.g., NAB Comments at 15-22; NAA Comments at 18-23; Comments of Bonneville International Corp. and Scranton Times, L.P. in MB Docket No. 09-182 at 8-9 (July 12, 2010); Comments of Tribune Co. in MB Docket No. 09-182 at 68-85 (July 12, 2010); Comments of Media General, Inc. in MB Docket No. 09-182 at 12-16 (July 12, 2010); Comments of Grant Group, Inc. in MB Docket No. 09-182 at 4-10 (July 12, 2010).

<sup>18</sup> For example, Senator George Allen’s use of the racial epithet “Macaca,” the firing of U.S. Attorneys by the Bush Justice Department, and Monica Lewinsky’s relationship with Bill Clinton were all originally disseminated by nontraditional online outlets. See M. Gentzkow and J. Shapiro, “Competition and Truth in the Market for News,” 22 *Journal of Economic Perspectives* 133, 150 (Spring 2008). Online outlets have “broken” other major stories, including the terrorist attacks in Mumbai, the death of Michael Jackson, the crash of the jetliner in New York’s Hudson River, and the “Memogate” controversy concerning President George Bush’s National Guard service during Vietnam, which ultimately lead to the resignation of Dan Rather as anchor of the CBS evening news. See also “The Digital News Lifecycle: Why Breaking News on Twitter Isn’t News Anymore” (Jan. 19, 2009), available at [www.gauravonomics.com/blog/the-digital-news-lifecycle-why-breaking-news-on-twitter-isnt-news-anymore/](http://www.gauravonomics.com/blog/the-digital-news-lifecycle-why-breaking-news-on-twitter-isnt-news-anymore/)

<sup>19</sup> J. Horrigan, “Broadband Adoption and Use in America,” OBI Working Paper Series No. 1, at 16 (Feb. 2010). Among broadband users, 80 percent get local or community news online, with 77 percent obtaining international or national news.

online activity.<sup>20</sup> Numerous commenters have also detailed the rapid growth of local Internet news and information sites, including ones independent of traditional “offline” media.<sup>21</sup>

Moreover, as NAB discussed in its initial comments,<sup>22</sup> the Internet allows consumers to by-pass media outlets (traditional or “new”) altogether, and permits them to access news and information directly from their sources, such as government agencies, political candidates, or private entities including profit and non-profit corporations and advocacy groups. According to the recent report for the FCC, 75 percent of all Internet users visit local, state or federal government websites.<sup>23</sup> Those opposing reform who insist that the Internet simply does not matter in the information marketplace at all, or at least not in local markets, remain willfully blind to these truly revolutionary developments. NAB observes that they must remain so to justify their arguments that decades-old ownership restrictions should not be loosened, even the slightest degree.

#### **B. Opponents of Reform Continue to Rely on Various Erroneous Assumptions and Unsupported Assertions**

Comments submitted by those opposing any change in the local ownership restrictions (except to turn back the clock even farther) rely on a number of erroneous assumptions and unsupported claims. NAB addresses several of these below.

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<sup>20</sup> *Id.* at 19.

<sup>21</sup> See, e.g., Comments of Media General, Inc. in MB Docket No. 09-182 at Appendix A (Nov. 20, 2009); Comments of NAA at 20-23; Tribune at 27-28, 37-38, 47-48, 56-57, 66-67, 73-77; Grant Group at 7-9; Media General at 13-15.

<sup>22</sup> See NAB Comments at 21-22.

<sup>23</sup> See Horrigan, “Broadband Adoption and Use in America” at 16.

For example, parties opposing any updating of the rules start with the assumption that the most diffuse ownership is “the best” and that there can be no benefits from common ownership of media outlets.<sup>24</sup> In fact, however, many studies have demonstrated the benefits that arise from common ownership of broadcast outlets and cross-ownership of newspapers and broadcast outlets.<sup>25</sup> Nor can the opponents’ position be supported by unfounded assumptions that viewpoint diversity is automatically reduced (and the public automatically injured) by any common ownership.<sup>26</sup> As NAB discussed in detail in its initial comments, numerous studies have shown that commonly owned outlets do offer diverse viewpoints and content, and that viewpoint or “slant” generally arises from consumer demand, not owner ideology.<sup>27</sup> Parties opposing any reform also similarly assume that local ownership is automatically better than non-local,<sup>28</sup> a supposition that has never been established.<sup>29</sup> Studies conducted by and for the Commission in 2007 did not support claims that small locally-

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<sup>24</sup> See, e.g., Comments of Future of Music Coalition (“FMC”) in MB Docket No. 09-182 at 5, 12 (July 12, 2010); Comments of Free Press in MB Docket No. 09-182 at 4 (July 12, 2010).

<sup>25</sup> See, e.g. NAB Comments at 40-43; 72-90. The FCC has in numerous decisions recognized the benefits of common ownership in improving service to the public, as has the Third Circuit Court of Appeals. See NAB Comments at 41-43 (discussing FCC decisions recognizing that common ownership can produce efficiencies resulting in public interest benefits, particularly localism); *Prometheus Radio Project v. FCC*, 373 F.3d 372, 398-99, 415-16 (3<sup>rd</sup> Cir. 2004) (upholding FCC’s determination that television duopolies and common ownership of newspapers and broadcast outlets can both promote localism).

<sup>26</sup> See, e.g., Comments of CWA at 13, 15, 19; AFTRA at 6, 8; UCC at 9.

<sup>27</sup> See NAB Comments at 23-34. Opponents of reform do not address these various empirical and economic studies.

<sup>28</sup> See, e.g., Comments of FMC at 12.

<sup>29</sup> See *Bechtel v. FCC*, 10 F.3d 875 (D.C. Cir. 1993).

owned stations or groups provide consistently superior service to their viewers and listeners, as compared to larger and/or non-local groups.<sup>30</sup>

Concerns about the disappearance of small and/or locally-based owners, are also overstated. The Commission in 2002 found that the number of independent owners of media outlets had increased significantly since 1960,<sup>31</sup> and NAB in 2006 documented the large numbers of media outlets and different owners of television and radio stations in DMAs of varying sizes.<sup>32</sup> According to the Commission, the number of locally owned television stations increased approximately 3 percent from 2002-2005, and, in 2005, 6,498 radio stations (out of 13,590) were locally owned.<sup>33</sup> In this proceeding, one commenter has noted that the number of separate owners of radio stations in the U.S. increased from 4,400 in 2006 to more than 4,700 in 2010.<sup>34</sup> Claims that there are virtually no small owners remaining in radio are simply inaccurate.<sup>35</sup> Stand-alone radio stations still represent a significant proportion of all stations in local markets. As shown in Attachment B, 22.4 percent (or over 1500 stations) of the

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<sup>30</sup> See NAB Comments in MB Docket No. 06-121 at 25-26 (Oct. 22, 2007) (discussing, *inter alia*, studies concluding that local ownership of television stations was associated with six minutes *less* news programming per day and that parent companies of television stations with greater household coverage provided more state and local political news).

<sup>31</sup> See FCC, S. Roberts, J. Frenette and D. Stevens, "A Comparison of Media Outlets and Owners for Ten Selected Markets (1960, 1980, 2000)" (Sept. 2002).

<sup>32</sup> See NAB Comments in MB Docket No. 06-121 (Oct. 23, 2006), Attachment A, BIA Financial Network, "Media Outlets Availability by Markets."

<sup>33</sup> FCC, K. Duwadi, S. Roberts and A. Wise, "Ownership Structure and Robustness of Media" at 5, 11 (2007) (also reporting 439 locally owned television stations in 2005).

<sup>34</sup> See Comments of Clear Channel Communications, Inc. in MB Docket No. 09-182 at 5 (July 12, 2010).

<sup>35</sup> See FMC Comments at 13 (stating that, after 1996, small radio owners "were either bought up by large broadcasters or shut down their operations").

approximately 6700 full-power commercial stations operating in Arbitron markets are the only station owned within the market by the station's owner. Thus, contrary to certain claims about the post-1996 Act radio marketplace, a substantial number of "independent" radio voices remain in local markets.<sup>36</sup>

In short, opponents of reform assume that common ownership is "bad" merely because it reduces diffuse and/or local ownership.<sup>37</sup> The Commission cannot, however, maintain outdated broadcast-only ownership limitations on an unwarranted and unsubstantiated belief in diffuse ownership for its own sake, especially in the absence of empirical evidence that diffuse ownership produces superior service to the public and is competitively sustainable in the 21<sup>st</sup> century marketplace.<sup>38</sup>

## **II. The Record Presents No Basis For Retaining In Their Current Form Asymmetric Ownership Restrictions That Disfavor Locally-Oriented Radio And Television Stations**

### **A. There Is No Basis Under Section 202(h) to Retain the Current Newspaper/Broadcast Cross-Ownership Rule**

Commenters opposing reform of the severe restrictions on newspaper/broadcast cross-ownership essentially claim that nothing has changed since 1975.<sup>39</sup> This position

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<sup>36</sup> See Attachment B, "Independent Radio Voices In Radio Markets" (July 2010).

<sup>37</sup> See, e.g., Comments of FMC at 12; AFTRA at 3-4.

<sup>38</sup> Certain parties also attack common ownership and/or operation because of its asserted role in reducing employment in the broadcast and newspaper industries. See, e.g., Comments of CWA at 7. Such commenters tend to blame job losses squarely on the fact of common ownership, while minimizing the role that structural change and the economic struggles of ad-supported media have had in causing employment declines in traditional media. In any event, labor and employment issues appear outside the scope of this proceeding and likely outside the FCC's authority to address in the first instance.

<sup>39</sup> See, e.g., Comments of CWA at 30 ("This rule is as important today as it was in 1975 when it was first adopted.").

is untenable, in light of the dramatic competitive changes in the advertising and information marketplaces.<sup>40</sup> The struggles of the newspaper industry with severely declining circulation and revenues are well documented and cannot be denied.<sup>41</sup> As the Wall Street Journal observed earlier this month, “[i]t is a sign of the times that in newspapers, a modest drop in ad revenue will be something to cheer about.”<sup>42</sup>

Moreover, the record in this proceeding provides myriad concrete examples of the benefits to local consumers of newspaper/broadcast combinations.<sup>43</sup> In addition, numerous empirical studies conducted by the FCC and other parties over the course of decades have clearly established the benefits of newspaper/broadcast cross-ownership in terms of increased broadcast news and local news production by the cross-owned station.<sup>44</sup> Opponents of reform do not address these myriad studies.<sup>45</sup>

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<sup>40</sup> See Section I, *supra*; NAB Comments at 10-22.

<sup>41</sup> See, e.g., Comments of Tribune at 85-90; Media General at 17-18; NAA at 12-18; A.H. Belo Corp. at 16-17. See also PEJ, “The State of the News Media 2010: Newspapers Summary Essay,” *available at* [www.stateofthemediamedia.org/2010/newspapers\\_summary\\_essay.php](http://www.stateofthemediamedia.org/2010/newspapers_summary_essay.php)

<sup>42</sup> R. Adams, “Gannett Uptick Isn’t Strictly Good News,” WSJ.com (July 16, 2010) (after 29 percent decline in newspaper print-ad revenues in 2009, “industry-wide declines decelerated to a still-bad 11% in the first quarter” of 2010).

<sup>43</sup> See, e.g., Comments of Morris Communications Company, LLC in MB Docket No. 09-182 at 8-13 (July 12, 2010) (showing benefits of newspaper/radio cross-ownership in Topeka and Amarillo, including commitment to local news such as agricultural, investigative and political); Media General at 10-12 (benefits of cross-ownership shown to include increased news and public affairs coverage, including launching of a Spanish-language newspaper); A.H. Belo Corp. at 8-13 (discussing award-winning news and investigative journalism by newspaper/television combination in Dallas).

<sup>44</sup> See NAB Comments at 73 (discussing five studies conducted by and for the FCC in 2007 that showed benefits of newspaper/broadcast cross-ownership); NAB Reply Comments in MB Docket No. 06-121 at 82-84 (Jan. 16, 2007) (identifying ten additional studies conducted by different parties showing that cross-owned broadcast outlets resulted in the production of more and higher quality news and nonentertainment programming on the broadcast outlets).

While ignoring or dismissing these studies, Free Press nonetheless asserts that *markets* with commonly-owned television/newspaper combinations provide less news, citing comments from 2007.<sup>46</sup> Free Press/Consumers Union/CFA's 2007 claims about the supposed deleterious effects of newspaper combinations on market-wide television news production were soundly refuted at the time. Two different economic analyses discredited their claims as being based on untenable assumptions and inappropriate distinctions between grandfathered cross-owned stations and television stations with cross-ownership waivers, and, ultimately, not even supported by their own analysis.<sup>47</sup> Other studies in fact have found that the average amount of non-entertainment programming in markets with newspaper/television combinations exceeds the amount in comparable markets without such combinations.<sup>48</sup> In sum, no commenter has shown

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<sup>45</sup> See, e.g., Comments of UCC at 9 (calling for even stricter newspaper/broadcast cross-ownership rule without discussing any empirical evidence).

<sup>46</sup> See Comments of Free Press at 6, citing Oct. 2007 further comments of Consumers Union, Consumer Federation of America ("CFA") and Free Press.

<sup>47</sup> Reviews of the study submitted by Free Press, Consumers Union and CFA showed, *inter alia*, that their own regression analysis produced *no* statistically significant results. See NAB Comments in MB Docket No. 06-121 at 9-10 (Dec. 11, 2007), citing K. Mikkelsen, Economists Incorporated, "Effects of Newspaper-Television Cross-Ownership on Total Market News Minutes: Response to 'Further Comments of Consumers Union, Consumer Federation of America and Free Press,'" Attachment 1 to Reply Comments of NAA on Media Ownership Research Studies (Nov. 1, 2007); H. Furchtgott-Roth, "Econometric Review," Appendix A to Media General Reply Comments on FCC Research Studies on Media Ownership (Nov. 1, 2007).

<sup>48</sup> See M. Baumann, "Review of the Increases in Non-Entertainment Programming Provided in Markets with Newspaper-Owned Television Stations: An Update," Comments of Media General in MB Docket No. 06-121, Appendix 5 (Oct. 23, 2006); Comments of Media General in MM Docket No. 01-235, Appendix 5 (Dec. 3, 2001).

any basis for the Commission to properly retain the existing severe limit on newspaper/broadcast cross-ownership in light of current competitive conditions.<sup>49</sup>

**B. There Is No Basis for Retaining the Current, Highly Restrictive Duopoly Rule that Prevents Welfare-Enhancing Combinations in Most Television Markets**

The evidence submitted in this and previous proceedings overwhelmingly demonstrates the need for reform of the television duopoly rule, especially in small markets, and the public interest benefits that flow from common ownership and operation of two television stations in local markets. The opponents of reform essentially ignore the evidence on both these counts.

Numerous commenters discussed the serious financial constraints experienced by local television stations, particularly in mid-sized and small markets, and how these constraints prevent some stations in these markets from providing local news, which is expensive to produce.<sup>50</sup> Contrary to one of the FCC's assumptions for imposing the

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<sup>49</sup> NAB observes more generally that Free Press re-submitted all its filings and "studies" made jointly with Consumers Union and CFA from 2006 and 2007 in this proceeding. NAB has previously refuted various portions of these submissions in numerous filings. See Reply Comments of NAB in MB Docket No. 06-121 (Jan. 16, 2007); NAB Ex Parte in MB Docket No. 06-121 (Sept. 25, 2007); Reply Comments of NAB in MB Docket No. 06-121 (Nov. 1, 2007); NAB Ex Parte in MB Docket No. 06-121 (Nov. 1, 2007); Comments of NAB in MB Docket No. 06-121 (Dec. 11, 2007). NAB also noted in 2007 that many of these so-called studies were in reality advocacy position papers and should be treated by the FCC as such. See Reply Comments of NAB in MB Docket No. 06-121 at 76 (Jan. 16, 2007).

<sup>50</sup> See, e.g., Comments of Sainte Sepulveda, Inc. in MB Docket No. 09-182 at 4-5, 8 (July 12, 2010) (noting the very limited television ad revenue available in small markets such as Eureka, CA, which inhibits the production of local news); Comments of LIN Television Corporation in MB Docket 09-182 at 2 (July 12, 2010) (a robust local television news operation costs between \$1.3 million in a small market to \$8.2 million in a mid-sized market per year); Comments of Belo Corp. in MB Docket No. 09-182 at 13 (July 12, 2010) (Belo annually invests more than \$100 million in television news departments in its 15 markets, which accounts for a significant portion of its overall total station expenses each year); NAB Comments at 53-54, 65-71, 79-81 and Attachments

top-four restriction as part of its duopoly rule, in many markets the top-four stations do not all provide local news because they lack the resources for initiating and then maintaining costly local news operations.<sup>51</sup> As Sainte Sepulveda pointed out in this proceeding, several stations in its market (Eureka, CA, DMA No. 195) are losing money and only one station out of five airs local news programming.<sup>52</sup>

The record also demonstrates the range of public interest benefits – particularly increased local news, political, public affairs and sports programming – gained from common ownership of television stations in local markets of all sizes.<sup>53</sup> LIN declared

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B, C and E (discussing in depth the costs associated with local news production, the declining financial condition of television stations in markets of all sizes, and the limited revenue potential of stations in smaller markets).

<sup>51</sup> See NAB Comments in MB Docket 06-121 at 105-106 (Oct. 23, 2006) (noting evidence showing that, *inter alia*, while the top-four ranked stations in large markets may generally offer local news programming, in the 160 markets from 51-210 there are, on average, only 2.49 newscasts per market). Other commenters have previously shown that there are many markets below the top 50 that have only one, two or three newscasts. See *id.* at 105 and n. 243.

<sup>52</sup> See Sainte Sepulveda Comments at 8-9. See also LIN Comments at 2 n. 9 (third or fourth-ranked station in small or midsized market will not be able to profitably support a viable local news operation or other local programming); NAB Comments at 63 (citing various articles about the unprofitability and unsustainability of lower-rated newscasts, especially in smaller markets). The top-four restriction also makes no sense as an across-the-board rule because, in many markets, there is a single leading station that, even if the third- and fourth-ranked stations were allowed to combine, their combined viewing shares would still be less than or equal to the audience share of the top-ranked station. See NAB Comments in MB Docket No. 06-121 at 103-104 (Oct. 23, 2006); Comments of Nexstar Broadcasting, Inc. in MB Docket No. 09-182 at 16-17 (July 12, 2010).

<sup>53</sup> See, e.g., Comments of LIN at 4 (duopoly in Norfolk resulted in conversion of a home shopping station to a Fox affiliate with local news; similarly, duopolies in Buffalo and Austin resulted in increased local news and sports programming); Belo Corp. at 6-9 (duopolies in markets of various sizes resulted in initiating daily newscasts in two markets, and an overall expansion of local news and public affairs programming, political coverage and local sports coverage); Hearst Television, Inc. in MB Docket No. 09-182 at 5 (July 12, 2010) (duopoly in Sacramento enabled stations to amortize high costs of local news and political coverage across both stations); Comments of Smaller

that the “scale and infrastructure” afforded by its “local combinations” allowed the company to add about 1,500 hours of local content across its markets last year.<sup>54</sup>

Outdated restrictions applicable to television stations but not to their video marketplace competitors additionally impede local stations’ ability to innovate and offer new services to viewers.<sup>55</sup>

All this evidence is in addition to previous studies showing that stations in local combinations (duopolies and local marketing agreements) are more likely to offer local news and public affairs programming; that local co-ownership of stations positively impacts the quantity of local news provided; and that the acquired stations in duopolies increase their revenue and audience shares following the combination.<sup>56</sup> Free Press’s

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Market Television Stations in MB Docket No. 09-182 at 8-9 (July 12, 2010) (citing evidence from prior proceedings showing that local combinations, including local marketing agreements, result in increased local news, public affairs and sports programming).

<sup>54</sup> Comments of LIN at 3.

<sup>55</sup> See Comments of Gray Television at 10-11 (discussing various multi-media services provided in their local markets); Nexstar at 15 (stations still spending hundreds of thousands of dollars to purchase digital studio equipment and update sets to begin providing locally-originated digital, high-definition programming); Belo Corp. at 10-11 (discussing development of mobile DTV).

<sup>56</sup> See B. Owen, K. Mikkelsen, R. Mortimer, and M. Baumann, Economists Incorporated, “Effect of Common Ownership or Operation on Television News Carriage, Quantity and Quality,” Economic Study B attached to Comments of Fox Entertainment Group, Inc. and Fox Television Stations, Inc., National Broadcasting Co, Inc. and Telemundo Communications Group, Inc., and Viacom in MB Docket No. 02-277 (Jan. 2, 2003); BIA Financial Network, “Television Local Marketing Agreements and Local Duopolies: Do They Generate New Competition and Diversity?” (Jan. 2003), appendix to Comments of Coalition Broadcasters, MM Docket No. 02-277 (Jan. 2, 2003); M. Baumann and K. Mikkelsen, Economists Incorporated, “Effect of Common Ownership or Operation on Television News Carriage: An Update,” Attachment A to NAB Reply Comments, MB Docket No. 06-121 (Nov. 1, 2007); BIA Financial Network, “Economic Viability of Local Television Stations in Duopolies,” Attachment H to NAB Comments, MB Docket No. 06-121 (Oct. 23, 2006); FCC, 2007 Ownership Study No. 4, D. Shiman, “The Impact of Ownership Structure on Television Stations’ News and Public Affairs Programming”

assertion in this proceeding that television duopolies do not exhibit statistically significant increases in either market share or hours of news thus appears contrary to available evidence and, indeed, inconsistent with previous Free Press Comments.<sup>57</sup> In comments filed in 2007, Free Press, Consumers Union and CFA found that their research on the amounts of news and public affairs programming available on a market level indicated that television “duopolies may lead to more local news and public affairs.”<sup>58</sup>

The mere fact that stations have transitioned to digital, and now have the option to multicast, does not justify retention of the existing rule, let alone tightening of the existing rule as UCC contends.<sup>59</sup> NAB has already explained that this claim is unfounded and reflects a fundamental misunderstanding of the digital transition and the video marketplace.<sup>60</sup> As NAB previously discussed in detail, the very premise of UCC’s argument for rolling back the duopoly rule – that a multicast programming stream is the technical, operational and legal equivalent of owning an entire separate broadcast station with statutory carriage rights – is clearly erroneous. Quite apart from the basic legal fact that multicast programming may be stripped out by cable and satellite

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(July 24, 2007). The Third Circuit in *Prometheus* specifically cited the 2003 studies when confirming the FCC’s finding that common ownership of television stations “can improve local programming.” *Id.*, 373 F.3d at 415.

<sup>57</sup> See Free Press Comments at 6.

<sup>58</sup> Further Comments of Consumers Union, Consumer Federation of America and Free Press in MB Docket No. 06-121 at 98 (Oct. 22, 2007) (while generally continuing to insist that “[a]s market concentration increases, local news and public affairs availability decreases,” Free Press, Consumers Union and CFA also found that “duopolies appear to work in the opposite direction”).

<sup>59</sup> See UCC Comments at 7.

<sup>60</sup> See Opposition of NAB to Petition for Reconsideration in MB Docket No. 06-121 at 9-12 (May 6, 2008).

operators, multiple programming streams are not the only way, or necessarily the best way, to use digital television technology. As other commenters note, television broadcasters may choose to use their single digital channel to provide high definition programming, mobile DTV or other services, rather than multicast.<sup>61</sup> Thus, the fact that digital technology permits multicasting seems to have little relevance to the question of whether the FCC's existing duopoly rule makes sense in today's increasingly competitive video marketplace.<sup>62</sup>

In sum, no basis has been presented to justify retention of the current duopoly rule, which, as NAB and other commenters pointed out, was found arbitrary by the D.C. Circuit Court of Appeals eight years ago.<sup>63</sup> The Commission should reform its eight voice/top-four duopoly rule (including its overly-restrictive failing station waiver standard) to allow duopolies more freely in markets of all sizes.<sup>64</sup> In light of increasing competition from multichannel and online providers for audiences and for advertising revenue (as shown in Attachment A and NAB's initial comments) and the other evidence presented in this and earlier proceedings, Section 202(h) requires significant loosening of the duopoly rule.

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<sup>61</sup> See Comments of Belo Corp. at 9-12; Gray Television at 12.

<sup>62</sup> UCC further urges the FCC to eliminate the UHF discount. See UCC Comments at 10. The UHF discount is not at issue in the Section 202(h) periodic reviews. See *Prometheus*, 373 F.3d at 396-97.

<sup>63</sup> See *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002).

<sup>64</sup> Sainte Sepulveda argued in detail that the failing station waiver (particularly the four percent all-day audience share threshold) must be reformed because this threshold makes the waiver unavailable for struggling stations, especially those in small markets. See Sainte Sepulveda Comments at 1-4; accord NAB Comments at 84-85. Sainte Sepulveda (at 2) also pointed out that the top-four restriction more generally disfavors smaller markets with limited revenue potential because it prevents duopolies entirely in markets with fewer than five stations.

For the same reasons they reflexively oppose the formation of television duopolies, several commenters are also highly critical of local agreements such as local marketing agreements, joint sales agreements and shared services agreements, and urge the Commission to view them with disfavor.<sup>65</sup> As an initial matter, NAB observes that these various types of agreements comply with current FCC rules.<sup>66</sup> NAB and other commenters, moreover, have explained that these various types of local arrangements and partnerships enhance the provision of local news, emergency journalism and other services, particularly in tough economic times.<sup>67</sup> Again, commenters questioning these types of agreements assume without evidence that any combined activity reduces viewpoint diversity.<sup>68</sup> Since even commonly-owned outlets routinely express different viewpoints and offer different content,<sup>69</sup> this assumption is clearly erroneous.<sup>70</sup>

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<sup>65</sup> See, e.g., CWA Comments at 19-25; Free Press Comments at 9-10.

<sup>66</sup> The FCC's rules on attribution of certain local marketing agreements are well established, and there is no need to revisit these rules, particularly in this quadrennial review where the Commission has myriad other complex issues to address. Certainly there is no reason for the Commission to address in this proceeding individual complaints against specific shared services agreements. See CWA Comments at 33.

<sup>67</sup> See NAB Comments at 81-84 and Attachment B at 26-27; Comments of NAB, FTC New Media Workshop Project No. P091200 at 13 (Nov. 6, 2009); Comments of Gray Television at 13-15.

<sup>68</sup> See, e.g., CWA Comments at 19 ("local marketing agreements, local news services, shared services agreements and joint service agreements of television stations in the same market reduce viewpoint diversity").

<sup>69</sup> See NAB Comments at 23-34; Section I.B., *supra*. See also M. Spitzer, "Television Mergers and Diversity in Small Markets," *Journal of Competition Law and Economics* 1 (2010) (concluding that allowing jointly owned television stations in small markets would produce diversity in local news and public affairs programming).

<sup>70</sup> It is especially puzzling how the joint sale of advertising time is supposed to cause a reduction in the viewpoints available to viewers. NAB continues to oppose the

It is also erroneous to assume that, without these various joint arrangements, stations could finance and maintain their existing levels of local news and programming service. As shown above, in smaller markets particularly, many stations are unable to offer locally-produced news at all and lower-rated stations with existing news operations are struggling to maintain them. The Commission should refrain from taking actions with regard to these arrangements that would further jeopardize the maintenance of local news operations when the economic bases for local journalism are under significant stress.<sup>71</sup>

**C. In Light of Current Marketplace Conditions, the Commission Should Provide Greater Ownership Flexibility to Local Radio Broadcasters**

Contrary to the arguments of a few commenters who assert that local radio ownership limits should be tightened,<sup>72</sup> there is no basis for cutting back on the levels of local ownership established by Congress in 1996 in a less competitive and diverse marketplace. Given the growth of satellite radio, Internet-based audio platforms, podcasting, and various mobile audio devices, local radio stations are facing growing challenges in competing for audiences and advertising revenue.<sup>73</sup> As the Project for Excellence in Journalism recently observed, “other [audio] technologies are already eating away at the time people spend listening to traditional broadcasts,” and “[w]ith

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attribution of television joint sales agreements. See NAB Comments in MB Docket No. 04-256 (Oct. 27, 2004).

<sup>71</sup> Also, the FCC should be cautious about involving itself in the details of how stations organize their news gathering and production operations. For instance, it would seem to be outside the purview of the FCC to establish rules as to whether or not stations should be permitted to “pool” photographers for routine events or to share the costs of purchasing and maintaining expensive equipment such as helicopters or satellite trucks.

<sup>72</sup> See Comments of UCC at 9; FMC at 16-17.

<sup>73</sup> See NAB Comments at 86-90; Clear Channel Comments at 7-14.

every year the signs grow that terrestrial radio is already having, and will continue to have, a harder time.”<sup>74</sup> In such a competitive environment, the Commission should consider continued relaxation of the restrictions set nearly 15 years ago; certainly there can be no basis for making ownership restrictions that apply only to local terrestrial radio stations more strict.

As an initial matter, no credible evidence has been presented that current levels of common ownership have caused anti-competitive increases in radio advertising rates.<sup>75</sup> Common ownership of radio stations also is not – contrary to assumptions that group owners are somehow automatically less responsive to local listeners<sup>76</sup> – adverse to the FCC’s localism goal. A recent Government Accountability Office (“GAO”) report found that within selected individual radio markets, the top radio formats differ from the top radio formats nationally, “indicating that programming decisions are locally based on the preferences and interests of listeners within a given market.”<sup>77</sup> Listeners still count on radio to find new music. A survey of women, radio and new media released this month found that over two-thirds (67 percent) of female respondents said that radio is their main method for discovering new music.<sup>78</sup> Clearly, in today’s competitive audio

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<sup>74</sup> PEJ, “The State of the Media 2010: Audio Summary Essay,” *available at* [www.stateofthemediamedia.org/2010/audio\\_summary\\_essay.php](http://www.stateofthemediamedia.org/2010/audio_summary_essay.php)

<sup>75</sup> See NAB Comments at 88-89 (discussing several studies demonstrating that increases in common ownership after 1996 did not lead to increases in advertising prices); see *also* Clear Channel Comments at 14-20.

<sup>76</sup> See FMC Comments at 12-13.

<sup>77</sup> Government Accountability Office, GAO-10-369, “Media Programming: Factors Influencing the Availability of Independent Programming in Television and Programming Decisions in Radio,” at 28 (March 2010). GAO further analyzed data for the top 10 national radio station owners in 2009 and found that for most owners, “stations’ formats were differentiated within individual markets.” *Id.* at 33.

<sup>78</sup> See “New Ammunition in Royalty Fight,” *Inside Radio* (July 16, 2010).

marketplace, local stations respond to local listeners, as indeed they must to thrive, or even survive.<sup>79</sup>

Moreover, NAB reiterates that numerous studies (at least nine) have found that common ownership of radio stations increases programming diversity.<sup>80</sup> Given the diversity benefits derived from common ownership of radio stations, the Commission should consider in this proceeding providing greater flexibility to radio station owners.<sup>81</sup> In light of the record, all of the local radio restrictions must be examined carefully to determine if they remain necessary in the public interest under Section 202(h).<sup>82</sup>

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<sup>79</sup> NAB has previously documented the declining listening shares earned by even market-leading stations over time, due to increasing fragmentation of audiences in the audio marketplace. See NAB Comments in MB Docket No. 06-121 (Oct. 23, 2006), Attachment D, “Aggregate Shares of Top 5 Stations in Top 100 Arbitron Markets: Spring 2006 vs. Spring 2001 and Spring 1996.”

<sup>80</sup> See NAB Comments at 87; NAB Comments in MB Docket No. 06-121 at 21-22 (Oct. 22, 2007). See also BIA/Kelsey, “Over-the-Air Radio Service to Diverse Audiences – A Further Update,” Attachment A to NAB Comments (showing greater numbers of radio stations airing programming targeted to members of niche groups, including minority groups such as Spanish language-speaking and African-American listeners).

<sup>81</sup> FMC has contended that certain studies showing growth in radio programming diversity should be disregarded because they utilize programming formats as a measure of program diversity and some formats have a degree of overlapping song playlists. See FMC Comments at 15. NAB has refuted in detail FMC’s contentions, which were previously made in a 2006 submission. See NAB Ex Parte in MB Docket No. 06-121 (Nov. 1, 2007), attaching BIA Financial Network, “A Review of the Future of Music Coalition Study: Missing a Basis in the Reality of the Radio Industry.” To the extent that FMC asserts that song/playlist diversity is a better measure of diversity, the FCC’s own study on playlist diversity “suggest[ed] that diversity has grown significantly among stations *within* the same format and within the same city,” and stated that stations with the *same* “formats competing within the same market appear to differentiate themselves to appeal to their listeners.” Thus, “listeners in local radio markets may have experienced increasing song diversity” since 1996. FCC, G. Williams, K. Brown and P. Alexander, “Radio Market Structure and Music Diversity” at 16, 18 (Sept. 2002).

<sup>82</sup> See, e.g., Clear Channel Comments; Comments of Monterey Licenses, LLC in MB Docket No. 06-182 (July 12, 2010); Comments of M. Kent Frandsen in MB Docket No. 09-182 (July 12, 2010).

### III. The Commission Should Support Flexible, Market-Based Approaches For Promoting New Entry Into The Broadcast Industry

Several commenters addressing minority and female ownership concur with NAB that the Commission should take further steps to expand diversity in broadcasting by establishing incentives that will promote ownership of broadcast properties by minorities, women, and new entrants.<sup>83</sup> Clear Channel and the Diversity and Competition Supporters (“DCS”) urge the Commission to adopt a system of waivers or exceptions to the local radio ownership rules for broadcasters taking actions that enhance ownership opportunities for socially and economically disadvantaged businesses, including those owned by women and minorities.<sup>84</sup> Under Clear Channel’s proposed “menu-based” approach, a radio broadcaster taking such actions would earn “credits” that would allow them to own one station more than they would otherwise be able to hold under the local radio cap in the relevant market.<sup>85</sup> Another commenter urges the Commission to allow sellers of broadcast properties to hold a reversionary

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<sup>83</sup> See NAB Comments at 37-40.

<sup>84</sup> See Clear Channel Comments at 48-49; Comments of the Diversity and Competition Supporters in MB Docket No. 09-182 at 22-25 (July 12, 2010).

<sup>85</sup> The menu of actions that would qualify a broadcaster for such a credit could include, for example: (i) sale of a station to a qualified entity; (ii) providing loans or other financial assistance for the ownership or operation of a station by a qualified entity; (iii) contributing a portion of the purchase price of a station to a broadcast education, training, or professional development program; and (iv) leasing an HD channel to a qualified entity at a low cost, etc. See Clear Channel Comments at 48-49. See also DCS Comments at 22 (“incubator programs could encompass management or technical assistance, loan guarantees, direct financial assistance through loans or equity investment, training and business planning assistance”). DCS notes that it has proposed similar programs in past ownership proceedings and that there has been no opposition to incubator programs. See *id.* at 22-23. DCS would also define the relevant market as the market where the incubating broadcaster is acquiring a station or in “a market of approximately the same size.” *Id.* at 24. NAB supports the added flexibility of the DCS approach.

interest in properties for certain sales.<sup>86</sup> NAB agrees that incubator or other similar market-based programs would promote diversity in broadcasting without any countervailing harms to other policy goals. Moreover, the menu of options discussed by Clear Channel could be easily expanded beyond local radio and adapted for television station owners as well.

DCS also renews its past proposal that the Commission permit the sale of DTV and FM subchannels to socially disadvantaged businesses.<sup>87</sup> DCS notes that obtaining financing for operation of a subchannel pursuant to a local marketing or lease agreement presents additional challenges for minority broadcasters seeking financing due to the temporal nature of these arrangements. Actually holding a subchannel license, by contrast, would better facilitate financing for prospective operators of subchannels.<sup>88</sup> NAB previously found promise in these “share-time” or subchannel sales proposals with some modifications, and we reiterate our position here.<sup>89</sup>

Some commenters urge the Commission to retain the existing ownership rules to preserve or promote minority and female ownership.<sup>90</sup> Commenters supporting retention of the rules for this purpose fail to explain, however, how the current rules are

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<sup>86</sup> See Alliance for Women in Media (“AWM”) Comments in MB Docket No. 09-182 at 7-8 (July 12, 2010).

<sup>87</sup> See DCS Comments at 20-21.

<sup>88</sup> See DCS Comments at 21.

<sup>89</sup> See NAB Reply Comments in MB Docket No. 07-294 at 7-8 (Aug. 29, 2008) (urging consideration of the DCS share time proposals, but cautioning against imposition of undue restrictions on sales, which will impede the efficacy of these proposals and harm the potential market for secondary channels).

<sup>90</sup> See AWM Comments at 2-4, 6; AFTRA Comments at 6-7; Comments of National Association of Black Owned Broadcasters, Inc. (“NABOB”) in MB Docket No. 09-182 at 8-9 (July 12, 2010).

promoting this goal or provide relevant evidence in this regard. NABOB and AFTRA, for example, contend that there were reductions in minority ownership following changes to the radio ownership rules as part of the 1996 Act and the 1999 revisions to the local television ownership rule.<sup>91</sup> As NAB explained in its initial comments, the Commission should be skeptical of unproven assumptions about the relationship between relaxation of ownership limits and a reduction in the number of minority-owned broadcast stations. NAB has refuted certain such claims in the past, and has cited evidence of *increases* in the number of stations owned by minorities and women following earlier reforms of the local broadcast ownership restrictions.<sup>92</sup> Overly restrictive ownership limits that reduce economic incentives to invest in broadcasting affect the ability of all existing and aspiring broadcasters to raise capital, but the impact is felt even more strongly by new entrants, small businesses, women and minorities. Revisions to the rules that allow for

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<sup>91</sup> See NABOB Comments at 8-9; AFTRA Comments at 6-7. We note that AFTRA's claims about minority ownership declines in the television industry rely primarily upon an FCC-commissioned study that was later deemed "fatally flawed" under the scrutiny of peer review. See B.D. McCullough, Peer-Review Report on "The Impact of the FCC's TV Duopoly Rule Relaxation on Minority and Women Owned Broadcast Stations 1999-2006" by Hammond, *et al.*

<sup>92</sup> See Opposition of the National Association of Broadcasters to Petition for Reconsideration in MB Docket No. 06-121 at 22-23 (May 6, 2008), citing National Telecommunications and Information Administration, "Changes, Challenges, and Charting New Courses: Minority Commercial Broadcast Ownership in the United States," at 38 (Dec. 2000); Kofi A. Ofori, "Radio Local Market Consolidation & Minority Ownership," at 10-12, Attached as Appendix One to Comments of MMTTC in MM Docket Nos. 01-317 and 00-244 (March 27, 2002) (showing increase in the number of minority owned and controlled radio stations since 1997); "Consumers Union, et al. Has Not Demonstrated a Link Between Market Concentration and Minority/Female Station Ownership," Jim Tozzi/Center for Regulatory Effectiveness, Reply Comments in MB Docket No. 06-121 at 4 (Oct. 2007) (finding that members of minority groups owned a *greater* number of television stations in 2006 than they did before the FCC modestly relaxed the duopoly rule in 1999).

more efficient and competitively viable broadcast operations will help attract capital to the broadcast industry, to the benefit of both incumbents and newer entrants.

AWM discusses how economic challenges facing the broadcast industry can impede opportunities for employment and advancement for women, as well as their access to capital.<sup>93</sup> AWM asserts that “relaxing the ownership rules to permit further consolidation would only result in the further reduction of broadcast employment opportunities.”<sup>94</sup> NABOB similarly contends that because of the “serious financial difficulties” faced by the broadcast industry, it is “definitely not the time to make changes to the ownership rules.”<sup>95</sup> While NAB shares these commenters’ concerns about the economic challenges facing the industry, we cannot agree that retaining outdated ownership rules will improve opportunities for new entrants, women, minorities—or anyone else—in the broadcast industry. Requiring broadcasters to maintain an economically inefficient number of separately owned and financially struggling outlets will harm the financial viability of broadcast stations and *reduce* opportunities for advancement and new jobs, not to preserve such opportunities as suggested by AWM. As we explained in our initial comments, NAB believes that incentives to promote new entry and access to capital are superior to restrictive ownership rules that place all broadcasters at a competitive disadvantage versus other media.

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<sup>93</sup> See AWM Comments at 5-7 (noting layoffs in the broadcast industry over the last two years and observing that the “current economic crisis” poses a serious challenge to the availability of broadcast managerial positions and opportunities for advancement for lower-level employees).

<sup>94</sup> AWM Comments at 6. As noted in Section I, the FCC’s authority to address directly these types of labor issues appears questionable.

<sup>95</sup> NABOB Comments at 5.

#### **IV. Cable Operators' Repetitive Claims Regarding Retransmission Consent Are Irrelevant To The Instant Proceeding And Have Been Refuted Elsewhere**

Two commenters responding to the *Notice* seek to import issues from other, unrelated proceedings into this quadrennial review of the broadcast ownership rules. These parties would have the Commission revise its retransmission consent and/or attribution rules to protect the needs and interests of *cable operators* rather than those of viewers and listeners. The Commission should properly view these comments as misdirected efforts to re-litigate matters that are not at issue in the instant proceeding. To the extent that the Commission chooses to consider these comments in this or any other proceeding, the Commission should reject them as factually and legally unsupportable.

##### **A. The Proposed Revisions Concern Retransmission Consent Rules, Not Broadcast Ownership**

Time Warner Cable ("TWC") and the American Cable Association ("ACA") urge the Commission to prohibit stations from negotiating retransmission consent "jointly" (i.e., this would include negotiations for more than one commonly owned station in the same market, stations that are part of local marketing agreements ("LMAs"), stations operating under a shared services agreement, or a single station operating with two network affiliations via multicast streams).<sup>96</sup> TWC also urges the Commission to treat certain retransmission consent-related terms of network affiliation agreements as attributable interests for purposes of the Commission's national television ownership cap, or to otherwise restrict network-affiliate relationships with regard to retransmission

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<sup>96</sup> See TWC Comments at 7-17; ACA Comments.

consent.<sup>97</sup> Arguments about the national television ownership cap should be disregarded, as this rule is not at issue in this quadrennial review.

Cable commenters' broader claims about the relationship between certain broadcaster agreements and retransmission consent negotiations are irrelevant in this ownership proceeding, and are without merit in any event.<sup>98</sup> Agreements such as LMAs were in common use when Congress adopted the good faith negotiation requirement, when the Commission adopted its rules implementing the statute, and in each of the previous rounds of retransmission consent elections and negotiations over the past two decades. Yet, neither Congress nor the Commission placed any limitations on the number of markets, systems, stations or programming streams<sup>99</sup> that could be

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<sup>97</sup> See TWC Comments at 21.

<sup>98</sup> As NAB and other broadcasters have explained in the past: "There are no restrictions on the ability of MVPDs generally or individual cable systems to negotiate across systems and/or markets for carriage. Negotiations by any television broadcaster, whether a sole owner of a single station negotiating on its own, negotiations involving commonly owned stations, or joint negotiations pursuant to agreements between stations are and should be treated no differently. The FCC's complaint process provides any aggrieved MVPD with a remedy should it be faced with a broadcaster refusal to negotiate in good faith." Reply Comments of the Broadcaster Associations in MB Docket No. 10-71 at 19-20 (June 3, 2010).

<sup>99</sup> One of the many public interest benefits of the digital television transition is that in markets that could not otherwise support a station affiliated with each of the four major broadcast networks, some broadcasters have negotiated affiliation with a second network on a multicast programming stream. This development clearly expands the quality, quantity, and diversity of free over-the-air programming for viewers in these markets, and does not change the FCC's past determinations that it is presumptively consistent with the good faith standard to negotiate carriage for multiple programming streams during retransmission consent negotiations. See *Carriage of Digital Television Broadcast Signals*, First Report and Order and Further Notice of Proposed Rule Making, 16 FCC Rcd 2598 at ¶ 35 (2001). *Accord Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent Issues: Good Faith Negotiation and Exclusivity*, First Report and Order, 15 FCC Rcd 5445 at ¶ 56 (2000). Given the public interest benefits of new network service to these "short" markets, this development is not a rationale for changes to retransmission consent, ownership or affiliation rules as alleged by cable commenters.

simultaneously addressed as part of the same rounds of retransmission consent negotiations.<sup>100</sup> Cable commenters have presented no legal or economic reason why such limits should exist.

Moreover, even if cable operators had a legal or economic rationale for their claims, they have yet to demonstrate any facts relevant to these arguments. TWC cites the “fact” that an economist believes that it is “very likely” that retransmission consent is jointly negotiated where stations are involved in agreements.<sup>101</sup> ACA contends that “available evidence ... suggests” that higher rates are being paid by cable operators where one broadcast station negotiates retransmission consent on behalf of another station in the same market.<sup>102</sup> As NAB explained in refuting these claims elsewhere, cable operators have not even shown that joint negotiations are taking place,<sup>103</sup> much

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<sup>100</sup> NAB notes that the FCC has previously declined to approve such requested limitations on retransmission negotiations. Three years ago, the cable industry urged the FCC to prohibit agreements that would allow broadcasters to negotiate retransmission consent for more than one station affiliated with a major network in the same market. See Reply Comments of NCTA in MB Docket Nos. 06-121 *et al* (Jan. 16, 2007). The FCC did not grant this request, and there is no reason for it to do so now.

<sup>101</sup> TWC Comments at 7, citing William P. Rogerson, “Joint Control or Ownership of Multiple Big 4 Broadcasters in the Same Market and Its Effect on Retransmission Consent Fees,” attached as Appendix B to Comments of American Cable Association in MB Docket No. 10-71 (May 18, 2010) (“*Rogerson Joint Control Report*”) at 6.

<sup>102</sup> See ACA Comments at 2, 13-16, citing *Rogerson Joint Control Report* and Appendix A, “36 Identified Instances of Common Ownership of Multiple Big 4 Affiliates in the Same Market and 57 Identified Instances of Common Control of Multiple Big 4 Network Stations in the Same Market” (“*Common Control Tables*”). ACA’s *Common Control Tables* also were previously filed in MB Docket No. 10-71.

<sup>103</sup> Reply Comments of the Broadcaster Associations in MB Docket No. 10-71 at 22 (observing that ACA concedes that it is not clear whether the joint agreements it has identified involve retransmission consent negotiations). Similarly, although TWC states that “several smaller station groups” in its footprint are jointly negotiating retransmission consent, it cites nothing more than news articles that announce joint operating agreements. See TWC Comments at 8. Not one of the cited articles mentions plans for any stations or station groups to jointly negotiate retransmission consent.

less that broadcasters have any form of undue leverage in these negotiations or that anything improper has occurred.<sup>104</sup>

With regard to TWC's contention that network affiliation agreements affecting retransmission consent should result in an "attributable" interest to the network, neither the Communications Act nor the Commission's rules have ever treated affiliation agreements or the negotiation of retransmission consent as an "attributable interest." Negotiating retransmission consent on behalf of another party is common, particularly among attorneys and consultants. The idea that negotiating retransmission consent agreements on behalf of another party would constitute an attributable interest is wholly inconsistent with the way in which the Commission defines attribution. Attribution rules "seek to identify those interests in or relationships to licensees that confer on their holders a degree of influence or control such that the holders have a realistic potential to affect the programming decisions of licensees or other core operating functions."<sup>105</sup> The kinds of "core operating functions" which give rise to attribution include decisions about what programming *should be aired* by a station (not the prices, terms and conditions of the retransmission of broadcast signals by MVPDs); personnel issues (i.e.,

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<sup>104</sup> Reply Comments of the Broadcaster Associations in MB Docket No. 10-71 at 13-14 (*Rogerson Joint Control Report* demonstrates that retransmission consent fees are modest by any standard); 18-20 (negotiations involving more than one station are lawful and do not harm the public interest); 20-21 (public interest benefits of dual affiliation); 22 (even if joint negotiations occur, proposals for carriage conditioned on carriage of other programming are presumptively consistent with good faith requirement); 23-24 (*Rogerson Joint Control Report* does not conclusively show that joint negotiations result in higher fees on a theoretical or empirical basis).

<sup>105</sup> *In the Matter of Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, 14 FCC Rcd 12559 ¶1 (1999). The attribution rules seek to strike a balance between identifying such interests and "permit[ting] arrangements in which a particular ownership or positional interest involves minimal risk of influence, in order to avoid unduly restricting the means by which investment capital may be made available to the broadcast industry." *Id.* at ¶ 5.

the hiring, firing, and compensation of employees); and finances (i.e., traditionally focusing on payments for significant station expenses). Retransmission consent agreements do not implicate any of these core areas of station operations.

TWC's use of the word "attribution" is nothing more than a feeble attempt to graft its unfounded claims concerning retransmission consent onto the broadcast ownership framework. We urge the Commission to decline the invitation to incorporate attribution rules into an already laborious proceeding involving five different broadcast ownership rules. Cable operators have been afforded ample opportunity for comment on their retransmission consent concerns in other fora.

In summary, the methods of negotiation used by broadcasters and MVPDs are governed by the retransmission consent regime, including the good faith rules. As demonstrated time and time again, broadcasters are negotiating in good faith. Given the extensive comment by NAB and other broadcasters regarding retransmission consent in other proceedings, we will not reiterate all of the reasons that cable operators' claims are without merit. Should the Commission make a determination that it is appropriate to consider rules governing retransmission consent negotiations in connection with the instant proceeding, NAB will address these issues in further detail.

**B. Cable Operators Seek to Promote *Their Own* Interests, Not the Public Interest**

Although cable operators complain that joint conduct by broadcasters harms the public, they have not identified any public interest harms. The only public interest harm credibly mentioned in cable operators' comments is the harm arising from rate

increases that they are choosing to impose on their subscribers.<sup>106</sup> As NAB has previously explained, rising consumer rates for MVPD service are not caused by retransmission consent compensation.<sup>107</sup> TWC even goes so far as to contend that the Commission should consider the prices paid by MVPDs for retransmission consent in its analysis.<sup>108</sup> But the Commission's multiple ownership rules are not intended to provide sufficient levels of competition or diversity for *cable operators*. Rather, they are designed to promote competition, diversity and localism *for the viewing and listening public*. Although TWC asserts that public interest harms will result if various forms of joint negotiations are not banned, they cite not one shred of evidence that joint negotiation for retransmission consent is reducing the quality or quantity of programming available to the public. As NAB has explained in other proceedings, the modest retransmission consent compensation paid to broadcasters is critical to their ability to provide high-quality informational and entertainment programming, including

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<sup>106</sup> TWC Comments at 9 (“these higher fees must [sic] are passed on to consumers”); ACA Comments at 11-12 (“consumers ... foot the bill in the form of higher rates”). ACA also cites a previously filed survey concerning its members’ plans to raise consumer rates. ACA Comments at 12, citing Comments of the American Cable Association, MB Docket No. 07-269, Appendix 1, Clarus Research Group, “Impact of Retransmission Consent Costs on Members of the American Cable Association,” at 2, 7 (July 29, 2009). NAB and others addressed the flaws in this survey when it was twice filed last year. See NAB Reply Comments in MB Docket No. 07-269 at 10-11 (June 22, 2009) (the survey “contains flaws ranging from unexplained gaps to subjective and leading questions that do not appear designed to elicit objective responses”); Reply Comments of the Broadcaster Associations in MB Docket No. 07-269 at 7-11 (Aug. 28, 2009).

<sup>107</sup> See Comments of the Broadcaster Associations in MB Docket No. 10-71 at 45-50 (retransmission consent fees represent a small fraction of MVPD expenses and revenues); Reply Comments of the Broadcaster Associations in MB Docket No. 10-71 at 13-14 (*Rogerson Joint Control Report* demonstrates that retransmission consent fees are modest by any standard).

<sup>108</sup> TWC Comments at 9.

life-saving emergency news and information.<sup>109</sup> The current retransmission consent regime benefits the public by expanding the quality, quantity and diversity of available programming both over-the-air and via MVPD service.<sup>110</sup> Clearly, cable commenters are using the instant ownership proceeding to re-litigate issues they have raised in connection with their retransmission consent rulemaking petition, and the Commission should consequently not consider their arguments here.

Finally, cable commenters' claims that the limited common ownership of broadcast stations or other broadcaster agreements could somehow be anti-competitive simply ring hollow.<sup>111</sup> This is particularly true when cable operators, in contrast to

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<sup>109</sup> See, e.g., Comments of the Broadcaster Associations in MB Docket No. 10-71 at 6-7 (May 18, 2010) (in 2009 local stations broadcast an average of more than 27 hours of emergency and special news programming per year and local stations provide annually some \$10 billion to public service initiatives and charities); 51-52 (retransmission consent compensation is critical to local news offerings); Reply Comments of the Broadcaster Associations in MB Docket No. 10-71 at 8-10 (June 3, 2010).

<sup>110</sup> See *id.* See also, e.g., FCC, "Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004," at ¶ 44 (Sept. 8, 2005) (the current retransmission consent system generates multiple public interest benefits for viewers, broadcasters, and MVPDs and should not be revised); Jeffrey A. Eisenach, "The Economics of Retransmission Consent," filed by NAB in MB Docket No. 07-269, at 41 (June 22, 2009) (the retransmission consent process benefits viewers by "enriching the quantity, diversity, and quality of available programming, including local programming," and proposals to modify the system would harm consumers).

<sup>111</sup> See TWC Comments at 7-9; ACA Comments at 5-11. The idea that TWC is somehow disadvantaged in negotiations with broadcasters is hard to fathom, particularly in markets like Dayton, Ohio, where TWC complains that it "encountered a . . . virtual duopol[y]." Since TWC enjoys a market share of **69.3%** of MVPD subscribers in the Dayton, Ohio market, it should find itself well-equipped to represent its interests in negotiations with any broadcaster in the market. See MediaBiz: MediaCensus Competitive Intelligence/SNL Kagan, *Video Market Share (Cable & DBS & Telco Video) by DMA® -1st Quarter 2010*. NAB previously has shown that even "small" cable operators, including ACA members, enjoy large shares in many markets, thereby enhancing their bargaining power vis-à-vis broadcasters in those markets. See Reply Comments of the Broadcaster Associations in MB Docket No. 10-71 at 19 (for example, CableOne serves 64% of all MVPD households in the Biloxi, Mississippi,

broadcasters, are permitted to combine an unfettered number of systems at the local, regional, and national levels. MVPDs face no limits on clustering of systems, no limits on local, regional or national subscriber share, and no limits on ownership of other communications outlets.<sup>112</sup> Cable operators enjoy an equal or better bargaining position on the retransmission consent playing field,<sup>113</sup> and have identified no basis for consideration of retransmission consent issues in the context of broadcast ownership.

## **V. Conclusion**

In this robustly competitive media marketplace, the Commission is compelled by Section 202(h) and basic principles of administrative law to eliminate or relax regulations that are no longer necessary in the public interest. The record in this proceeding, and the myriad studies previously conducted on these ownership questions, make clear that the existing restrictions are not necessary to promote, and in fact affirmatively undermine, the FCC's goals of competition, diversity and localism. In view of local stations' struggles to remain viable and vibrant in today's multichannel, multiplatform marketplace, the public interest demands that the Commission reform its rules to enable broadcasters to establish economically sustainable ownership structures in response to competitive pressures. Anything less than prompt regulatory relief to that

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DMA; Bright House serves 58% of MVPD households in the Bakersfield, California, DMA, 55% of the Tampa, Florida, DMA, and 54% of the Orlando, Florida, DMA; Insight serves 54% of MVPD households in the Louisville, Kentucky, DMA).

<sup>112</sup> See NAB Comments at 10, citing *Comcast Corp. v. FCC*, 579 F.3d 1 (D.C. Cir. 2009) (vacating cable horizontal ownership cap for the second time); *Time Warner Entm't Co. v. FCC*, 240 F.3d 1126 (D.C. Cir. 2001) (vacating cable horizontal and vertical limits).

<sup>113</sup> See NAB Comments at 10 (asymmetric regulation of MVPD and broadcast industries should not continue).

end could jeopardize the important role that broadcasters have played, and are striving to continue to play, in local communities throughout the country.

Respectfully submitted,

**NATIONAL ASSOCIATION OF  
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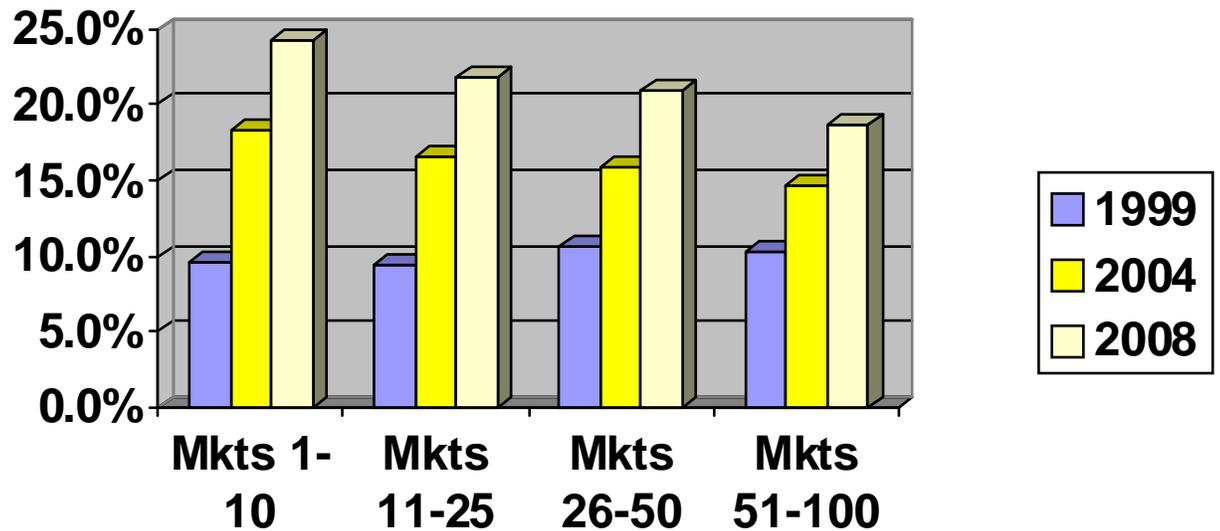
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July 26, 2010

## Attachment A

## Cable Share of Local TV Revenues, 1999/2004/2008



Source: Analysis of data estimates from *The Television Industry: A Market by Market Review*, 2000, 2005 and 2010 eds.

### Growth of Cable Share of Local Television Ad Revenues

As demonstrated in the chart above, local cable made significant gains between 1999 and 2008 in its share of local television market advertising. In Top 10 Nielsen markets, the average share of local television advertising garnered by local cable grew from approximately 9.6 percent of market TV ad revenues in 1999, to 24.3 percent—or approximately \$1.5 billion in total local cable ad revenues in these markets—in 2008. To put this figure into context, the average of \$150 million per market in local cable ad

revenues is the equivalent of more than two additional television stations in each market, based on 2008 average station ad revenues\* in these markets.

Comparable situations also have occurred in smaller markets. For instance, in markets ranked 11 through 25, local cable's average share of the television ad pie increased nearly as much as it did in the Top 10 markets, rising from 9.4 percent of local market TV ad revenues in 1999 to 21.8 percent in 2008. Similar to the Top 10 markets, local cable advertising's annual revenues of approximately \$50 million per market in DMAs 11-25 represents roughly the equivalent of an additional 1.5 television stations in each of these markets, based on average annual station revenues. Likewise, local cable's average market share also doubled in Markets 26 through 50, and Markets 51 through 100.

In short, these figures point to an ongoing erosion of advertising market share from local broadcast stations to local cable in recent years, a circumstance that further challenges the financial health of local television broadcasting.

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\* Source: BIA Media Access Pro.

## Attachment B

# **Independent Radio Voices In Radio Markets**

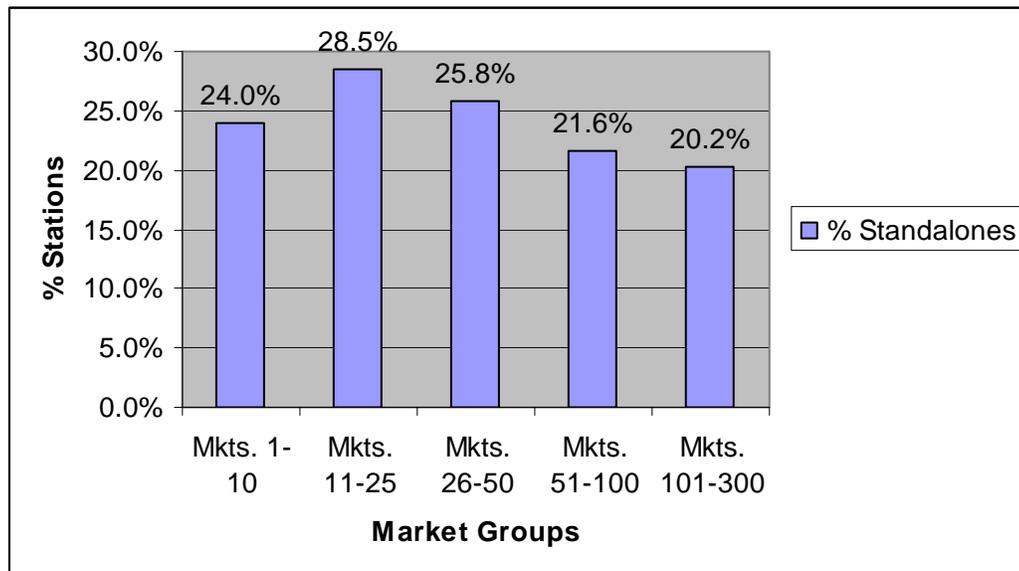
**Sharon Warden, Ph.D.**  
**Vice President, Research and Information Group**  
**National Association of Broadcasters**  
**July 2010**

This report assesses the number of “independent” radio voices available in individual Arbitron markets. Independent is defined as those stations that are the sole station owned in a market by a station owner.

Information on station ownership was obtained from BIA’s Media Access Pro database for all commercial radio stations in 300 Arbitron-rated markets as of July 2010. Within each market, the number of stations owned by the same group was calculated. A summary of this information is provided in the table included as Appendix A. Each line in the report lists the number of groups that own a certain number of stations within the market. For instance, in the New York market, 10 entities own one station each; 7 groups own two stations each; 2 groups each own three stations; and so on.

The chart on the following page summarizes these findings by showing the percentages of radio stations within specific market rank groupings that are the only station owned within the market by the station’s owner. Nationally, there are currently 1,501 stations, or 22.4 percent of the 6,701 full-power commercial stations operating in Arbitron markets, that are the only station owned within its market by its station owner. In addition, there are another 473 stations (7.1 percent of the total) that are in duopoly situations (i.e., part of a two-station group within that market). In other words, nearly 30 percent of all radio stations in Arbitron-rated markets are either standalone or duopoly stations.

## % Local Commercial Radio Station Standalones by Market Size Groups





46	Jacksonville, FL	11	1	1	2		2		
47	West Palm Beach-Boca Raton, FL	10	2	1		1	1		
48	Oklahoma City, OK	9	2	1	1	1	2		
49	Memphis, TN	11	2		1	1	2	1	
50	Hartford-New Britain-Middletown, CT	6	1	2	2				
51	Monmouth-Ocean, NJ		1			1	1		
52	New Orleans, LA	14	1	1	1		2		
53	Buffalo-Niagara Falls, NY	6	1		1	1		1	
54	Louisville, KY	8	3	1	2	1			1
55	Richmond, VA	9	1		3	1	1		
56	Rochester, NY	8	3	2		1		1	
57	Birmingham, AL	16				2	1	1	
58	Greenville-Spartanburg, SC	11	2	2			1	1	
59	McAllen-Brownsville-Harlingen, TX	3		1	1	1		1	
60	Tucson, AZ	5	2	1	2	1		1	
61	Dayton, OH	6	2		1	1	1		
62	Ft. Myers-Naples-Marco Island, FL	3	1	2	2	2			
63	Albany-Schenectady-Troy, NY	7	2	1	1	1		1	1
64	Honolulu, HI	9	1			1	1	2	
65	Tulsa, OK	7	4	1		1	2		
66	Fresno, CA	5	4	3	1	1		1	
67	Grand Rapids, MI	5	4			2	1		
68	Albuquerque, NM	9	2		1		1	2	
69	Allentown-Bethlehem, PA	3	2		1	1			
70	Wilkes Barre-Scranton, PA	3	2	1			3		1
71	Knoxville, TN	14	6	1	3				
72	Omaha-Council Bluffs, NE-IA	5		1		2			1
73	Sarasota-Bradenton, FL	7					1		
74	El Paso, TX	4		2		1			
75	Bakersfield, CA	4	1	2	1	1	1	1	
76	Akron, OH		1	1	1				
77	Wilmington, DE	3	1	1	1				
78	Harrisburg-Lebanon-Carlisle, PA	8	1	1	1	1			
79	Baton Rouge, LA	3			1	1	1		
80	Monterey-Salinas-Santa Cruz, CA	6	4	2	1	2			
81	Gainesville-Ocala, FL	6	3			2		1	
82	Stockton, CA	2	2	1					
83	Charleston, SC	3	2		3	2			
84	Syracuse, NY				1	1	1	1	1
85	Little Rock, AR	10	2	1	2			1	
86	Greenville-New Bern-Jacksonville, NC	7	5	2	1		1	1	
87	Daytona Beach, FL	5	1		1				
88	Springfield, MA	4	2		1	1			
89	Columbia, SC	4	1	1		1	2		
90	Des Moines, IA	5				1	1	1	
91	Spokane, WA	4	2				1	2	
92	Toledo, OH	5	1			1	1		
93	Colorado Springs, CO	4	2	1	1		1		
94	Lakeland-Winter Haven, FL	7			1				
95	Mobile, AL	5	4	1	1	1			

96	Ft. Pierce-Stuart-Vero Beach, FL	4	1	1	2				
97	Melbourne-Titusville-Cocoa, FL	6			1	1			
98	Wichita, KS	5	2		1		2		
99	Madison, WI	2	3	2			1		1
100	Boise, ID	5	2		2		2		
101	Visalia-Tulare-Hanford, CA	7	2	1					
102	Johnson City-Kingsport-Bristol, TN-VA	11	3	1		2	1		
103	Lexington-Fayette, KY	8		2		2	1		
104	York, PA	3	2		1				
105	Lafayette, LA	6	2	1	1	1	1		
106	Chattanooga, TN	10	2		4				
107	Huntsville, AL	8	2	1	1	1	1		
108	Ft. Wayne, IN	7	2	1	1	1			
109	Augusta, GA	9	1			1	1		1
110	Victor Valley, CA	6	3		2		1		
111	Modesto, CA	3	2	2		1			
112	Lancaster, PA	3	2						
113	Roanoke-Lynchburg, VA	10	3	2	2		1		
114	Worcester, MA	4	2	1					
115	Morristown, NJ	2	1						
116	New Haven, CT	1	1	1					
117	Portsmouth-Dover-Rochester, NH	3	1	1			1		
118	Oxnard-Ventura, CA	3		1	1		1		
119	Santa Rosa, CA	1	2	2		1			
120	Ft. Collins-Greeley, CO	10			1	1			
121	Reno, NV	7	1		2	1	1		
122	Jackson, MS	11	1	1			2		
123	Bridgeport, CT	6							
124	Pensacola, FL	7	4	1					
125	Lansing-East Lansing, MI	3			2		1		
126	Youngstown-Warren, OH	2		2			2		
127	Fayetteville, NC	5	1			1	1		
128	Flint, MI	4	1		1		1		
129	Palm Springs, CA	4	1	1		1	1		
130	Canton, OH	5	3						
131	Reading, PA	3	1						
132	Fayetteville, AR	3	2	1	1			1	
133	Shreveport, LA	3	2			1	2		
134	Saginaw-Bay City-Midland, MI	5			2	1			
135	Appleton-Oshkosh, WI	6	1	1	2				
136	Springfield, MO	3	1		2	2			
137	Corpus Christi, TX	8	2	2	1		1		
138	Beaumont-Port Arthur, TX	5				2			
139	Newburgh-Middletown, NY	3	2	2					
140	Burlington-Plattsburgh, VT-NY	10	1	1	1	1	1		
141	Atlantic City-Cape May, NJ	1	2			2			1
142	Salisbury-Ocean City, MD	8	2				1	1	1
143	Trenton, NJ	4		1					
144	Flagstaff-Prescott, AZ	9	1	2		1	1		
145	Tyler-Longview, TX	3	2	2	1	1	1		

146	Eugene-Springfield, OR	4	1	1	1	1		
147	Quad Cities, IA-IL	2		1		1	1	
148	Stamford-Norwalk, CT	2			1			
149	Rockford, IL	4			2			
150	Peoria, IL	3			1	1	1	
151	Killeen-Temple, TX	4	1			1		
152	Ann Arbor, MI	3			1			
153	Fredericksburg, VA		3		1			
154	Montgomery, AL	7		1	1			1
155	Biloxi-Gulfport-Pascagoula, MS	5			1	1	1	
156	Macon, GA	4		1	1		1	1
157	Savannah, GA	4	1			1		1
158	Myrtle Beach, SC	7	1	1	1	1		1
159	Asheville, NC	5			1		1	
160	Huntington-Ashland, WV-KY	1	4	1	1		1	
161	Tallahassee, FL	4			1	2		
162	Wilmington, NC	3		1	1	2		
163	Evansville, IN	7	1		1	1		
164	Utica-Rome, NY		2		1	1	1	
165	Poughkeepsie, NY	3			1	2		
166	Hagerstown-Chambersburg-Waynesboro, MD-PA	3	1		1	1		
167	Portland, ME	4			2	1		1
168	Wausau-Stevens Point, WI	4		1	2		1	
169	Erie, PA	3			1		1	
170	San Luis Obispo, CA	6	1		2	1		
171	Lincoln, NE				1		1	
172	Concord, NH	5	1	1		2		
173	Anchorage, AK	5	1		1		2	
174	Wenatchee, WA	3	3	3	1	1		1
175	Ft. Smith, AR	1	3	1	2	1		
176	Morgantown-Clarksburg-Fairmont, WV	3	4		2	1		
177	New London, CT		1		2			
178	New Bedford-Fall River, MA	2	2					
179	South Bend, IN	6	4		1			
180	Lubbock, TX	7	1		2		1	
181	Merced, CA	5	2				1	
182	Odessa-Midland, TX	5	1	1		1	1	
183	Binghamton, NY	4	1			1	1	
184	Lebanon-Rutland-White River Junction, NH-VT	4	3		1	3		
185	Charleston, WV	1			1	1		1
186	Kalamazoo, MI	1	1	1			1	
187	Green Bay, WI	3	2		1	1		
188	Columbus, GA		1			1	2	
189	Tupelo, MS	5	2	1	1		1	
190	Dothan, AL	5	2	1	1	1		
191	Amarillo, TX	2	1		1	1	1	
192	Richland-Kennewick-Pasco, WA	1	1	2		1	1	
193	Manchester, NH	4	1	1				
194	Salina-Manhattan, KS	1	4	2			1	
195	Cape Cod, MA	2		1	2			

196	Traverse City-Petoskey, MI	2			2	2	1
197	Topeka, KS	3	2			1	
198	Chico, CA	1	1		1	2	
199	Waco, TX	2	1	1		1	
200	Danbury, CT			2			
201	Clarksville-Hopkinsville, TN-KY	3	1				1
202	Frederick, MD	2	3				
203	Rocky Mount-Wilson, NC	4			1		
204	Yakima, WA	2		2			2
205	Bend, OR	3	1		2	1	
206	Laredo, TX	3	1	1			
207	Bowling Green, KY	2	3	1	2		
208	Medford-Ashland, OR	2			1	1	1
209	Santa Maria-Lompoc, CA	1		3	1		
210	Cedar Rapids, IA	2	1	1			1
211	Terre Haute, IN	3	2		1	1	
212	Duluth-Superior, MN-WI	2			1	2	1
213	Hilton Head, SC	5	1			1	
214	Santa Barbara, CA	5	1				1
215	Fargo-Moorhead, ND-MN	3			1	1	1
216	Muncie-Marion, IN	2			2		
217	Champaign, IL	5		1	2		
218	Florence, SC	2			1	1	1
219	St. Cloud, MN	2	1		2		1
220	Las Cruces, NM			2	1		
221	Sunbury-Selinsgrove-Lewisburg, PA	2	1			2	
222	Winchester, VA			2	2		
223	Laurel-Hattiesburg, MS	5		2		1	
224	Bangor, ME	1	3		1	1	
225	Alexandria, LA	5	2	1			1
226	Olean, NY	2	5				1
227	Ft. Walton Beach, FL	5	1		1	1	
228	La Crosse, WI	1	1	2		2	
229	Elmira-Corning, NY	5	1	1			2
230	Redding, CA	1	1			1	1
231	Charlottesville, VA	2	1			1	1
232	Tuscaloosa, AL	2	1		1	1	
233	Lake Charles, LA	2					2
234	Rochester, MN	3		1			1
235	Bryan-College Station, TX	1			1	2	
236	Twin Falls (Sun Valley), ID	2	1	2	1	1	
237	Muskegon, MI	1				2	
238	Joplin, MO	2	1				2
239	Lafayette, IN	4			1	1	
240	Panama City, FL	4			1	2	
241	Bloomington, IL	1		3			
242	Dubuque, IA	1			1	2	
243	Marion-Carbondale, IL	4					2
244	Eau Claire, WI	3	1			1	1
245	Abilene, TX	2	4	1	1		1

246	Pueblo, CO	5	1	1				
247	Pittsburg, KS		3	1	2			
248	Columbia, MO	3				1	1	
249	LaSalle-Peru, IL	2	2	1			1	
250	State College, PA	2		2			1	
251	Waterloo-Cedar Falls, IA		1	2	1			
252	Sussex, NJ		2					
253	Lufkin-Nacogdoches, TX	3			1	1		
254	Parkersburg-Marietta, WV-OH		1	1		1	1	
255	Lima, OH	3				2		
256	Grand Junction, CO	1	1			1	1	
257	Wheeling, WV	5		1			1	
258	Florence-Muscle Shoals, AL	4	1	1			1	
259	Monroe, LA	4		1	1		1	
260	Hamptons-Riverhead, NY	6	1		1			
261	Billings, MT	3	2			3		
262	Kalispell-Flathead Valley, MT	1	3			1	1	
263	Texarkana, TX-AR	4		1		2		
264	Wichita Falls, TX	3			2			
265	Battle Creek, MI	1		1				
266	Grand Island-Kearney, NE	1		1		2		
267	Valdosta, GA	5		1			1	
268	Albany, GA	2				1	1	
269	Altoona, PA	1	1		1	1	1	
270	Montpelier-Barre-St Johnsbury, VT	2		2	1	1		
271	Augusta-Waterville, ME			1	2			
272	Harrisonburg, VA	2	2	1		1		
273	Columbus-Starkville-West Point, MS	3		1				1
274	Rapid City, SD	6	2	1			1	
275	Mankato-New Ulm-St Peter, MN	2	1		1		1	
276	Williamsport, PA	2	1			2		
277	Elkins-Buckhannon-Weston, WV	3	1		2			
278	Sioux City, IA	1				2		
279	Sheboygan, WI	3			1			
280	Watertown, NY	2			1	1		
281	Ithaca, NY	3				1		
282	Bismarck, ND	2				1	1	
283	Decatur, IL		1		2			
284	Bluefield, WV	3	3					1
285	Lewiston-Auburn, ME	2						
286	Lawton, OK	2		1	1			
287	Cookeville, TN		1		2			
288	Sebring, FL					1		
289	San Angelo, TX	1	1		1	1		
290	Hot Springs, AR	1		1		1		
291	Grand Forks, ND-MN	1	1			2		
292	Jackson, TN	3	1		1	1		
293	Jonesboro, AR	1		1	1			
294	Cheyenne, WY	5	1		2			
295	Beckley, WV	1	2				1	

296	Mason City, IA	1			1	1
297	Meridian, MS	6		1		1
298	Brunswick, GA	2	1			1
299	Clovis, NM	2	1		2	1
300	Casper, WY	1	1			1 1