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To: All Broadcast Clients

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## **FCC CONCLUDES QUADRENNIAL REVIEW OF BROADCAST OWNERSHIP RULES; REVISES NEWSPAPER/BROADCAST CROSS-OWNERSHIP RULE**

The FCC has issued its *Report and Order and Order on Reconsideration* concluding its quadrennial review of the FCC's broadcast ownership rules. The *Order* relaxes the newspaper/broadcast cross-ownership rule, which when effective will presumptively allow the common ownership of a newspaper and either one television station or one radio station in the top 20 markets. The new rule will take effect thirty days after publication of the revised rule in the Federal Register.

The *Order* leaves unchanged the current radio/television cross-ownership rule, the local television ownership rule, the local radio ownership rule, and the dual network rule. A summary of those rules is provided below.

### Newspaper/Broadcast Cross-Ownership Rule

Under the new rule adopted in the *Order*, the Commission will presume that the co-ownership of a newspaper and broadcast station is in the public interest if it meets the following test:

- The market is one of the 20 largest Nielsen DMAs;
- The transaction involves the combination of only one major daily newspaper and only one television or radio station;

- If the transaction involves a television station, the television station is not ranked among the top four stations in the DMA; and
- If the transaction involves a television station, at least eight independently owned and operating major media voices (defined to include major newspapers and full-power television stations) would remain in the DMA following the transaction.

The Commission would presume that all other proposed newspaper/broadcast transactions are not in the public interest, unless either the newspaper or broadcast station was failing or has failed, or the newspaper/broadcast combination would result in at least seven hours of new local news programming per week on a station that previously had not aired local news.

Proposed newspaper/broadcast transactions will be evaluated on a case-by-case basis. With regard to proposed transactions that must overcome the negative presumption that the transaction is not in the public interest, the proposed combination will have to demonstrate that the merged entity will increase the diversity of independent news outlets in the market, and that the merger will increase competition among independent news sources within the market.



### Radio/Television Cross-Ownership Rule

The FCC retained the existing radio/television cross-ownership rule, which sets limits on the number of commercial television and radio stations that one entity may own within the same market, with the degree of common ownership varying depending on the size of the market in question. The general limitations are as follows:

- One entity may own up to two television stations (if permitted under the local television ownership rule) and six radio stations (if permitted under the local radio ownership rule) if there are at least twenty independently owned media voices in the market. Alternatively in such markets, an entity may own one television station and seven radio stations.
- One entity may own up to two television stations (if permitted under the local television ownership rule) and four radio stations (if permitted under the local radio ownership rule) if there are at least ten independently owned media voices in the market.

### Local Television Ownership Rule

The FCC also retained the local television ownership rule, which permits one entity to own two television stations in the same DMA so long as: the stations' Grade B contours do not overlap; at least one of the stations in the combination is not one of the top four stations in the market as measured by audience share; and at least eight independently owned and operated full-power commercial or non-commercial television stations would remain in the DMA.

### Local Radio Ownership Rule

The FCC also retained the local radio ownership rule, which set the following

ownership limits based on the size of the market in question.

- In markets with 45 or more full power commercial or non-commercial stations, one entity may own, operate or control up to eight commercial stations, provided that no more than five of the stations may be in the same service (AM or FM).
- In markets with between 30 and 44 full power commercial or non-commercial stations, one entity may own, operate or control up to seven commercial stations, provided that no more than four of the stations may be in the same service (AM or FM).
- In markets with between 15 and 29 full power commercial or non-commercial stations, one entity may own, operate or control up to six commercial stations, provided that no more than four of the stations may be in the same service (AM or FM).
- In markets with 14 or fewer full power commercial or non-commercial stations, one entity may own, operate or control up to five commercial stations, provided that no more than three of the stations may be in the same service (AM or FM). In addition, they entity may not own, operate or control more than fifty percent of the stations in the market.

### Dual Network Rule

Finally, the FCC retained the dual network rule, which permits common ownership of multiple broadcast networks, but prohibits a merger between or among the "top four" networks (CBS, Fox, ABC and NBC).

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This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. To discuss any of the issues presented here, please contact any attorney in our office.