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September 22, 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket No. 91-221

Dear Ms. Searcy:

Transmitted herewith on behalf of The ABC Television Affiliates Association are an original and nine (9) copies of the Association's Reply Comments in the above-referenced docket.

If any questions should arise during the course of your consideration of these Reply Comments, it is respectfully requested that you communicate with this office.

Very truly yours,

THARRINGTON, SMITH & HARGROVE

William A. Davis, II

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Counsel to
The ABC Television Affiliates Association

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of)
Review of the Commission's)
Regulations Governing Television)
Broadcasting)

MM Docket No. 91-221

**REPLY COMMENTS OF
THE ABC TELEVISION AFFILIATES ASSOCIATION**

The ABC Television Affiliates Association (hereinafter "ABC Affiliates" or the "Association") submits these Reply Comments in response to the Commission's Notice of Proposed Rulemaking released June 12, 1992 (the "NPRM"). The Association is comprised of over two hundred television broadcast stations across the nation that are affiliated with the ABC Television Network.

ABC Affiliates support the Comments filed by the Network Affiliated Stations Alliance in opposition to the repeal of the dual network rule, 47 C.F.R. §73.658(g). Although the advent of video compression and digital technology in the future may dictate a re-examination of the dual network rule to allow a network to provide more than one network service to its local affiliate, a change in the rule at this time would have a destabilizing effect on local television affiliates. Retention of the rule for the present is all the more important in view of the Commission's recent decision to allow the networks to acquire cable television systems and the pending proposal to allow the networks to increase the number and reach of their owned and operated television stations.

The ABC Affiliates' comments on other issues raised in the NPRM are as follows:

1. National Ownership Limitations

ABC Affiliates support the position articulated by NAB on this issue: The national ownership limits should be increased to eighteen stations with a thirty percent audience reach, and the minority ownership incentives should be continued. There can be no dispute that the proliferation in the number of television stations and the marked increase in alternative sources of video programming have substantially ameliorated the Commission's concerns with preventing economic concentration and harm to program diversity which underlie the rule. In the current economic climate, it is particularly important that the rules not serve as an undue impediment to achieving the efficiencies that can flow from group ownership. Stronger competitors in the video production marketplace can be expected to spawn new and diverse programming; thus, relaxation of the ownership limits will serve the Commission's overriding public interest objectives. An eighteen-station limit would represent a modest step toward permitting the expansion of group ownership while at the same time allowing the Commission an opportunity to monitor and assess the benefits and costs, if any, associated with the change.

2. Contour Overlap ("Duopoly") Rule

The Association supports a change from the Grade B contour to the Grade A contour in the standard used to determine prohibited overlap in commonly-owned

television stations. In the twenty-eight years since the Grade B standard for television was adopted, the factual basis for a strict overlap rule has been eroded. Allowing ownership of cognizable interests in stations having not more than a Grade B overlap will enhance the ability of broadcast stations to compete without any material adverse effect on diversity.

However, ABC Affiliates oppose any further relaxation of the duopoly rule for television at this time. It is true that television stations compete in a multichannel environment and on the surface it might appear that providing local television stations with an opportunity to acquire and program another local station would be beneficial. However, given the financial challenges confronting television broadcasters in local markets today--not the least of which are the costs of converting to HDTV--it is unlikely that stations in many markets would be able to afford the costs of acquiring and programming additional local stations. There is a realistic danger that larger stations would only grow stronger while smaller stations would grow weaker, a result that would be harmful to local over-the-air television service and a competitive local television marketplace. It may be that with the advent in the future of video compression and HDTV, further changes in the duopoly rule will be warranted. Certainly the Commission should monitor these developments with an eye toward possible adjustments in the rules as technology and the financial health of the local television marketplace permit. The simple truth, however, is that local television stations can only absorb so much change at once. Given the fragmented advertising marketplace, the dramatic decline in

station values, the conversion costs of HDTV and the general economic uncertainty confronting local television broadcasters, we believe that, at least for the present, the duopoly rule should be preserved.

3. Time Brokerage Agreements

Citing its recent action in the radio context, the Commission in the NPRM has requested comment on whether it should restrict time brokerage agreements for television. As a general matter, ABC Affiliates are of the view that time brokerage agreements or LMAs are not appropriate for television. The number of local television stations is significantly smaller than the number of local radio stations, and different ownership rules are needed. However, ABC Affiliates would support a rule change by which an LMA would be allowed only on a showing of severe economic hardship, i.e., that a station would otherwise go dark. Thus, we believe LMAs for television should be handled on a case-by-case waiver basis.

4. Radio-Television Crossownership ("One-To-A-Market") Rule

The Commission has requested comment on a number of options for changing its radio-television cross-ownership rule, which generally prohibits new radio-television combinations in a market except under certain specified conditions in which the Commission is favorably disposed to grant a waiver. Given competitive conditions in the radio industry, the original duopoly rule has long since outlived its usefulness. For the

reasons set forth by NAB in its comments,¹ ABC Affiliates support elimination of the current waiver approach and recommend that the Commission instead adopt a revised rule permitting ownership of radio and television stations, within the limitations imposed by the respective duopoly rules applicable to the radio and television services, provided at least fifteen independent broadcast "voices" remain in the market.

5. Other Network Rules

ABC Affiliates support repeal of §73.658(f) of the rules, which restricts networks from acquiring television stations in smaller markets. We do not foresee any problems that could result from repeal of this rule.

However, the Association is inclined to support retention of §73.658(l) of the rules, which provides that a network without an affiliate in a market in which two stations have affiliated with two of the three major networks (and in which there are one or more independent stations with reasonably comparable facilities) must offer its programming to the independent station before the affiliated stations. There has been no showing of changed circumstances to justify changing this rule, and given the public interest considerations in assuring the availability in each market of full three-network service, we believe it appropriate that this rule be retained.

¹Comments of NAB, pp. 26-34.

Dated: September 23, 1992

Respectfully submitted,

THE ABC TELEVISION AFFILIATES
ASSOCIATION

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