November 14, 2011

The Honorable Chairman Julius Genachowski
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: MB Dkt No. 09-182*, 2010 Quadrennial Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996;* MB Dkt No. 10-71, *Rulemaking to Amend the Commission's Rules Governing Retransmission Consent*

Dear Chairman Genachowski:

We, the undersigned, are representatives of small and large cable operators, satellite television providers, labor leaders and nonprofit media reform interests. Our organizations frequently disagree on a host of media and telecommunications policy issues – however, there is one issue in which we are in agreement: Increasingly, broadcasters are coordinating their activities through contractual arrangements and other means to avoid the Federal Communications Commission's local television ownership rules. These practices are adversely affecting competition, journalistic independence and jobs, and are raising consumer costs in local communities all across the country.

The FCC's media ownership rules are intended to preserve and promote competition, localism and diversity among broadcast media outlets, which receive free use of valuable public spectrum in exchange for serving local communities. Yet local television stations that cannot lawfully merge under the FCC's local television rules are nonetheless consolidating their core operations, staff and news production. In some cases, one station may completely absorb another local station while purporting to remain independently owned and operated. These agreements can take a variety of forms, both through legally binding contracts, such as shared services agreements, local marketing agreements, and joint operating agreements, as well as through non-legally binding arrangements. Regardless of the label and means of coordination, the outcome is often the same: lay-offs of station staff, reduced journalistic independence, and diminished competition for audiences, advertisers and multichannel video programming distributors (MVPDs) that carry these stations through retransmission consent agreements.

In cities like Denver,[1] Peoria, Ill,[2] and Syracuse, N.Y.,[3] TV stations have consolidated their newsrooms and newsgathering by merging their facilities and laying off dozens of journalists, crew members and other staff. The resulting news product is essentially a re-run of stories produced by another station, which reduces content diversity in terms of viewpoints, substance and issue coverage. Indeed, a recent study conducted by University of Delaware confirms that these arrangements are widespread and that they have a "profound effect on the local news broadcasts in the markets in which they operate."[4] For example, in Peoria, all five commercial television stations in the market participate in either a shared services or local marketing agreement, with each group relying on identical scripts and video for 90 percent of their stories.[5] Similarly, in Charleston, S.C., two local TV stations share news staff who read from the same news scripts.[6] In Honolulu, viewers see simulcast news content across three stations that have entered in to a shared services agreement.[7]

Separately owned stations in the same market are also coordinating critical operational activities, such as the negotiation of local advertising sales and retransmission consent, reducing the level of competition among them, and permitting these stations to charge higher fees. With respect to retransmission consent negotiations, it is a prevalent practice with at least 36 pairs of separately-owned Big 4 affiliated stations in 33 different markets, actually engaging in coordinated negotiations through use of a single bargaining representative.[8] Moreover, available evidence strongly suggests that common control or ownership of multiple Big 4 affiliates in a single DMA results in an increase in broadcast carriage fees by at least 21.6 percent.[9] In charging higher rates to cable and satellite TV providers, these arrangements lead to increased rates for subscribers.

The U.S. Court of Appeals for the Third Circuit upheld the FCC's decision to retain its existing local television ownership limits as necessary to protect competition for viewers in local television markets on the grounds that competition "provides an incentive to television stations to invest in better programming and to provide programming that is preferred by viewers."[10] Yet, the practices described above are inconsistent with those of a station that is acting independently and competitively in the marketplace. A truly independently owned and operated station does not "outsource" its rights and obligations to its competitors.

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[1] "Layoffs At Channels 2, 31" THEDENVERCHANNEL.COM (Oct. 10, 2010) available at http://www.thedenverchannel.com/news/17685513/detail.html.
[2] Russ Tarby, "WTVH 5 lays off news staff; merges with WSTM 3," CNYLINK (Mar. 3, 2009) available at http://cnylink.com/cnynews/view_news.php?news_id=1236090530.
[3] Steve Tartar, "WEEK-TV taking over WHOI operations," PEORIA JOURNAL STAR (Mar. 2, 2009).
[4] Yanich, Danilo, *Local TV News & Service Agreements: A Critical Look*, University of Delaware (2011) at 107 (filed MB Dkt. 09-182, Oct. 24, 2011).
[5] *Id.* at 109.
[6] Video sample available at http://www.savethenews.org/blog/11/10/20/great-local-news-heist.
[7] Video sample available at http://www.youtube.com/watch?v=7M_0jo-XR_A&feature=player_embedded#.
[8] American Cable Association Comments at 18 (filed MB Dkt. 10-71, May 27, 2011).
[9] *Id*. at 10.
[10] *Prometheus Radio Project v. FCC*, 652 F.3d 431, 459 (3d Cir. 2011) (citing *2006 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order and Order on Reconsideration, 23 FCC Rcd. 2010, ¶97 (Dec. 18, 2007)).

As the Commission embarks on the 2010 Quadrennial Media Ownership Review, it cannot ignore the adverse impact of these practices on competition in local television markets. We urge you to take account of how the reduction in local broadcast competition harms local communities and markets, and to ensure that the neither the substance nor the goals of the media ownership rules are thwarted.

Respectfully submitted,

______/s/_____________
Jeffrey H. Blum
Senior Vice President &
Deputy General Counsel
Dish Network

______/s/_____________
James C. Joyce
Sector President & CWA Vice President
National Association of Broadcast Employees and Technicians-Communications Workers of America

______/s/_____________
Ross J. Lieberman
Vice President of Government Affairs
American Cable Association

______/s/_____________
Bernard J. Lunzer
President & CWA Vice President
The Newspaper Guild-Communications Workers of America

_____/s/_____________
Cristina Pauzé
Vice President, Regulatory Affairs
Time Warner Cable

______/s/_____________
Corie Wright
Policy Counsel
Free Press

Cc:
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Mignon Clyburn
William Lake, Chief, Media Bureau