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VIA ECFS

Marlene Dortch
Secretary
Federal Communications Commission

RE: Comments of Meredith Corporation's Local Media Group
2018 Quadrennial Review NPRM

Dear Madam Secretary,

Meredith Corporation's Local Media Group hereby provides these initial comments in the above-referenced proceeding¹ to support relaxation of the Local Television Ownership Rule. Meredith believes each of the Top Four Prohibition and the Two Station Cap are no longer necessary in the public interest and no longer serve the purposes of competition, localism, and/or viewpoint diversity.

The Local Video Marketplace Has Changed Significantly

In the 1980s and 1990s, consumers generally only had access to over-the-air television and cable channels to fill their leisure time and learn about community affairs. Therefore, in earlier decades, advertisers spent their local media budgets on those platforms.

With the advent of the Internet, social media, and other platforms, local advertising dollars have moved to non-broadcast platforms. Indeed, a recent Borrell Associates report found that digital had a 53% share of the \$126.3 billion total U.S. local ad market.² In comparison, combined local broadcast media (which included television, cable, and radio) had less than 30 percent by Borrell's count.³

In the end, while television stations do compete for viewers among each other and with other platforms, what's more telling is that they are competing for **DOLLARS** in the local media space. By one count, "80% of local media's 60,000 ad-sales reps are now peddling digital products".⁴ Broadcasters have traditionally mixed local advertising (e.g., local furniture store) and national advertising (e.g., Proctor and Gamble). Now, much larger MVPD and Internet players are doing the same thing.⁵

¹ 2018 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, Notice of Proposed Rulemaking, MB Docket No. 18-349, FCC 18-179 (rel. Dec. 13, 2018) (2018 Quadrennial Review NPRM).

² Wayne Friedman, *U.S. Local Digital Advertising Forecast to Rise in 2019*, MediaPost (April 25, 2019), <https://www.mediapost.com/publications/article/334059/us-local-digital-advertising-forecast-to-rise-in.html>.

³ *Id.*

⁴ *Borrell Forecast: Podcast Local Ad Market to Hit \$1 Billion in 2020*, InsideRadio (April 5, 2019), http://www.insideradio.com/free/borrell-forecast-podcast-local-ad-market-to-hit-billion-in/article_32ce0540-5768-11e9-a64c-1f4d91dcf84a.html.

⁵ Sapna Maheshwari and John Koblin, *Why Traditional TV Is in Trouble*, N.Y. Times (May 13, 2018), <https://www.nytimes.com/2018/05/13/business/media/television-advertising.html>.

It's axiomatic that **commercial** television broadcasters require **revenues** to compete and survive. When those potential revenues are going elsewhere, then local television broadcasters must compete with the other platforms to retain or win back those dollars.

The U.S. Department of Justice has launched a workshop to consider these new advertising trends.⁶ But the FCC need not wait for the DOJ's analysis and should lead with the recognition of the current media marketplace instead of one in stuck in past decades.⁷ Nor need the Commission use a cramped view of competition. The Commission should take this opportunity to recognize that competition for local advertising revenues is what it is – competition.

Furthermore, the Commission should not give credence to attempts by local broadcast television's competitors – multichannel video programming distributors – to further hamstring broadcasters by injecting retransmission consent concepts into the 2018 Quadrennial Review. Cable, satellite, and telco video distribution is a highly concentrated industry at the national level (with the Top 4 MVPDs far outpacing their peers in size and revenues)⁸ and at the local level due to franchise agreements and cable "interconnects."⁹ To the extent that MVPDs wish to discuss retransmission consent, they have had ample opportunities to do that in Commission proceedings focused on retransmission consent.¹⁰ It need not be a part of the 2018 Quadrennial Review.

Meredith Has First-Hand Experience with Clients Moving Local Advertising Dollars to Other Platforms

Meredith's television sales teams report that the erosion of local television dollars to other platforms, such as digital and cable, is occurring everywhere in every category and every market everyday. Meredith provides below some anecdotal examples for the record.

In one East Coast market, a car dealer that owns five dealerships now spends ninety percent of its local advertising money on digital, including search, targeting, geofencing, and automobile aggregator sites.

A Western market reports that a local sandwich franchise has moved almost 50% of their local advertising spend to digital.

In a Southeastern market, a local hospital moved all of its local advertising spending to digital platforms.

In a Midwestern market, a large law firm has shifted approximately \$500,000 away from TV toward its own YouTube channel.

In a Northeastern market, the entire quarterly local advertising budget for a paint company was shifted to digital.

In a Western market, a Meredith television station was told that a telco's entire marketing budget was being moved to digital.

⁶ *Competition in Television and Digital Advertising Workshop Information*, Justice.gov, <https://www.justice.gov/atr/public-workshop-competition-television-and-digital-advertising> (last visited April 25, 2019).

⁷ Harry A. Jessell, *Justice Sets Dates for TV Merger Workshop*, TVNewsCheck (March 20, 2019, 2:54 PM), <https://tvnewscheck.com/article/232442/justice-sets-dates-for-tv-merger-workshop/>. ("Delrahim did not take the bait, saying only that the DOJ and FCC have two separate statutory mandates and two different ways of evaluating deals.")

⁸ See, e.g., Mike Farrell, *Top 25 MVPDs*, Multichannel.com (March 28, 2018), <https://www.multichannel.com/news/top-25-mvpds-411157>.

⁹ *The New TV: Redefining Video for Viewers and Advertisers*, ComcastSpotlight.com, <https://go.comcastspotlight.com/NewTV> (last visited April 25, 2019).

¹⁰ Comments of Meredith Corporation (Implementation of Section 103 of the STELA Reauthorization Act of 2014, MB Docket No. 15-216) (November 30, 2015).

The Top Four Prohibition Ignores Market Realities

The FCC cannot use the concept of spectrum scarcity for broadcast-only ownership rules given the competition with other spectrum users,¹¹ and in the same vein content scarcity and distribution scarcity are also gone. Programming and content flows freely through multiple platforms, such as Over-The-Top,¹² wireless,¹³ and social media.¹⁴

At most, the modern world lends itself to a spectrum screen as it applies to AT&T and Verizon,¹⁵ and not a special provision based on the content and popularity of the content of two television stations. As noted above, those television stations are competing with a wide variety of unregulated or lightly regulated businesses for the same local (and national) advertising dollars.

Internet companies are bidding for the employees, specifically showrunners, producers, and on-screen talent that traditionally would have only been on network television.¹⁶ Further, Amazon is bidding on sports rights just like television stations¹⁷, and digital behemoths (FAANG¹⁸) are competing for the same programming and the same viewers as local broadcasters. While Amazon, Google and the others can purchase and produce as much content as they want to attract viewers, limiting broadcasters from expanding by acquiring other top four stations limits the quantity of programming they can have to compete in the new digital world, and makes them less competitive. There is no rational basis for allowing non-broadcasters to affiliate with whatever content they want but limiting broadcasters from affiliating with top-notch content in order to compete.¹⁹

Indeed, the harm to localism by weaker broadcasters is far greater than the harm to localism created by stronger co-owned television stations. Broadcasters are committed to localism, and especially local news and weather. Weakening broadcasters in competing for dollars in the local advertising marketplace simply weakens the players most committed to localism.

Furthermore, the Commission should not make matters worse by, for the first time, including low-power television stations, shared services agreements, and/or multicast affiliations in its analysis under the local ownership rules. LPTV and multicast delivery platforms have inherent limitations in bit rate and/or reach that do not equate to the spectrum usage rights available to full power television stations. As noted, the Commission should be focusing on those spectrum usage rights, not content. Meredith supports NAB's strong record submissions on the value of shared services agreements to competition, localism, and diversity.²⁰

¹¹ *Red Lion Broadcasting Co., Inc. v. Federal Communications Commission*, 395 U.S. 367 (1969).

¹² See, e.g., Jon Steinberg, *3 Years Later, Cheddar is On Every Over-The-Top Pay TV Service in the United States*, Cheddar.com (January 23, 2019), <https://news.cheddar.com/3-years-later-cheddar-is-on-every-over-the-top-pay-tv-service-in-the-united-states-8d3555f032b1>; Sports Illustrated TV, <https://si.tv>; CBS All Access, <https://www.cbs.com/all-access/>.

¹³ Jeff Baumgartner, *T-Mobile's Jeff Binder: 5G is 'Perfect Delivery Mechanism for Video'*, Multichannel.com (May 15, 2018), <https://www.multichannel.com/news/t-mobiles-jeff-binder-5g-perfect-delivery-mechanism-video>.

¹⁴ Facebook Watch, <https://m.facebook.com/watch>.

¹⁵ The 2018 Quadrennial Review asks for comment on the effect of the voluntary transition to ATSC 3.0 on the Commission's broadcast ownership rules. Meredith respectfully submits that at this early stage there is no effect except to make starker the disparate treatment by the FCC of broadcasters and wireless service providers. ATSC 3.0 is in its early stages, and the Commission will be better served evaluating its effect in the context of the next quadrennial review.

¹⁶ Lucas Shaw, *Netflix, Amazon Billions Lure Hollywood Hitmakers to Jump Ship*, BloombergQuint.com, (February 13, 2018 6:17 PM), <https://www.bloombergquint.com/technology/netflix-amazon-billions-lure-hollywood-hitmakers-to-jump-ship>.

¹⁷ Alex Sherman, *Amazon's Threat of Buying Sports Rights Should Freak Out Traditional Media Companies*, CNBC (November 20, 2018 12:51 PM), <https://www.cnbc.com/2018/11/20/amazon-threat-to-buy-sports-rights-should-freak-out-media-companies.html>.

¹⁸ Facebook, Apple, Amazon, Netflix, and Google

¹⁹ Insofar as the Commission suggests that it may change its definition of "at the time of the application" for the Top Four Prohibition (see para. 64), the suggestion for three years of data directly contradicts the plain language of "at the time of the application." Simply, three years ago is not the day the application was filed. Changing current pattern and practice developed over decades of broadcasting transactions would only add uncertainty to the market from arbitrariness.

²⁰ See, e.g., Comments of the National Association of Broadcasters (2014 Quadrennial Regulatory Review, MB Docket No. 14-50) (August 6, 2014).

The Commission's Waiver Standard Does Not Solve Infirmities of the Top Four Prohibition

Meredith commends the Commission on understanding that some safety valve to the Top Four Prohibition is necessary by allowing for a waiver process. However, the current waiver process does not provide sufficient certainty for companies, especially public companies, to make them willing to invest substantial time, effort, and opportunity cost in such transactions.²¹ The fact that it is “case-by-case” in the Commission’s own words does not provide sufficient certainty for investment. Meredith is unaware of any granted Top Four Prohibition Waiver.

To the extent that the Commission could add more certainty to the waiver process, as exists for satellite waivers and failing/failed station waivers, perhaps this intended safety valve could be of greater use.

The Two Station Cap Should Not Be Uniformly Applied In All Markets

Even assuming that the Top Four Prohibition should survive (which it shouldn’t), the concept that in every market a number 4 television station couldn’t also own two or three (or more) non-Top Four stations lacks a rational basis. In a market like Phoenix, Arizona, for example, no fewer than nine commercial local television stations sell spot advertising. Why should a number four station not be able to compete better with a number one station by owning several smaller stations?

To those who claim there may be a loss in viewpoint diversity, the Commission has already said that the drop-off from a number four station to a number five station is so great to in essence render stations ranked lower than four irrelevant. A stronger station combining multiple of those stations could perhaps pull together enough resources to make that voice relevant. In addition, co-owned stations may speak with different voices as to attract different audiences. For example, the audience of a local CW affiliate (which trends younger) is likely very different than the audience of a local CBS affiliate (which trends older).

The Commission must re-examine its local Two Station Cap in light of new non-broadcast competition and differences in market size and number of television stations in particular markets. A sliding scale spectrum screen likely best captures these differences.

The Time for Words Has Ended; The Time for Action is Now

Local television broadcasters have long been competing with vertically-integrated massive MVPDs, Silicon Valley giants, and unregulated upstarts with one hand (or maybe even two hands) tied behind their back. This Commission has the opportunity, and the statutory duty, to remove some of those barriers to allow local television broadcasters to survive and thrive in the new media economy by reforming the Local Television Ownership Rule.

Very Truly Yours,



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²¹ Of course, the Commission can always waive its rules for good cause, but investment requires more than an opportunity that the Commission may waive its rules.