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September 23, 1992

BY HAND DELIVERY

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554
Mail Stop 1170

Re: MM Docket No. 91-221
Reply Comments of WJAC, Incorporated

Dear Ms. Searcy:

We hand you herewith, on behalf of WJAC, Incorporated, an original and four copies of "Reply Comments of WJAC Incorporated" in the above-referenced docket.

Should you have any questions concerning the enclosed submission, kindly contact the undersigned.

Sincerely,

WILKINSON, BARKER, KNAUER & QUINN

Kenneth E. Satten

By: Kenneth E. Satten

Enclosure

No. of Copies rec'd 0 + 4
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Commission's Regulations Governing Television Broadcasting	)	MM Docket No. 91-221

TO: The Commission

REPLY COMMENTS OF WJAC, INCORPORATED

WJAC, Incorporated ("WJAC"),[1] by its attorneys, respectfully submits these reply comments in the above-captioned docket.[2] As explained more fully below, WJAC supports modification of the duopoly rule to allow UHF/VHF combinations in all markets. WJAC also supports repeal of the radio-television cross-ownership rule.

I. THE DUOPOLY RULE SHOULD BE MODIFIED TO ALLOW UHF/VHF COMBINATIONS IN ALL MARKETS

In the NPRM, the Commission seeks comment on whether to permit common ownership of television stations with overlapping

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1 WJAC, Incorporated, licensee of WJAC-TV, Johnstown, Pennsylvania, shares common ownership with Winston Radio Corporation, licensee of Stations WJAC and WKYE(FM), Johnstown, Pennsylvania.

2 In the Matter of Review of the Policy Implications of the Changing Video Marketplace, Notice of Inquiry, 6 FCC Rcd. 4961 (1991); In the Matter of Review of the Commission's Regulations Governing Television Broadcasting., Notice of Proposed Rulemaking ("NPRM"), 7 FCC Rcd. 4111 (1992).

contours.[3] The Commission's proposals include permitting either combinations involving only UHF stations,[4] or UHF/VHF combinations where a minimum number of separately-owned television stations (e.g., six) remained after the proposed mergers.[5]

WJAC supports relaxation of the television duopoly restriction and agrees with those commenters who have argued against limiting the rule changes solely to UHF stations. While cross-ownership of two UHF stations will advance some of the objectives articulated in the NPRM, such a limitation is far too restrictive and would preclude cross-ownership of strong VHF and weak UHF stations -- those combinations most likely to preserve and enhance UHF service. Moreover, such a limitation denies the benefits of cross-ownership (e.g., economies of scale) to VHF stations that are also in need of relief.

In addition, WJAC submits that VHF/UHF cross-ownership should not be restricted to markets with a minimum of six independently-owned stations. In this respect, WJAC endorses the comments submitted by Westinghouse Broadcasting Company, Inc. WJAC, like Westinghouse, believes that an existing VHF broadcaster should be able to purchase a UHF station and an existing UHF broadcaster should be able to buy a VHF or another UHF station. There is no need for a regulatory minimum of six independently-owned stations. Such a regulatory minimum precludes many broad-

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3 NPRM, 7 FCC Rcd. at 4115.

4 Id.

5 Id.

casters who most need relief from enjoying the benefits articulated in this proceeding. In addition, such a minimum is predicated on the false assumption that a minimum of six over-the-air signals is needed to assure diversity in the local market. This ignores, as Westinghouse points out, that the relevant universe for evaluating the need for independent voices must be the entire video marketplace, including cable. Given the Commission's recognition in the NPRM of the enormous expansion in the number of video outlets and alternative sources of video programming,[6] WJAC believes it would be counterproductive to limit cross-ownership to an arbitrary minimum of six independently-owned over-the-air stations. Accordingly, WJAC urges the Commission to both relax the rule and refrain from imposing the suggested regulatory minimum.

II. THE RADIO-TELEVISION CROSS-OWNERSHIP RULE SHOULD BE REPEALED

In the NPRM, the Commission suggests various approaches for modifying the radio-television cross-ownership rule.[7] Noting the growth of cable services and the increase in the number of both radio and television stations, the Commission indicates that one approach would be to permit consolidation of radio and television ownership subject only to the local ownership rules for each service, thereby eliminating the need for the one-to-a-

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6 Id. at 4112.

7 Id. at 4116.

market rule.[8] Another approach suggested by the Commission would involve application of a 30 "independent voices" criterion.

WJAC supports those commenters, such as CBS and Westinghouse, who have argued that radio and television combinations in a given market should be limited only by the applicable ownership restrictions for each service. CBS also argues that, at a minimum, the Commission should permit radio-television combinations in markets with at least 30 separately-owned outlets. The National Association of Broadcasters ("NAB") urges the Commission to permit ownership of radio and television stations up to the limits imposed by the duopoly rules applicable to each service, as long as 15 independent voices remained in the market.

While WJAC prefers a 15 independent voices test to the overly restrictive 30 voices test, it submits that any regulatory numerical minimum is based on false assumptions respecting diversity and will deprive many broadcasters of needed relief. In this regard, Westinghouse has pointed out that both the explosion of diverse programming voices in today's mass media marketplace and the Commission's reduced local radio ownership caps (and the modest caps proposed for television) are sufficient to ensure a competitive and diverse role for radio and television in the overall media market. Finally, WJAC notes that in markets failing to meet a regulatory minimum of 30 or 15 independent voices, radio licensees without television interests would be permitted to acquire an additional radio station and

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[8] Id.

obtain the efficiencies and programming benefits which consolidation generates, while such benefits would be denied to television licensees. This, in effect, amounts to discrimination among classes of licensees in the same market. Accordingly, WJAC urges the Commission to eliminate the radio-television cross-ownership restriction, without imposing numerical minimums.

Respectfully submitted,

WJAC, Incorporated

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