July 6, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: <u>Written *Ex Parte* Communication, MB Docket Nos. 14-50, 09-182, 07-294</u>

Dear Ms. Dortch:

Although the Commission determined more than a decade ago that the print newspaper rule no longer serves the public interest,[1] an FCC fact sheet reports that the broadcast ownership order circulating for vote would make no serious modifications to the rule.[2] In light of this, the National Association of Broadcasters (NAB) is filing for the record the attached information regarding the plight of print newspapers for the Commission's consideration.

To the extent that Commission's rationale for restricting print newspaper ownership relates to viewpoint diversity or independent "voices," NAB notes that a newspaper that has closed its doors can no longer provide a viewpoint or serve as a "voice." Retaining a rule that deters investment by broadcasters in the struggling print newspaper industry certainly cannot serve the public interest. Rather, the only result that can rationally be expected from the continued prohibition is to hasten the demise of print newspapers.

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[1] *See Prometheus Radio Project v. FCC*, Nos. 15-3863, 15-3864, 15-3865 & 15-3866, at 38 (3d Cir. May 25, 2016) (*Prometheus III*) ("[T]he 1975 [cross-ownership] ban remains in effect to this day even though the FCC determined more than a decade ago that it is no longer in the public interest. This has come at significant expense to parties that would be able, under some of the less restrictive options being considered by the Commission, to engage in profitable combinations.").

[2] FCC, *Fact Sheet: Updating Media Ownership Rules in the Public Interest* (rel. Jun. 27, 2016).

Respectfully submitted,

Rick Kaplan
General Counsel and Executive Vice President
Legal and Regulatory Affairs

Attachment

The New York Times Will Hit One Million Digital Subscribers Soon. But Does It Matter?

Stuart Monk / Shutterstock.com

The New York Times is poised to hit 1 million paying digital subscribers sometime this summer, CEO Mark Thompson said during the company's earnings call last week — a significant figure that's as much a psychological milestone as a financial one.

If you don't remember, the Times struggled internally for years about whether it should charge for online content. There were concerns, nearly existential, about upsetting the code of digital information, which, ostensibly, was meant to be free.

The paper finally went ahead with a paywall in 2011 and turned digital subscriptions into a growing business that generated nearly $170 million last year, up 13.5 percent from the year before. (The number of Times digital subscribers, interestingly, is growing at a rate of about 20 percent a year, which suggests the publisher is also counting free-trial members.)

The problem, however, is that despite those gains, the Times' digital revenues — both circulation and advertising — account for little more than a fifth of the paper's total sales and won't in any way come close to making up for its once fat print profits. Even at 1 million paying online readers, that's a $190 million to $200 million business. Include digital ads in that mix and it's optimistically a $400 million digital newsroom. Still not enough to make up for print.

Print, of course, is still a billion-dollar machine for the Times, but it is, inevitably, an anachronism. The Times' average weekday print circulation now stands at 625,951, about half the 1.18 million it garnered in 1994 when the paper of record reached its daily print peak. And it's only getting smaller.

Interestingly, that 1.18 million figure could be significant. It once described the maximum number of paying daily print readers and it could just as well end up defining the maximum number of paying digital readers. Granted, it's a bit of clever speculation, but it does fit with what we know. A McKinsey study commissioned by the Times ahead of its paywall launch suggested the number of likely paying digital subscribers stood at about a million, give or take.

In anticipation of that limit, the Times furiously created a slew of new apps to attract a new set of subscribers and last year launched NYT Now — a slimmed-down version of the Times — as well as an app centered on its vaunted op-ed page.

So far it hasn't worked. Due to weak demand, the Times stopped charging for those apps, and they're now free. (NYT Now members who already paid the $8-a-month subscription will have access to the full Times app and will still count as subscribers.) The closure of NYT Now's business going forward will be a particular blow as it'll likely hurt the Times' digital subscriber count by about 4,000 to 5,000 in the current quarter, according to the company.

Of course, there's a larger population of adult readers today than in 1994, and the Times is attempting to appeal to more readers globally. But even so, news content has shifted significantly to favor socially driven articles, which usually don't sit behind a paywall. And they're not just listicles and quizzes. Nearly half of adult readers get political news from Facebook, according to Pew's latest media study.

The Times and other publishers, keenly aware of their uneasy displacement, have decided to work with Facebook to post its articles directly to the site. The social network's motivation here seems fairly straightforward: to give its horde of mobile users a better reading experience, since content that lives on Facebook's app loads better and reads easier.

And for publishers, it's obvious: Facebook is where most (if not all) readers are today, so the move should lead to more ad dollars — as well as keep newsrooms relevant. To make that work, Facebook is considering giving publishers all of the ad revenue if they sell it themselves, according to the Wall Street Journal. It's unclear if the company is also willing to give its reader data.

But even then the Times is likely to face further issues. If Facebook's experiment works, it'll only inure publishers to the company's sometimes opaque whims, and those 1 million paying readers won't seem so significant anymore.