

July 12, 2017

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

**Re: Notice of Ex Parte Communication
Review of Local Radio Ownership Rules - Embedded Radio Markets
MB Docket Nos. 09-182 and 14-50**

Dear Ms. Dortch:

On July 10, 2017, Bryan Tramont and David Oxenford (telephonically), on behalf of Connoisseur Media, LLC (“Connoisseur”), met with Erin McGrath of Commissioner O’Rielly’s office to discuss the treatment under the Commission’s multiple ownership rules of radio stations that are home to embedded markets in major metropolitan areas.¹

As explained in previous filings, embedded markets are the only Nielsen markets where owners, in the context of any acquisition of new stations, have to meet the multiple ownership requirements in two markets – the embedded market itself, and the greater “parent” market. Currently, in two metropolitan areas – New York and Washington, DC – there are multiple embedded markets. In these two metropolitan areas, if a licensee with stations in one embedded market proposes to buy a station in another embedded market, it may very well be precluded from doing so, even if the total number of stations owned complied with the ownership caps in the individual embedded markets, because the overall total would go over the ownership limits in the parent market.

Counsel explained that localism and the public interest would be better served if it eliminated this “Parent Trap” conundrum faced by licensees wishing to serve only multiple

¹ Connoisseur filed a Petition for Reconsideration of the Commission’s treatment of embedded markets in the *Second Report and Order* in the referenced dockets. See *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 and Order*, MB Docket Nos. 14-50, 09-182, 07-294, and 04-256, 31 FCC Rcd 9864 (2016).

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embedded markets within the parent market. Specifically, it proposed that the Commission adopt a policy that, if all interests in the Metro of the proposed attributable owner are in stations that are considered by BIA to be “home” solely to embedded markets, the application will be evaluated solely by review of the ownership limits applicable to the embedded markets, and the compliance with the ownership limits in the largest parent Metro market will not be examined. To alleviate any potential concerns about abuse of the change urged by Connoisseur, counsel indicated that Connoisseur would be comfortable with the adoption of an objective standard that would demonstrate that a proposed combination would not have an anticompetitive impact on the parent market, such as either of those proposed in the Connoisseur reconsideration petition or that proposed by the NAB, though BIA is likely to identify any attempt by an embedded market station to truly compete in the parent market.

Enclosed is a copy of the slide presentation distributed at the meeting. Should there be any questions concerning this matter, please contact the undersigned.

Sincerely,

/s/

David Oxenford
Counsel to Connoisseur Media, LLC

Encl.

cc: Erin McGrath (Legal Advisor to Commissioner O’Rielly)

Narrow Unopposed Reconsideration Request

Connoisseur Media

Background

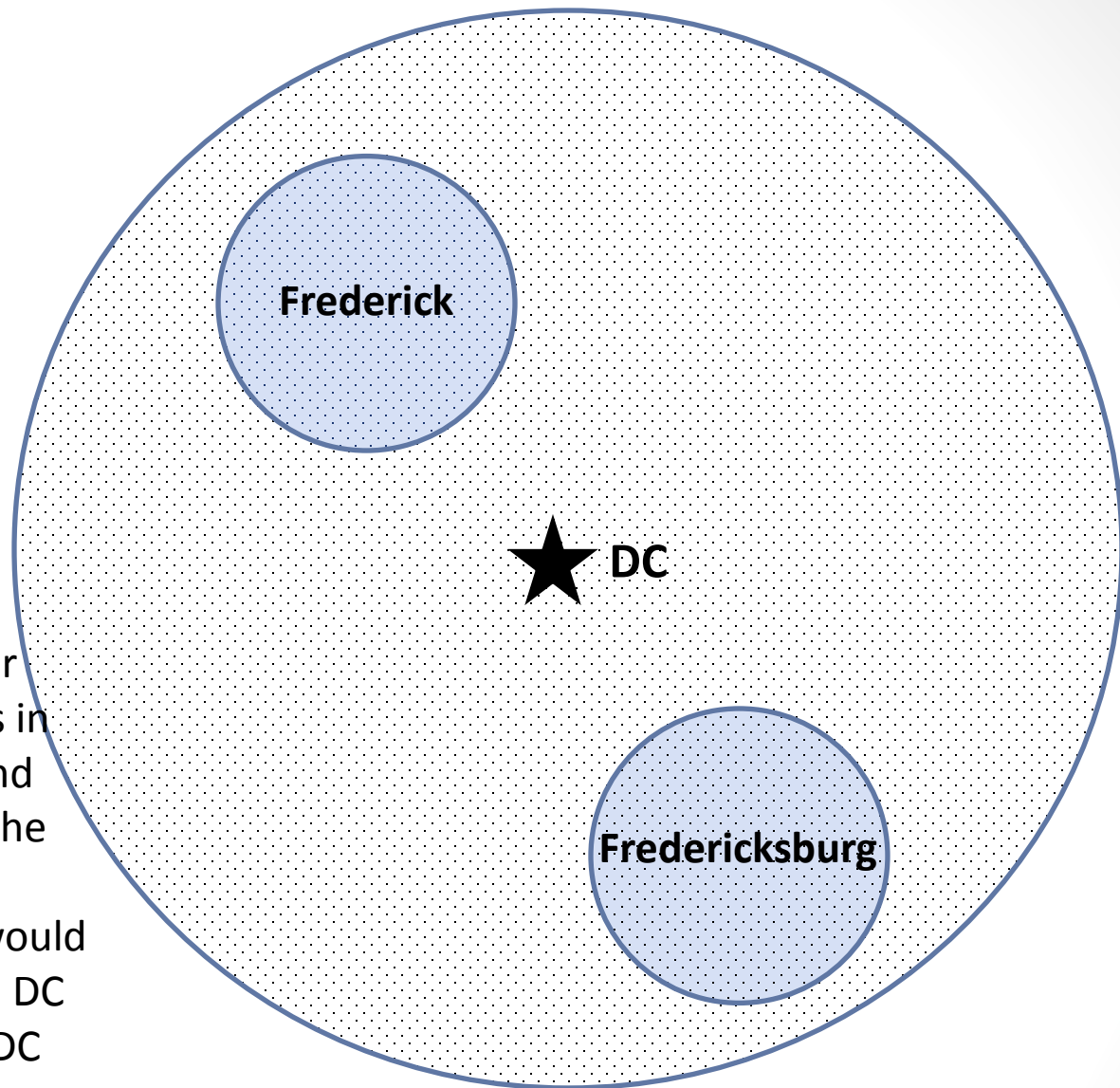
- Issue arises only in two Metropolitan areas with multiple “embedded markets” - New York and Washington, DC
- Arbitron adopted this concept so that the people in the counties in embedded markets would be included in the ratings totals for the parent market making those parent markets bigger – recognizes that central city stations reach and have listeners in these outlying counties
- But also recognizes that there are separate local suburban markets in which the stations actually located in those markets compete for local advertisers
- So advertising concept that central city stations compete in the embedded markets (which is true) ended up saying, for FCC ownership purposes, that embedded market stations were competitive factors in the parent market (which is false)

Current and Proposed Policy

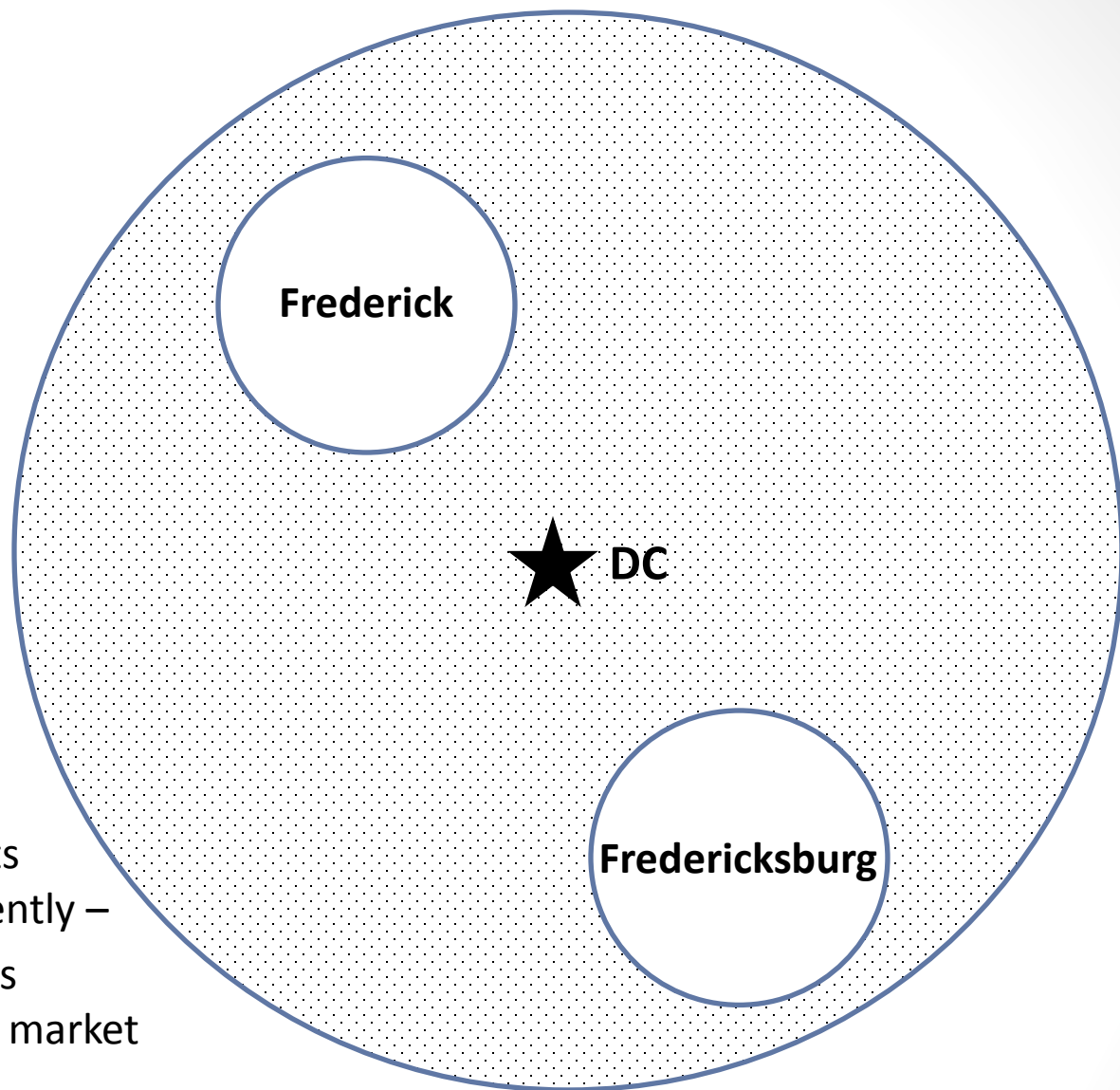
- Current– if you own stations in one embedded market, and propose to buy stations in another embedded market, even though you comply with ownership rules in each market separately, you often cannot because you violate the ownership limits in the parent market
 - Policy expressed in one footnote in 2003 order, not in rule
- Proposal – when you have *stations only in the embedded market(s)*:
 - You need only comply with the ownership limits in the embedded market
 - Current rule would still apply if you have stations in the core of the parent market
 - Belt and suspenders: contour methodology (like in Puerto Rico where FCC determined Nielsen did not make sense) or NAB-proposed coverage methodology
 - Case-by-case waiver harms the market, as sellers won't sell unless there is clear waiver standard.

Current Policy

A Frederick owner can't buy stations in Fredericksburg and vice versa when the total number of stations owned would exceed the cap in DC as both count in DC



Proposed Policy



Embedded markets
treated independently –
Unless licensee has
interests in parent market

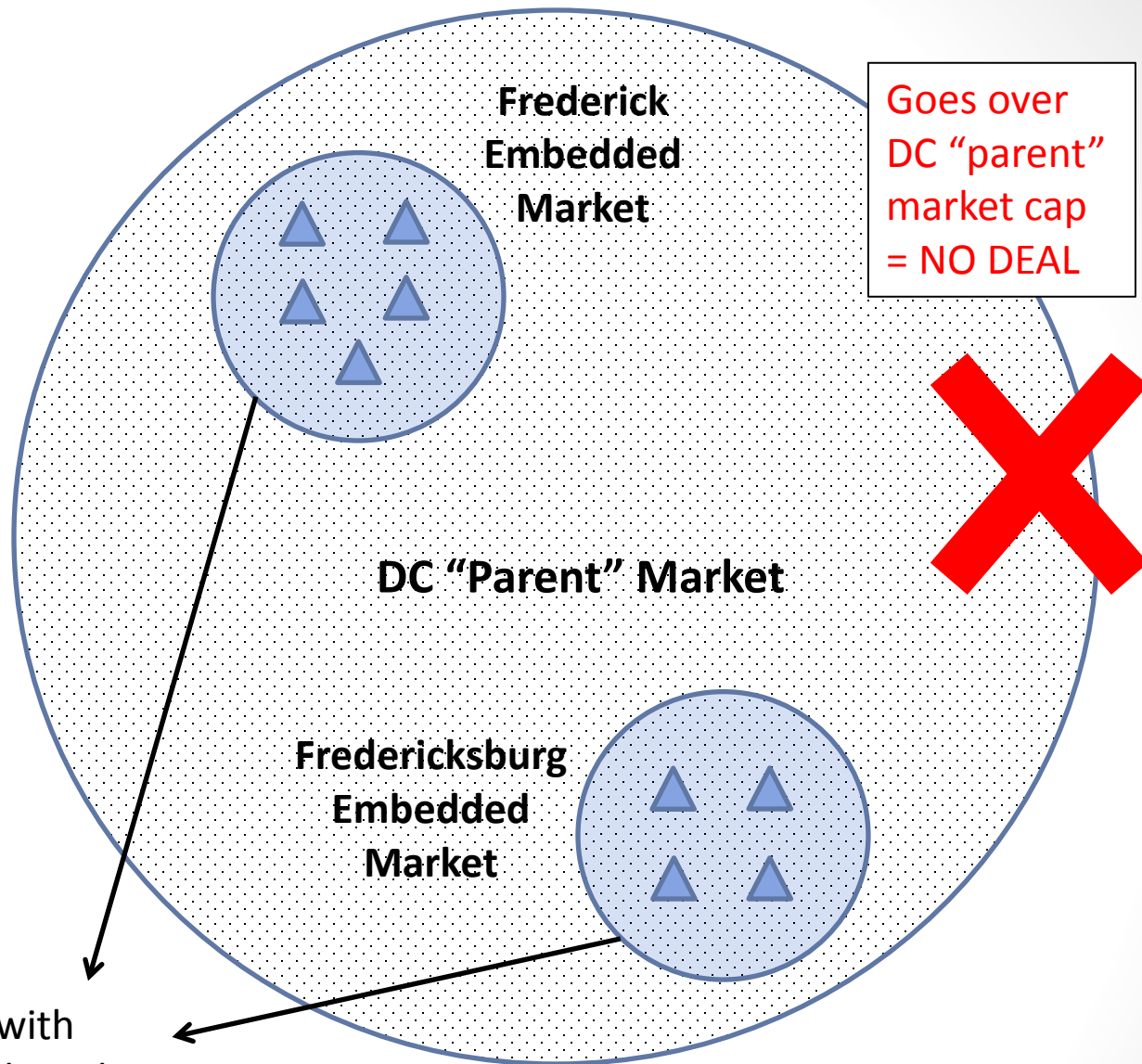
Current Policy

Frederick
Ownership
Cap: 5

Fredericksburg
Ownership
Cap: 6

Washington,
DC Ownership
Cap: 8

Complies with
embedded market cap



▲ = Radio Station

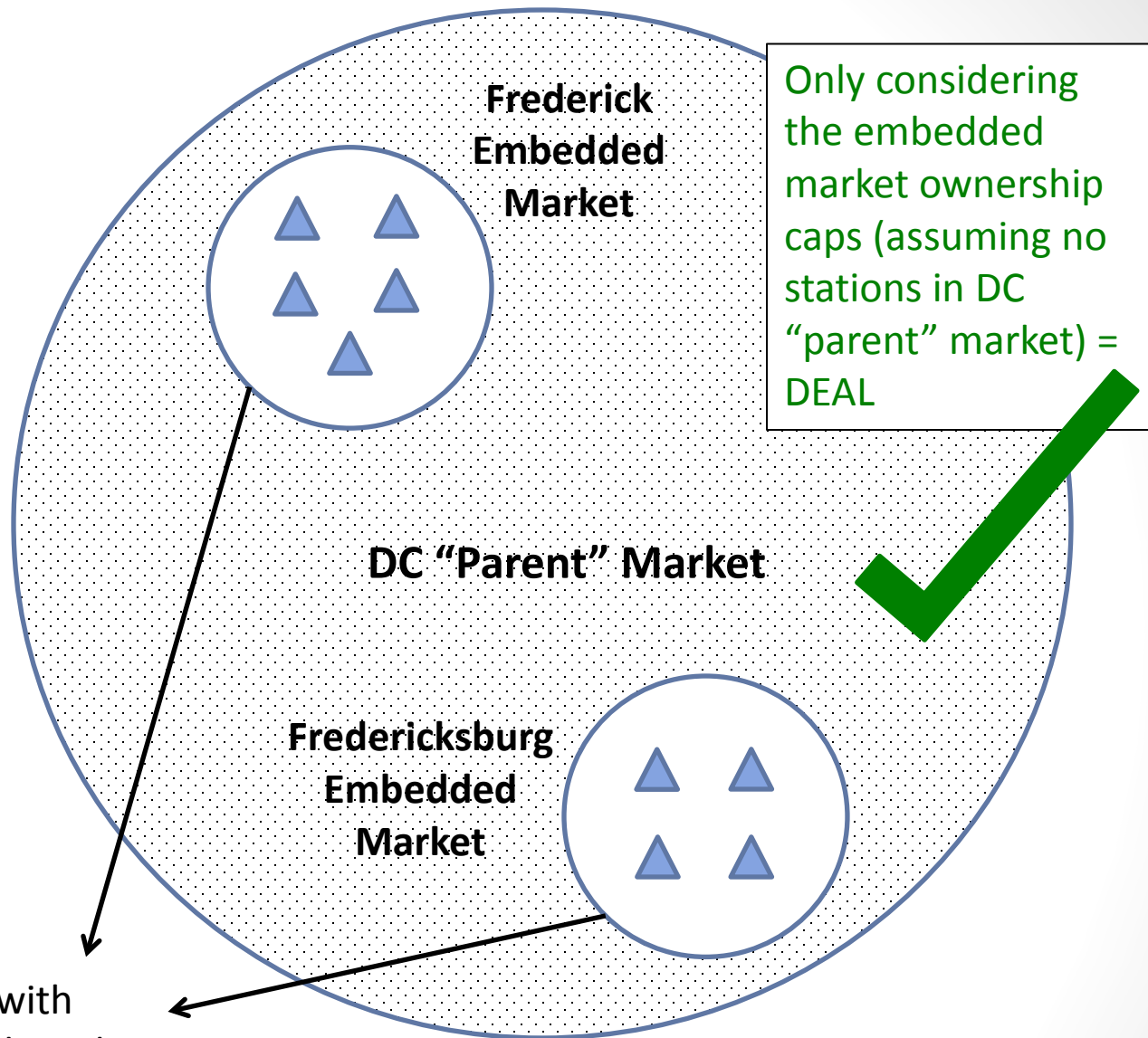
Proposed Policy

Frederick
Ownership
Cap: 5

Fredericksburg
Ownership
Cap: 6

Washington,
DC Ownership
Cap: 8

Complies with
embedded market cap



Only considering
the embedded
market ownership
caps (assuming no
stations in DC
"parent" market) =
DEAL

▲ = Radio Station

Connoisseur's Petition

Supporters

- National Association of Broadcasters
- JL Media, Inc.
- Townsquare Media
- Pamal Broadcasting

Opposition

- None

Our Proposal: Eliminate the “Parent Trap”

If all interests in the Metro of the proposed attributable owner are in stations that are considered by BIA to be “home” solely to embedded markets, the application will be evaluated solely by review of the ownership limits applicable to the embedded markets, and compliance with the ownership limits in the larger parent Metro market will not be examined.

Contact Us

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