

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
DISSENTING**

Re: *In the Matter of the Applications of Tribune Media Company (Transferor) and Nexstar Media Group, Inc. (Transferee) et al.*, MB Docket No. 19-30.

We live in a world of infinite content. But there is still something special about local broadcasting. There is something unique about a signal in the air with the responsibility to serve community at its core. It's one of the reasons why broadcasting remains a dominant force in local news. It's also why broadcasting has special status under the law—and at the FCC we have long-standing duties to ensure that the use of our airwaves is consistent with the values of localism, competition, and diversity.

For decades, the FCC has used these values as guideposts in its decisions involving broadcast media. They have their origin in the Communications Act. While they may not be especially trendy, these principles have stood the test of time. They support journalism and jobs. They make it possible for communities across the country to have local news and content, rather than just national news and programming developed on the coasts. Because we fall short of honoring these essential values in this decision, I dissent.

In the transaction before us, Nexstar Broadcasting acquires Tribune Media Company and its 41 full-power television stations. Following a handful of divestitures, the newly combined licensee will hold 144 full-power station licenses in 115 markets nationwide. As a result, this new broadcast company—the largest in our nation's history—will be able to broadcast to more than three in five of our nation's television households.

This is extraordinary reach. As a result, the FCC should make an effort to understand the consequences for localism, competition, and diversity. But we fail to do so here in two critical respects.

First, in this decision we rely on a totally-outdated broadcasting standard. To understand why this matters, roll back to 1985. On television we watched Dallas, Dynasty, and Miami Vice. It was a long time ago. But it was back in 1985 when the FCC put its Ultra-High Frequency (UHF) discount for television in place. At the time, it compensated for the technical shortcomings of UHF signals used by television stations allocated to channels above 13. In the analog era, UHF stations had weaker propagation, limiting audience size. Their signals simply did not travel as far as Very-High Frequency (VHF) band signals allocated to channels 13 and below. As a result, it was the low VHF stations that were most desirable—because their signals reached the most viewers. To reflect the more limited scope of UHF signals and their less desirable status in the marketplace, they counted only half as much as VHF signals for the purposes of our television broadcast ownership rules. By all accounts, this was a fair approach to analog technology.

However, it was *more than a decade ago* that all our full-power television stations converted to digital technology. The analog era is over. This is the digital age. With respect to UHF and VHF signals, this means the world has been reversed. The very UHF signals that had the least reach in analog broadcasting now have the furthest reach in digital broadcasting. Conversely, the once-desirable VHF signals now have the weakest reach in digital broadcasting.

We should be updating our policies to reflect current technologies. There is not a broadcast engineer in the country who could say with a straight face that continuing to honor the UHF discount makes any technical sense. Yet our decision today depends entirely on counting stations as if it does. It relies on the fiction of the UHF discount still being technically viable in order to ensure that the new broadcasting company that results from this transaction clears important ownership limits in the law.

This is unfortunate. Our failure to revisit this basic standard prevents us from having an honest dialogue about localism, competition, and diversity. It means discussions about media ownership are all built on an anachronistic assumption about audience reach. This is embarrassing. The FCC is the nation's expert on broadcasting and our technical policies are simply obsolete. It's also regrettable because the economic models that have sustained traditional newsgathering and content have changed with digitization. At the same time, as newspapers fold, broadcasting remains an essential source for the local news we need to make decisions about our lives, our communities, and our country. In many ways, it has never been more important—and our treatment here should reflect that by assessing how this increase in concentration impacts localism, competition, and diversity.

Second, this decision takes a brutal approach toward standing. Under the Communications Act, a “party in interest” has the right to file a petition to deny any application before the FCC involving licensed services. With broadcasting transactions, the FCC has generally allowed for standing in three ways: competitors in the market with signals subject to interference, competitors in the market subject to economic harm, and residents of the station's service area or regular listeners. An organization can establish standing by showing that at least one of its members meets this test.

This is a good policy. It has served the FCC well for decades. But in this decision, we burn it down. In a footnote, the agency overturns its past decisions making it possible for organizations to challenge media mergers in which multiple markets are at issue. Instead of honoring long-standing commission-level precedent in media mergers that conferred organizational standing based on the affidavit of one member, going forward organizations will be required to file an affidavit from a member in each and every affected market across the country. In the instant decision, that means we treat Common Cause's concerns as informal objections in every market but one.

This is bureaucratic and cruel. It perversely means that the public will have fewer opportunities to comment on the use of the public airwaves. It turns this agency's priorities upside down by creating a new and unnecessary roadblock for the public to participate in our proceedings. As a result, it reduces the role the public can play assisting this agency in assessing localism, competition, and diversity. This is shameful and wrong.

We should be encouraging the public and individual citizens to take an active interest in the scope and quality of broadcasting in their communities. It plays a special role in providing local news and information—and our process should honor this essential truth rather than diminish it.

For these reasons, I dissent.