**Before the**

Federal Communications Commission

Washington, D.C. 20554

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| In the Matter of  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 | **)**  **)**  **)**  **)**  **)**  **)** | MB Docket No. 18-349 |

**Comments of Thomas C Smith**

I wish to submit my comments on the matters that were discussed in the Notice of Proposed Rulemaking adopted on December 12, 2018 concerning broadcast ownership. I have previously commented in the past on proposed rule changes concerning changes in the rules on ownership limits. While I have stated in previous filings that we cannot go back to the days of the 7-7-7 ownership limits, I believe that there has to be some limits on ownership of broadcast stations. The Commission has over the years issued notices that have discussed increasing the diversity of broadcast station ownership, diversity in programming and better serving local listeners and viewers. It seems to me that the proposals in this notice are counterproductive to these goals. While there may be some allowances that may be needed to the existing rules in special circumstances, I do not believe that wholesale changes in the ownership rules are in the interest of viewers and listeners or the public in general. I will discuss each of the three primary proposals separately.

**Local Radio Ownership Limits**

I believe that the local ownership limits for radio stations should remain as they are currently written. There are several reasons that I believe that the rules should not be changed. The first is that increasing the number of stations that one entity can own in a market and the reduction of the number of owners of radio station groups in a market will stifle programming innovation. Stations that own the full limit of stations particularly those in the largest markets are limited on they can do as far as innovation as they may already be competing with themselves already. When one owns 6,7 or 8 radio stations, you may already have stations airing similar formats. Except for a few large markets where there is an all news station, there are only four basic formats which are some variation of rock music, country music, all talk and sports radio stations. If a group has the full limit of stations in a market, they have at least one of the formats that has more than one station doing a variation of that format and you can only do so many variations of a music format. There are other possible music formats such as classical, traditional standards, background or beautiful music, but they have been mostly abandoned. Other formats include religious and foreign language stations, but they are mostly stand alone stations and are not normally part of groups of stations in a market. Because of the limited formats that most groups program, it limits how much they can innovate. Adding to the limited choices of formats, in many markets, there are groups that already dominate their market by owning more stations than the limits the FCC has set which further stretches the use of these few formats. They do this by purchasing mainly FM stations that cover the market with a usable signal, but because their 60 dbu contours do not overlap, the stations are considered under the rules as serving separate locations. The 60 dbu or the 54 dbu contour in the cast of class B FM stations are not the end of usable service except in the case of the worst receivers. The Commission recently established the 45 dbu contour as the usable contour of a FM station when considering interference complaints from FM translators which is a more reasonable level in establishing a FM stations usable coverage area.

Another issue I have seen is the complete or near complete dominance of a radio outlets in a community because it is considered to be a part of larger market even though the community is located some distance from the other cities and stations of the larger market. Because of they are part of a larger market either because it is in a hyphened market populated be a number of communities or in the shadow of a large city, they are under the ownership limits of the larger market they are part off and can end up owning all or nearly all the stations in that town without violating the ownership limits, thus restricting the number of choices that an advertiser has in purchasing advertising and news sources for the listening public. For those in this communities, the market is that city and not the stations in the other cities. These is an issue that may be considered a unintended effect of the rules and most likely cannot be easily resolved without changing how markets are determined, but the Commission should be aware of.

The Commission has issued a number of notices over many years asking on how to expand ownership for smaller broadcasters, particularly increasing minority and female ownership. If the Commission allows either increased or unlimited ownership of radio stations in a market, what is to say that a group could buy all of the stations with the best coverage and ratings and either leaving the smallest stations for the small operators or even buying and shutting down the smallest stations to eliminate competition. It is very likely that many smaller AM stations would cease operation, particularly daytime AM stations. These are the type of stations that are purchased by first time owners and provide niche programming such as Spanish or ethnic programming.

The current rules on radio ownership were created in Communications Act of 1996 and lead to the creation of a few very large radio broadcast groups. By placing the only limits on the number of station one could own in each market and with no national limits other than the local market limits, it lead to a number of issues that has damaged radio. The first is the creation of basically cookie cutter radio where the music playlists were the same from market to market, or the same satellite feed talk radio programming with very little local input even to the point that the announcers were voice tracked on numerous stations and very little local information. It is to the point on many stations that on the weekend the only weather is the same canned report delivered on Friday night from a local TV stations weather department that runs all weekend. I have seen many comments already posted from members of the music industry objecting to further consolidation. They have legitimate complaints. One of the ties between the music industry and radio was aid in the promotion of music. But that has even be broken by the consolidation of radio. With automation and no local or live announcers, the music is no longer identified as to song or artist which limits the ability of the listener to purchase the music easily because they were not made aware of the artist or name of the song. Also, there are few local interview or call in shows were local issues can be discussed.

The two biggest radio consolidators , I Heart and Cumulus went through bankruptcy because they took on too much debt in purchasing their large number of stations. What if they were not able to come out of bankruptcy as they did, what kind of chaos would that have caused for both the listener and the radio industry.

**Top Four TV combinations**

The FCC has now allowed duopolies in all markets as long as the top four stations are not combined. Under this rule, it generally means one group cannot own a station with any combination of ABC, CBS, Fox or NBC networks but can own a combination of one top four network station and a CW, MyNetworkTV or an independent or Spanish or ethnic language station. But, stations have already started to work around that rule as noted in the Commission's notice on this rulemaking. In some markets, stations have affiliated a commonly owned low-power station with second big four network or placed a second and in a few cases a third big four network as a sub-channel on their full power station. There have been instances were a stations has bought a second station in the market and taken its network affiliation and either left it with a CW or MyNetworkTV affiliation or no affiliation and may have kept it as a duopoly as affiliate of those networks, selling it or even turning in the license. Before even considering allowing the creation of duopolies of two big four networks, the Commission should rule on the legality of these combinations. I can see the Commission allowing very small markets with a limited number of stations ( three or less) to either add a second big four network ( mainly Fox as its program schedule is limited) as a sub-channel or on a low power station, but the Commission should not allow a station to combine two or more of the major networks on one station by buying out a second station and either leaving it with lesser programming or shutting down the station.

The Commission should not allow stations in larger markets to combine big four networks either with duopolies or on sub-channels. That leaves the Commission with a problem. Since the Commission no longer collects information on TV station revenues, the Commission is unable to determine when a TV market has sufficient revenue to support at least four full power stations affiliated with the four major networks. I would guess that the line where a market would no longer support four stations or more would be smaller than the top 100 markets and probably between market 125 and 150.

Before stations having to go off the air or being left with no network because of a network being added to another station , I would prefer that the FCC make it easier to allow stations in very small markets that are having revenue difficulties become satellite stations to a nearby station affiliated with the same network. One of the biggest failures of the FCC in my opinion is that there has been no rules promoting the use of satellite TV stations to expand TV coverage and programming choice in sparsely populated areas that are unable to support fully staffed stations with news operations. With the technology available today, a small news bureau could be located in the community of license to feed the news room in the parent station which could still provide some news coverage that may be lost because of conversion to satellite station. The Commission should try to have two independently owned TV stations in a market either locally programmed or as satellite stations from a nearby parent station plus a PBS station. With the cord cutting phenomenon, broadcast TV may become more important in providing live programming and news and sparsely populated areas should have reasonable access to that programming.

**Dual Network Rule**

The rules pertaining to the prohibition of any merger between ABC, CBS, Fox or NBC should be retained There has been enough consolidation of the movie and cable industries of which the four networks are part of. Mergers of any of the networks would reduce news voices that reach nearly all of Americans has well as possibly reducing the access of program producers and the diversity of program ideas to the networks. Also, the anti-trust issues and the all of the possible divestures that would be required would be more complicated than any of the previous media mergers. Instead of mergers between the networks, it would be preferable that the networks take advantage of multicasting and provide new networks for TV stations or strengthen an existing small broadcast network like NBC did with Telemundo.

**Competition from other Media**

One of the arguments for further consolidation of the broadcast industry is competition for the services on the internet such as Google, Facebook, Netflix, Hulu, You Tube, music streaming services and Amazon, I believe that we are comparing apples and oranges. Yes they have an effect on broadcasters, but is it any different then past completion other then size. Are these services replacements for other media such as newspapers, magazines, records, VHS tapes or VHS's replacement DVD's. The biggest impact may be on advertising, but even there is a different in the way advertising is used on TV versus the internet. In the past, people would read the newspaper or a magazine while listening to the radio or watching TV and look up at the TV when it started to sound interesting or stop reading when they heard something interesting on the radio particularly when listening to sports. Is that any different than looking at a tablet while with the TV on. Part of the issue with any losses to the internet may not be with the services on the internet taking away viewers and listeners away, but with the broadcasters giving them away by not keeping their content relevant. That would be by converting radio station to nothing more than jukeboxes with no personality or TV programming that has lacks creativity and became too similar such as hours of crime dramas and reality programs. I saw this with newspapers. The first TV station I worked at was owned by a group that also owned a newspaper. During that time I saw the paper starting to drop content and be concerned with style. The next owners continued that tread as other papers did as well. At first, it didn't affect the circulation until the content dropped to a point that people questioned even subscribing to the paper and on top of that, the newspapers did not embrace any possibilities of the internet. This mostly occurred before the internet, so by the time the internet came along, it was not difficult for those on the internet to lure people and advertiser from the papers. More consolidation will not help broadcasters, only taking care of their own business both on the air and with their internet offerings will help retain viewers and listeners..

The bigger issue for broadcasters in small markets is the growth of Wal-Mart and other big box stores and Amazon and their impact on small merchants. The loss of these businesses and their ad dollars has a greater effect on small stations than ad dollars going to the internet. If they cannot find new ad dollars, no amount of consolidation will help make up for those lost ad dollars.

Maybe creating larger TV and radio broadcast groups is not the answer. Instead of creating new monopolies, maybe it is time to break up the internet monopolies. All this consolidation is doing is preventing opportunities for people to own stations or work in the industry. I have long ago can to the conclusion that the authors of the anti-trust law over 100 years ago understood the effects of monopolies on the economy. Competition in business requires more than one or two large corporations producing a product.

I have been involved in broadcasting for 50 years and the broadcast consolidation have caused more damage than any other action the FCC has taken. In 1975 I filed comments on the Laurinburg petition to allow Class A FM stations on Class B and C FM channels which lead to Docket 80-90 rulemaking which my name appears in. My comments were in support of more competition in communities with little competition. The FCC created a land rush of application because of allocation and rule changes which over saturated some markets, but mostly did good by providing more choices for listeners in many communities. But there is little growth in the broadcast industry anymore that would provide a counter to any consolidation in both radio and TV. Radio growth has been limited by the impact of spectrum auctions. Auctions are lengthy drawn out process that can take years from the time an allocation is approved to the time a station is licensed, For TV it is even worse beyond the effects of auctions. New allocations and licenses have been frozen for nearly 30 years, first to create the first digital TV allocations for the second channel for the DTV transition and than for the repacking of the TV band to free up the 600 MHz band for broadband use. If the FCC allows more consolidation, there is no mechanism to easily correct for any damage unless the FCC sets new allocation rules for TV.

In conclusion, I believe that the Commission should show restraint and take into consideration the effect on the smaller broadcaster and their ability to compete. Just because they don't have expensive lobbyists does not mean that they do not count. Also, take in account the ability of broadcasters to provide listeners and viewers a variety of choices in programming. The best option the Commission may have is less change in the rules provides more choice.

Respectively submitted

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Thomas C Smith

1310 Vandenburg St.

Sun Prairie, WI 53590

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