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Via Electronic Comment Filing System

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
236 Massachusetts Ave., NE
Washington, DC 20002

Re: 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

Dear Ms. Dortch:

News-Press & Gazette Company ("NPG") appreciates the opportunity to file these reply comments in the 2018 Quadrennial Regulatory Review proceeding (the "*2018 Ownership Rules NPRM*"). As set forth in NPG's initial comments, submitted on April 29, 2019 (the "Initial Comments"), as a family-owned and -operated company with broadcast television and newspaper operations serving tight-knit local communities, NPG appreciates the Commission's desire to modernize its Local Television Broadcast Ownership Rules to account for the changing face of media competition and variations across media markets.

NPG's roots stretch back to 1845, with the publication of the first Gazette in St. Joseph, Missouri. In 1951, the Bradley family acquired the Gazette and the rest of the NPG company and the company has been owned and operated by the Bradley family ever since. In the present day, NPG publishes 13 daily and weekly publications in two states and operates broadcast stations licensed in seven states and across ten DMAs.[1] Of those ten DMAs, all of NPG's stations are located in markets between 75–210 in DMA rank.[2]

As NPG's broadcast holdings indicate, the company has real-world experience in small- to mid-sized DMAs and the marketplace characteristics present in such DMAs. Indeed, NPG is headquartered in St. Joseph, Missouri—the 201st-ranked DMA—and is therefore well positioned to understand the characteristics of these smaller markets.

[1] More information regarding NPG's history, vision, and principles is available on our website. *About NPG* (2017), http://www.npgco.com/about-npg/.

[2] *Locations*, News-Press & Gazette Company (2017), http://www.npgco.com/locations/; *2019 Local Television Market Universe Estimates*, Nielsen (2018), https://www.nielsen.com/content/dam/corporate/us/en/public%20factsheets/tv/2018-19-dma-ranker.pdf.

In its Initial Comments, NPG focused on the imperative of liberalizing the Local Television Broadcast Ownership Rule in markets between 75–210 in DMA rank. NPG continues to strongly support that much-needed change and submits these reply comments in order to focus on an important aspect of the Commission's Local Television Broadcast Ownership Rules raised by two commenters. In particular NPG opposes the comments submitted by NCTA – The Internet & Television Association[3] ("NCTA") and the American Television Alliance[4] ("ATVA") suggesting that the Commission's current ownership-attribution exemption for LPTV stations and multicast and satellite signals somehow constitutes a "loophole." The loophole claim is a canard. The exemption from ownership attribution for LPTV stations, multicast program streams, and satellite stations was not at all the product of inadvertence. It was an intentional policy choice. And a well-made policy choice at that, which yielded undeniable public interest benefits as recognized by other commenters.[5] Accordingly, NPG encourages the Commission not to alter its attribution treatment of LPTV stations, multicast program streams, and satellite TV stations.[6]

As NPG noted in its Initial Comments, the economics of smaller markets often cannot support more than one or two truly local sources of programming. It takes a substantial amount of money to run a news department. LPTV stations, multicast program streams, and satellite stations are often mechanisms by which smaller communities may be served by a broadcaster. These means of program transmission have sparked innovation that would not otherwise have been possible. National networks have recognized this by granting affiliations to broadcasters using such distribution mechanisms in smaller or underserved markets. This is precisely the type of innovation the Commission intended and hoped for when it made the intentional policy decision to exempt LPTV, multicast, and satellite television from ownership attribution. As the Commission has stated: "[C]onsidering the marketplace conditions that tend to give rise to dual affiliations, prohibited dual affiliation with more than one Big Four network could result in some Big Four networks becoming unavailable over the air in certain markets because there are not enough commercial television stations to accommodate each Big Four network in these markets."[7]

At the same time, LPTV stations are inherently technically inferior to their full-power counterparts, and thus suffer from limited comparative reach and lessened economic viability.

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[3] *Comments of NCTA – The Internet & Television Association*, MB Docket No. 18-349 (the "*NCTA Comments*") (Apr. 29, 2019).

[4] *Comments of the American Television Alliance*, MB Docket No. 18-349 (the "*ATVA Comments*") (Apr. 29, 2019).

[5] *See, e.g.*, *Comments of the National Association of Broadcasters*, at 79–81, MB Docket Nos. 18-349, 17-289 (Apr. 29, 2019).

[6] Additionally, NPG here incorporates by reference its *Joint Response to the Comments of NCTA – The Internet and Television Association and The American Television Alliance*, BALCDT-20190404AAA (filed May 24, 2019).

[7] *2014 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*, Second Report & Order, 31 FCC Rcd. 9864, ¶ 72 n.198 (2016).

The vast majority of LPTV stations have secondary spectrum priority to full-power stations and are therefore unprotected from interference and potential displacement.[8] To ask for such stations to be handicapped not just by technical limitations and second-class regulatory status but also by shuttering one of the few regulatory benefits that have permitted LPTV service to grow and flourish is to ask for many small and historically underserved communities to be relegated to second-class status. Surely the Commission does not want to create new "short" markets by requiring existing stations to divest their LPTV, multicast, and satellite stations. That would be a serious public interest detriment.

In reality, what the NCTA and ATVA comments reveal is naked economic protectionism couched as a hypothetical concern with relative "market power in the negotiation of retransmission consent agreements"[9]—an issue centered on the cable and satellite providers' ability to maximize their own profits. The cable and satellite industries' attempt to wrap themselves in the "flag" of consumer welfare fails to hold water, because the result would be to create new "short" markets and deprive consumers in such markets from the receipt of program benefits to which they have grown accustomed. Removing a free, over-the-air television service from consumers who have grown to expect it can hardly be characterized as advancing consumer welfare. Indeed, the principal question here should be whether the Commission's attribution exemption has been and continues to be in the public interest, not whether the rules can be recalibrated to help the private economic interests of certain cable and satellite providers by staving off competition from local television broadcasters.

There is no question that the attribution exemption provides substantial public interest benefits. Aside from permitting historically short markets to enjoy a full complement of Big Four network programming, the attribution exemption allows local broadcasters to combine resources to better serve local communities. For example, in the St. Joseph market NPG has combined the news efforts of its low-power stations and its daily morning newspaper to create a converged newsroom that is better able to serve the St. Joseph community through the provision of high-quality local coverage. Such synergies are crucial to providing effective service in small markets. Indeed, as the data collected by the NCTA and the ATVA demonstrate, over 95% of the markets currently utilizing the attribution exemption are smaller than 100 in DMA rank, with a solid majority falling lower than 150 in DMA rank.[10] There is no public-interest reason for the Commission to shut down the mechanism by which these smaller markets enjoy expanded local service merely to benefit cable and satellite providers' revenue streams by artificially limiting competition from local broadcasters.

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At bottom, one person's theoretical "loophole" is, in reality, a public policy benefit for

[8] *See, e.g.*, *Establishment of a Class A Television Service*, FCC 00-115, ¶ 4 (2000) (low power television stations must yield to facilities increases of existing full-service stations, and to new full-service stations, where interference occurs).

[9] *E.g.*, *NCTA Comments*, at 8–9, 11–12; *ATVA Comments*, at 15–16.

[10] *See NCTA Comments*, at tbl. A; *ATVA Comments*, at Ex. A.

small and underserved communities to receive fundamental public interest services. It may be convenient for lawyers who represent cable and satellite providers in large markets such as Washington, D.C. to dismiss the Commission's attribution exemptions as "loopholes," but for the smaller communities NPG serves, the attribution exemption is the lone mechanism which permits a very real provision of local broadcast, news, weather, and emergency services. NPG proudly serves these communities any way it can—using LPTV, multicast, or any other available mechanism—and asks the Commission not to foreclose NPG's ability to continue to provide such services.

Sincerely,

Dave Bradley

Dave Bradley

cc:
Chairman Ajit Pai;
Commissioner Michael O'Rielly;
Commissioner Brendan Carr;
Commissioner Jessica Rosenworcel;
Commissioner Geoffrey Starks

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