Brandon Burgess
Chairman and Chief Executive Officer

May 29, 2019

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, D.C. 20554

Re: **2018 Quadrennial Review of Media Ownership Rules, MB Docket No. 18-349**

Dear Ms. Dortch:

ION Media Networks, Inc. ("ION") hereby files these Reply Comments in the above-referenced proceeding in favor of relaxation of the Commission's restrictions on local television ownership.[1] Specifically, ION urges the Commission to remove the current two-station cap on local television station ownership and eliminate restrictions on owning two top-four stations in a market. The Commission should adopt these changes to modernize its rules and level the competitive playing field as broadcasters increasingly compete for viewers and advertising dollars against world-wide companies like Facebook, Google, AT&T, and Netflix that face none of the local ownership restrictions placed on broadcasters.

In today's media marketplace, the local television ownership rule is antiquated and arbitrary. The rule was designed to preserve competition among broadcasters in the old world where television broadcasting was practically the only video option for consumers. In that world, broadcasters attracted massive audiences and the lion's share of local advertising dollars. As the comments in this proceeding amply show, that world is gone.[2] In its place is a media ecosystem in which local television continues to play an important role, but viewer and advertiser attention has been captured by non-broadcast alternatives delivered directly to homes over the Internet. These new services typically are delivered by gigantic, often vertically integrated, companies that are global in scale and scope and face no restrictions on their ability to reach viewers in any market. The time has passed for rules designed to protect against broadcaster domination of the market; today's world requires rules that free broadcasters to compete fairly on a level playing field with its real rivals.

As the Commission knows, free, over-the-air local television remains a vital and important service for communities across the country. As a leading independent broadcaster, ION strives to provide high quality video to all Americans, in particular those who are increasingly relying on over-the-air television. And ION has been a digital television innovator, distributing two digital networks: Qubo, which features premium children's programming available for free in both Spanish and English, and ION Life, which features hit dramas and original series. Qubo in particular demonstrates ION's commitment to the public interest, providing countless hours of children's educational and informational programming as a multicast program stream on every ION station. Today, ION owns 70 television stations in 61 local markets, including "duopolies" in 9 markets. That's relatively "big" for a broadcaster, but compared to most of ION's competitors,

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[1] *See* 2018 Quadrennial Regulatory Review, *Notice of Proposed Rulemaking*, MB Docket No. 18-349, FCC 18-179 (Dec. 13, 2018) (the "*NPRM*").

[2] *See*, e.g., Comments of the National Association of Broadcasters at 43-56 ("NAB Comments"); Comments of Nexstar Broadcasting, Inc. at 3-9 ("Nexstar Comments"); Comments of Meredith Corp. at 1-3 ("Meredith Comments").

namely large Internet companies, ION is a small business competing among giants. Enforcing structural prohibitions like the two-station cap on local ownership against companies like ION makes no sense when cable and satellite programmers can own dozens of programing channels and Internet video providers can distribute a virtually unlimited number of programming streams into every U.S. household.

The intensely competitive video marketplace ION and other broadcasters face demands new thinking on the Commission's part. Historically, the Commission has retained the local ownership rule because it fosters competition, diversity, and localism. None of these policy priorities can justify retaining the current local television ownership rule.[3]

Competition. As described above, the competition rationale no longer exists. Today the rule perversely constrains broadcasters from competing with their larger rivals. Moreover, the U.S. Department of Justice polices television station mergers, and it is better equipped than the Commission to judge the kinds of inter-industry competition that are driving the media marketplace. Any liberalization of its structural local ownership rules will promote fair competition, and the Commission can rely on the DOJ to review any mergers that pose a legitimate competitive threat.

Diversity. Similarly, the explosion of sources of available video programming eliminates diversity as a rationale for continued limitations on local ownership. The truth is that there are not enough broadcast television outlets in any market to meaningfully affect the number of choices that video consumers enjoy, regardless of whether the Commission is considering source or viewpoint diversity. In an era of limitless video choices, trying to foster diversity by limiting local television station ownership is no longer rational.

Localism. Providing service that viewers in local communities want and need remains the most challenging, expensive, and rewarding part of operating local television stations. Rules that artificially restrict local broadcasters' ability to compete do not serve this goal. Serving local communities requires strong, efficient local stations. The current local television ownership rule prioritizes maintaining a multiplicity of different owners – regardless of how strong or successful they are – over letting the marketplace decide how many local owners a market should have. This is a recipe for disaster in today's hyper-competitive market. Structural ownership limitations that impede broadcasters' competitiveness are simply not a rational way to achieve the Commission's localism goals.

For these reasons, ION supports those commenters who have called for an end to the Commission's two-station cap on local television ownership.[4] The Commission should replace this cap with a rule allowing ownership of two stations in any market and presuming that ownership of three or more local television stations in a market is permissible unless the Department of Justice advises that such ownership would violate the nation's antitrust laws or an opponent makes a compelling case that a proposed ownership combination will cause specific harms to the public interest.

Likewise, ION supports the commenters seeking an end to the two top-four limitation on local multiple station ownership.[5] As the comments show, this restriction merely functions as a prohibition on duopolies in small markets, many of which do not even have four full power

[3] *See* NAB Comments at 57-69.

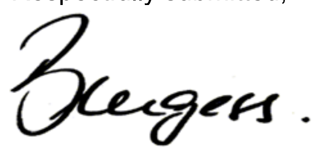
[4] *See*, *e.g.*, NAB Comments at 77-79; Meredith Comments at 4.

[5] *See* NAB Comments at 70-77; Comments of Gray Television, Inc. at 9-13; Nexstar Comments at 10-14;Meredith Comments at 3.

television stations.[6] The Commission's most recent iteration of this rule, which allows parties to make a showing in support of a proposed top-four combination gets the balance wrong. Such combinations should be presumed to comply with the rules, and the burden should be on opponents of a proposed top-four combination to show what it would violate the Commission's policies. The Commission should remove any top-4 limitation from its rules and handle objections to particular proposed transactions as part of its general transaction review process.

Finally, ION agrees with those parties who oppose tightening the local television ownership rules by considering low-power, multicast, and satellite station streams to count against stations that operate them.[7] ION operates innovative multicast streams in all of its markets and owns two satellite stations. These program streams currently are not counted as relevant when determining local ownership rule compliance. Any change to that rule could have the unintended consequence of making approval for efficient local ownership combinations even more difficult to obtain. That result would harm local television in today's competitive market.

Respectfully submitted,



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[6] *See* Gray Comments at 7-9.

[7] *See* NAB Comments at 79-82.