

**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)	
)	MB Docket No. 07-294
Promoting Diversification of)	
Ownership in the Broadcasting Services)	

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

The National Association of Broadcasters (“NAB”)¹ submits these brief reply comments in response to the Media Bureau’s *Public Notice*² regarding a study commissioned by the Minority Media and Telecommunications Council (“MMTC”) entitled, “The Impact of Cross Media Ownership on Minority/Women Owned Broadcast Stations” (the “MMTC Study”).³

Discussion

As discussed in our initial comments, the MMTC Study reconfirms the substantial evidence in the record in this proceeding as to the challenges that all local broadcasters

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

² *Media Bureau Invites Comments on Study Submitted by the Minority Media and Telecommunications Council in 2010 Quadrennial Review of Broadcast Ownership Rules*, Public Notice, MB Docket Nos. 09-182, 07-294, DA 13-1317 (Jun. 7, 2013) (“*Public Notice*”).

³ Fratrik, Dr. Mark R., Vice President and Chief Economist, BIA/Kelsey, “The Impact of Cross Media Ownership on Minority/Women Owned Broadcast Stations” (May 30, 2013).

experience in today's highly competitive media marketplace.⁴ As NAB and several other commenters observed, the record contains overwhelming evidence of the benefits of cross-ownership, and no evidence to support retention of either the newspaper/broadcast or radio/television cross-ownership limits.⁵ The record also supports adoption of incentive-based approaches grounded in marketplace realities to promote a more diverse broadcast industry.⁶

Proponents of continued (or increased) cross-ownership regulation still have not provided any evidence supporting a claim that updating the cross-ownership rules to reflect competitive realities will result in any public interest harms, including harms to

⁴ See NAB Comments in MB Docket Nos. 09-182 and 07-294 (Jul. 22, 2013) at 2-5 ("NAB Comments"); Joint Comments of LaSalle County Broadcasting Corp. et al. in MB Docket Nos. 09-182 and 07-294 (Jul. 22, 2013) ("LaSalle Joint Comments") at 3-6 (discussing specific declines in circulation and advertising revenues for newspapers owned by the commenters); Joint Comments of Bonneville International Corporation and the Scranton Times, L.P. in MB Docket Nos. 09-182 and 07-294 (Jul. 22, 2013) ("Bonneville/Scranton Comments") at 5-8; Comments of Morris Communications Company, LLC in MB Docket Nos. 09-182 and 07-294 (Jul. 22, 2013) ("Morris Comments") at 7-15 (discussing competitive challenges facing the newspaper and radio industries, including evidence of further advertising revenue declines for newspapers documented in Pew Research Center's Project for Excellence in Journalism (Mar. 18, 2013), available at: <http://stateofthemedias.org/>).

⁵ The MMTC Study found that minority and women broadcasters are not more likely than other broadcast owners to identify cross-ownership combinations as key competitors. NAB Comments at 5-8; LaSalle Joint Comments at 2 (commenters' own experiences "have mirrored the MMTC Study's findings that the presence of radio-newspaper combinations in a market has far too little, if any, impact on broadcast ownership by minorities or women to provide any support for the retention or expansion of current cross-ownership restrictions"); Morris Comments at 4-5; Bonneville/Scranton Comments at 3-5; Supplemental Comments of the Newspaper Association of America ("NAA") in MB Docket Nos. 09-182 and 07-294 (Jul. 22, 2013) ("NAA Comments") at 1 ("minority and female owners of broadcast stations do not believe that cross-ownership has *any* impact on their business") (emphasis in original).

⁶ See NAB Comments at 8-10; Bonneville/Scranton Comments at 2; Morris Comments at 7 ("[r]ather than clinging to the unsupported notion that retaining the [newspaper/broadcast cross-ownership rule] might somehow improve the picture for minorities and women in broadcasting, the Commission should directly address the disparities that exist in broadcast station ownership by acting on long-pending, targeted initiatives that are specifically designed to improve ownership diversity.").

minority and female ownership.⁷ In lieu of providing such evidence, commenters seek to hold the MMTC Study to a standard beyond its scale and scope.⁸ As NAA observes, the study is limited in part by the nature of what is being examined: “because very few markets allow cross-ownership of newspapers and broadcast stations, the sample size is relatively low.”⁹ Thus, BIA/Kelsey determined that a qualitative study was more appropriate. Indeed, the MMTC Study itself acknowledges its limitations.¹⁰

Notwithstanding its limitations, the Study offers additional evidence that cross-ownership does not harm minority or female ownership. This is particularly significant given the complete lack of empirical or anecdotal evidence of any harm arising from cross-ownership. Commenters mistakenly believe that the MMTC Study must somehow refute, quite literally, their “theories” about the supposed impact of cross-ownership rules on minority and female ownership.¹¹ To the contrary, the Commission cannot lawfully rely on the unproven assertion of a causal connection between the structural rules governing broadcast ownership and the levels of minority and female

⁷ See, e.g., Comments of Free Press in MB Docket Nos. 09-182 and 07-294 (Jul. 22, 2013) (“Free Press Comments”); Letter to Marlene H. Dortch, FCC Secretary, from Michael Scurato, National Hispanic Media Coalition and Laura Moy, Institute for Public Representation, Counsel to the Office of Communication, Inc. of the United Church of Christ (“UCC”) et al. in MB Docket Nos. 09-182 and 07-294 (Jul. 22, 2013) (“NHMC/UCC Ex Parte”).

⁸ See, e.g., NHMC/UCC Ex Parte at 6 (the study is “no substitute for quantitative empirical research”); Free Press Comments.

⁹ NAA Comments at 3.

¹⁰ See NAB Comments at 5-6, *citing* MMTC Study at 4, 9 (the MMTC Study states that it is not a “comprehensive random sample survey of all instances of local cross-ownership operations in markets with stations owned by minorities and women,” and “[m]ore [survey] responses would have been preferred”); Bonneville/Scranton Comments at 4 (the MMTC Study is “modest about the limitations of its survey data”).

¹¹ See, NHMC/UCC Ex Parte at 6 (contending that the Commission cannot rely on the MMTC Study because it “fails to address the leading theories as to how an expansion of cross-ownership would harm broadcast ownership opportunities for women and people of color.”)

ownership as a rationale for retaining outdated rules, including the nearly four-decades-old ban on newspaper/broadcast cross-ownership.¹²

Conclusion

The Commission should regard the MMTC Study as further evidence, consistent with the extensive evidence already in the record, of the competitive landscape facing broadcasters of various backgrounds. As demonstrated by the record, the greatest challenge facing all broadcasters is competition from an increasing array of outlets—competition that remains unaccounted for by the Commission’s current broadcast ownership limitations. The record supports reform of the cross-ownership rules and other broadcast ownership rules to allow broadcasters to achieve economies of scale and scope and enhance their service to the public. NAB also urges the Commission to

¹² NAB Comments at 7, *citing 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 (6th Cir. 1995) (court found ownership limitations in the wireless industry to be arbitrary because they were based on “generalized conclusions” and “broadly stated fears,” rather than “documentary support”).

work toward practical solutions grounded in marketplace realities to foster opportunities for a more diverse broadcast industry.

Respectfully submitted,

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