Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
2010 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	))))))	MB Docket No. 09-182
	)	
	)	
Promoting Diversification of Ownership In the Broadcasting Services	))	MB Docket No. 07-294

COMMENTS OF THE

AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS

Dated: March 5, 2012

I. INTRODUCTION

1. These comments are submitted on behalf of the American Federation of Television and Radio Artists, AFL-CIO (AFTRA). AFTRA is a national labor organization with a membership of over 70,000 professional employees working in the news and broadcast, entertainment, advertising and sound recordings industries. On behalf of its members, AFTRA submits these comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM"), adopted on December 22, 2011, seeking comment on the Commission's remaining media ownership rules and changes proposed in the NPRM.[1]

2. AFTRA has previously filed comments with the Commission in this matter, commenting on the Commission's "Notice of Inquiry" preceding this NPRM.[2] There, AFTRA addressed many of the questions raised by the NPRM, and we reiterate here our concern over the harms caused by consolidation in media ownership. We maintain that it is necessary for the Commission to preserve or strengthen its media ownership rules in order to further the three goals set by the Commission in promulgating those rules: competition amongst media owners, diversity in ownership and content and responsiveness to local concerns.[3]

3. Our members share the public's interest in each of those goals. More ownership concentration leads to fewer jobs for media professionals, which results in fewer independent news sources and editorial perspectives in news coverage.[4]

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[1] FCC Notice of Proposed Rulemaking (NPRM), *In the Matter of 2010 Quadrennial Regulatory Review*, FCC 11-186/MB Docket Nos. 09-182 (released on Dec. 22, 2011), *available at* http://www.fcc.gov/ownership.

[2] *See* Comments of the American Federation of Television and Radio Artists on FCC Notice of Inquiry in the Matter of 2010 Quadrennial Regulatory Review, MB Docket Nos. 09-182, submitted on July 12, 2010.

[3] NPRM, *supra* n.1 at 6.

[4] As a preliminary matter, it is undisputed that concentration in media ownership has increased dramatically over time; AFTRA has previously discussed this trend, and the Commission noted AFTRA's concerns in its NPRM. *See e.g.*, George Williams, Review of the Radio Industry: 2007, at 1, 5, FCC Media Ownership Study 10 (2007) (*retrieved on* Feb. 23, 2012), *available at* http://www.fcc.gov/ownership/studies.html; *see also* Edward Wyatt, *F.C.C. Begins Review of Regulations on Media Ownership*, N.Y.TIMES, May 25, 2010 (*retrieved on* Feb. 14, 2012), *available at* http://www.nytimes.com/2010/05/26/business/media/26fcc.html (citing FCC NOI, *In the Matter of 2010 Quadrennial Regulatory Review* at 3, FCC 10-92/MB (on consolidation in broadcast television).

4. Given that shared interest, we welcome the Commission's recent focus on the information needs of communities, culminating in the release of last year's report from the Working Group on Information Needs of Communities.[5] We note the report's observations that cross-ownership in media may "simply improve the bottom line of a combined company *without* actually increasing the resources devoted to local newsgathering."[6] We particularly welcome the report's focus on joint business arrangements, including the outsourcing of one station's newsgathering operation to another, otherwise independent news organization.[7]

5. Rather than rehashing arguments raised in our earlier comments, we limit these comments to the NPRM subject most directly implicating our members' and the public's shared interest in a vibrant news media: the proposed relaxing of cross-ownership rules. More specifically, we write to oppose the proposed Newspaper-Broadcast Cross-Ownership Rule reversing the ban on such cross-ownership, and to oppose the proposed repeal of the Radio-Television Cross-Ownership Rule. In each area, we submit that Commission falls short of meeting its three stated goals. Relaxing ownership rules will lead to a less competitive media marketplace that is less responsive to the public need for information. Moreover, the continued and widespread use of joint news agreements will exacerbate those harms, by rendering any rules less effective. We urge that the Commission strongly consider imposing restrictions on the use of such agreements, to prevent media owners from circumventing the intent and letter of the Commission's rules.

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[5] Study: Stephen Waldman and the Working Group on Information Needs of Communities, *The Information Needs of Communities: The changing media landscape in a broadband* age, at 349 (June 2011), *available at* www.fcc.gov/infoneedsreport.
[6] *Id.* (emphasis in original).
[7] *Id.* at 96-97.

II. IN THE INTEREST OF INFORMED COMMUNITIES, THE COMMISSION SHOULD RECONSIDER ITS PROPOSALS ON CROSS-OWNERSHIP AND SHOULD RESTRICT THE USE OF JOINT-NEWS ARRANGEMENTS BETWEEN STATION OWNERS

6. AFTRA strongly opposes the two amendments offered in the Commission's NPRM: the proposed relaxing of the newspaper-broadcast cross-ownership rule (NBCOR) and the proposed repeal of the radio-television station cross-ownership rule (RTCOR). Increasing consolidation in media markets have been accompanied by diminished access to local news. This restricted access has been compounded by the growing use of joint news agreements, a pernicious development further diminishing consumer choice. Amidst these developments, media owners' arguments for more outsourcing and for the benefits from traditional consolidation continue to lack support. Most notably, new media sources have not adequately substituted for the declining legacy media sources. Accordingly, the current proposals will further harm communities by failing to stem the tide toward consolidation, centralization and homogenization of news. Rolling back rather than strengthening existing rules will deny communities the type of high-quality original news content that the Commission has stated communities need most. Further, leaving unchecked the use of joint news agreements will only exacerbate that trend.

7. As noted in our previous comments, a major rationale for strong media ownership rules is that broadcast station ownership has become more concentrated over time.[8] For radio, between the passage of the 1996 Act and 2010, the number of commercial radio stations increased by about 10 percent, while the number of station owners fell by 40 percent in that same period.[9] Similarly, ownership of broadcast television stations has grown more concentrated, with the number of station owners falling by 33 percent during the same 14-year period.[10] In both areas, a few owners

[8] AFTRA Comments, *supra* n.2 at 10-14.
[9] *Id.*
[10] Wyatt, *supra* n.4.

(as few as two owners, for radio) control the vast majority of the broadcast airwaves.[11] The trend toward consolidation in the form of cross-ownership also continues, with local radio-television combinations increasing by 19 percent between 2002 and 2005 alone.[12]

8. The aforementioned Information Needs of Communities report ordered by the Commission indicates that increased consolidation has been accompanied by diminished local access to news and greater constraints on the quality of that news. In local TV news, the trend since 2003 has been a decrease in station staff, occurring at the same time as increases in both the number of local news hours produced (a 35 percent increase in traditional broadcast local TV news hours) and the number of distribution platforms (mobile, web, etc.).[13] As the number of hours to fill has increased and the number of employees has decreased, reporters have produced fewer long-form and investigative stories, and have increasingly shot and edited their own stories.[14] Significantly, these trends have not resulted in a net gain for stations; while most stations remain profitable, most are not as profitable as they were in 2003, further threatening news investment.[15]

9. In radio, the recent trend has been toward more national broadcasts and fewer local—today only 14 percent of news programming is produced locally.[16] The total number of

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[11] By 2010, the two largest radio station owners in any given market controlled about 74 percent of the revenue in that market. *See* Cumulus Form 10-K, March 3, 2010, *available at* http://www.faqs.org/sec-filings/100303/CUMULUS-MEDIA-INC_10-K/#102. Meanwhile, in 2006 the top 25 television station owners constituted 76 percent of broadcast owners owning two television stations or more in a given market. Allen S. Hammond, IV, Barbara O'Connor & Tracy Westen, *The Impact Of The FCC's TV Duopoly Rule Relaxation On Minority and Women Owned Broadcast Stations, 1999-2006*, at 2-3, FCC Media Ownership Study 8 (2007) (*retrieved on* Feb. 23, 2012), *available at* http://www.fcc.gov/ownership/studies.html.

[12] Kiran Duwadi, Scott Roberts & Andrew Wise, *Ownership Structure and Robustness of Media*, at 7, FCC Media Ownership Study 2 (2007) (*retrieved on* Feb. 23, 2012), *available at* http://www.fcc.gov/ownership/ studies.html.

[13] Waldman et al., *supra* n.5 at 13.

[14] *Id.* at 13-14.

[15] *Id.* at 14.

[16] *Id.*

commercial all-news stations has fallen from 50 in the mid-1980s to 30 today.[17] Only 30 to 40 percent of Americans live in an area with an all-news station.[18]

10. Though station owners may argue otherwise, the Commission's own studies fail to suggest a link between this ownership consolidation and increased ability to air local content. Assessing TV station ownership, researchers failed to find an impact of greater consolidation on local information programming.[19] Rather, in its NPRM the Commission suggests that greater competition is a primary means to the end of meeting consumers' need for a diverse set of high-quality information.[20]

11. Moreover, contrary to media owners' contentions, the Information Needs report indicates that new media sources have contributed to declining access to local news, rather than serving as an antidote. The report presents a narrative describing how technological change (e.g. widely available and searchable electronic information databases; cheap and easy Internet distribution of content) has made for increased information gathering and dissemination, resulting in more productive professionals but also the widespread entry of amateurs.[21] The lower barriers to entry have allowed for lower journalistic standards to "reporting," with a growing proportion of "news" sites merely aggregating or commenting upon other outlets' reporting.[22] The resulting explosion of information supply has also comprised increasingly specialized news sources (e.g. an internet news source reporting on a single neighborhood), with many providing their content for free.[23]

12. These developments, according to the report, have undercut the business model of higher-priced traditional news suppliers, who had previously survived by charging consumers a

[17] *Id.* at 14.
[18] *Id.*
[19] *See* NPRM, *supra* n.1. at 31-32 (citing FCC Media Ownership Study 8); *see also* FCC Media Ownership Study 1.
[20] NPRM, *supra* n. 1, at 11-12, 21.
[21] Waldman et al., *supra* n.5 at 15-17.
[22] *Id.*
[23] *Id.*

premium for a bundled news package.[24] With consumers flocking to more niche and free sources, both old and new outlets have found it more difficult to bankroll still-costly investigative reporting.[25] The many new local news sources lack a critical mass of consumers to act as a substitute employer for the traditional hard news gatherers.[26] These changes, the report concludes, resulted in two developments in all media: many fewer jobs for professional journalists, and diminished quality and quantity of local hard news stories.[27]

13. Amidst these industry changes, many owners have looked for ways to realize the cost savings of consolidation while circumventing the Commission's rules. More than 60 percent of TV stations polled say they have in place some form of cooperative news-sharing agreement with another station or medium,[28] while *nearly one-third* of TV stations say they are running news produced by another station.[29] These arrangements include shared services agreements (SSA's) (whereby one station effectively takes over the news operation of a second), local news services (LNS's) (whereby stations share cameras, crews and/or joint assignment desks), joint marketing agreements (JMA's) and other agreements.

14. Perhaps the greatest harm from these arrangements comes from SSA's, which can lead to the wholesale elimination of one station's news staff, and reduces the diversity in local news voices. There are at least 25 television markets in the U.S. where stations have entered into such

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[24] *Id.* at 17.
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.* at 97.
[29] *Id.* at 96 n.180 (*citing* Bob Papper, *Staffing and Profitability Profitability–TV and Radio News Staffing* and *Profitability Survey* (Radio Television Digital News Association & Hofstra Univ.) (2010), *available at* http://www.rtdna.org/pages/media_items/2010-tv-and-radio-news-staffing-and-profitability-survey1943.php?id=1943.).

agreements,[30] and a recent example from Honolulu, Hawaii shows how SSA's circumvent Commission rules, and harm consumers.

15. In rejecting a challenge to SSA's involving three stations in Honolulu, the Commission acknowledged deficiencies in its own rules with regard to the arrangements. Public interest group Media Council Hawaii (MCH) asked the Commission to block a SSA between Raycom Corporation and MCG Capital, by which Raycom (which owns NBC affiliate KHNL and CBS affiliate KGMB) would provide operational services to MyNetworkTV affiliate KFVE (a MCG property), including producing its local news and providing some back-office services.[31] This followed Raycom's earlier trade of affiliations and call letters with KFVE.[32] Though the transactions appeared to give Raycom control over three of the top four stations in the market, potentially violating the Commission's duopoly rule, the Commission approved the agreement, as ownership had not actually changed hands.[33]

16. The Commission concedes, however, that the Raycom-MCG SSA violated the intent behind the media ownership rules, even if it did not violate its letter. In its decision, the Commission stated that it agreed with the MCH challenge, insofar as "the net effect of the transactions …- an extensive exchange of critical programming and branding assets with an existing in-market, top-four, network affiliate - is clearly at odds with the purpose and intent of the duopoly rule."[34] Additionally, independent sources have noted that the Honolulu SSA resulted in the loss of 68 of the 190+ jobs at the three affected stations, that there was no evidence of an increase in the amount of investigative

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[30] *Id.* at 96 n.181 (citing Communications Workers of America, et al. Comments in re FOM PN (FCC Launches Examination of the Future of Media and Information Needs of Communities in a Digital Age, GN Docket No. 10-25, Public Notice, 25 FCC Rcd 384) (2010) (FOM PN), filed May 7, 2010, at ii.).

[31] John Eggerton, *FCC Media Bureau Denies Complaint Against Raycom in Honolulu, But Says Combo Violates 'Intent' of Rules*, BROADCASTING & CABLE (*retrieved on* Nov. 27, 2011), *available at* http://www.broadcastingcable. com/ article/ 477167-FCC_Media_Bureau_Denies_Complaint_Against_Raycom_ in_Honolulu_But_Says_Combo_Violates_Intent_of_Rules.php

[32] *Id.*

[33] *Id.*

[34] TVBR.com, *FCC grudgingly approves Raycom Honolulu TV triple play*, (*retrieved on* Nov. 27, 2011), *available at* http://www.rbr.com/tv-cable/fcc-grudgingly-approves-raycom-honolulu-tv-triple-play.html.

reporting aired on those stations and that the median duration of stories dropped significantly after the SSA (by 43%).[35] For these and other reasons, the Commission promised to include in the present quadrennial review the joint-news operation issues raised by such cases.[36]

17. Many of the arguments station owners use to support these arrangements and media consolidation more broadly are either speculative or completely unfounded. In defense of the Raycom deal, some argued that restricting SSA's would prevent station owners "from achieving the economies of scale that would allow them to produce more and better local programming."[37]As mentioned above, the very media ownership studies ordered by the Commission have failed to find an impact of greater consolidation on local information programming.[38] Station owners also argue that new media sources represent additional voices in the marketplace, providing justification for these agreements among legacy media owners.[39] Language in the Commission's own NPRM deflates this argument, however, by noting that Americans to a large extent continue to rely on local television and radio for their news.[40] The NPRM notes that the most popular websites for news are often owned by legacy media, while independent sites often regurgitate legacy media content, substituting for legacy media sites rather than supplementing them.[41]

18. Most significant to this proceeding, these joint agreements actually diminish viewpoint diversity, localism and competition, providing more than sufficient justification for greater regulation. The example of a shared service agreement in Tucson, Arizona indicates just how these

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[35] Study: Danilo Yanich, *Local TV & Shared Services Agreements*, Center for Community Research & Service, University of Delaware (Feb. 2011), *available at* http://benton.org/sites/benton.org/files/LocalTv&Shared%20Services%20Agreements%20Examining%20News%20Content%20in%20Honolulu%20DYanich.pdf
[36] TVBR.com, *supra* n.34.
[37] *Id.* (citing arguments of LIN-TV executives before FCC speaking on carriage negotiation "symmetry.").
[38] *See* NPRM, *supra* n.1. at 31-32 (citing FCC Media Ownership Study 8); *see also* FCC Media Ownership Study 1.
[39] *See e.g.,* NPRM *supra* n.1 at 96 (citing Comments of Tribune Co. in 2010 Ownership Review, at 11, 73, 75, 81).
[40] NPRM, *supra* n.1 at 223 (citing Pew Research Center's Project For Excellence In Journalism, Pew Internet & American Life Project, And The Knight Foundation, *How People Learn About Their Local Community* (2011) (*retrieved on* Feb. 23, 2012), *available at* http://www.knightfoundation.org/media/uploads/publication_pdfs/Pew_Knight_Local_News_Report_FINAL.pdf).
[41] NPRM *supra* n.1 at 97 (citing Waldman et al., *supra* n.5 at 55-56); see also *How People Learn About Their Local Community*, *supra* n. 40 at 5, 27-28.

arrangements exacerbate and mimic the effects of consolidation, extracting its benefits while avoiding the relevant regulations.

19. In late 2011, Tucson, Arizona's Fox affiliate, KMSB Channel 11, told employees that it would lay off its entire news team and cancel its local news broadcasts, resulting in the firing of 40-50 staffers.[42] Far from going out of business, however, the station announced it would contract with KOLD, the local CBS station, to produce local news broadcasts for air both on KMSN and KOLD.[43] The deal represented substantial cost savings for two national chains behind the deal, the nationwide TV station owner Belo TV, owner of KMSB, and Raycom, owner of KOLD and itself a national chain owner.[44] Moreover, KOLD announced it would produce the broadcast to air on KMSB, and that it would take over the content displayed on the KMSB website.[45]

20. Speaking out against the Tucson deal, at least one commenter representing U.S. business interests stated the deal represented a "breathtaking disdain for the public interest."[46] Such deals, he stated, result in "higher advertising rates; less competition, localism and diversity; and job loss among news reporters and production employees."[47]

21. Regardless of the form these arrangements take, they produce the same result: layoffs of news staff, compromised journalistic practices and less competition in news gathering and dissemination. Given the widespread use of the arrangements, the Commission should take a two-pronged approach in response: first, it should promulgate new rules restricting the use of these arrangements, or in the alternative, build into its existing rules the requirement that the Commission

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[42] Dylan Smith, *Fox 11 to lay off news staff, cancel newscast in Feb.*, TUCSON SENTINEL (*retrieved on* Nov. 17, 2011), *available at* http://www.tucsonsentinel.com/local/comments/111511_kmsb_newscast/fox-11-lay-off-news-staff-cancel-newscast-feb/P12/.
[43] *Id.*
[44] Dylan Smith, *Trade group: KMSB/KOLD deal 'breathtaking disdain for public*,' TUCSON SENTINEL (*retrieved on* Nov. 17, 2011), *available at* http://www.tucsonsentinel.com/local/report/111711_fox11_aca/trade-group-kmsb-kold-deal-breathtaking-disdain-public/.
[45] *See* Andrew Gauthier, *KOLD Set to Take Over KMSB Newscasts Tomorrow*, MEDIABISTRO.COM, (*retrieved on* February 1, 2012), *available at* http://www.mediabistro.com/tvspy/kold-set-to-take-over-kmsb-newscasts-tomorrow_b37706.
[46] TUCSON SENTINEL, *supra* n.44 (quoting Matthew Polka, representative of the American Cable Association).
[47] *Id.*

consider these arrangements in reviewing ownership licenses; second, the Commission should review its existing media ownership rules with these arrangements in mind, and should retain the existing rules as a way to combat the harm these agreements pose to the public's access to information.

III. CONCLUSION

1. Viewing the media landscape as a whole, a cohesive narrative is apparent, showing the strong link between growing consolidation, the rise of new media and diminished investment in investigative news. Joint news agreements are one significant part of that overall story. The winners in this narrative have been broadcast owners, who have consolidated and shed costs, through acquisitions, layoffs and partnerships. The losers in this narrative have been the public, left with diminished access to news of a lower quality, and with less of the type of investigative journalism so critical to an informed public. In the process, the Commission's media ownership goals are being thwarted, given the inherent conflict between greater consolidation and viewpoint diversity, localism and diversity. This narrative depicts the dire need for the Commission to retain the RTCOR and the NBCO ban, with new protections against joint news agreements. Doing so will both reverse this narrative, and will uphold the Commission's own stated goals.

Respectfully submitted,

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