August 9, 2016

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

Re: Written *ex parte* presentation in MB Docket Nos. 14-50, 09-182, 07-294

Dear Ms. Dortch:

The Newspaper Association of America ("NAA") represents the only industry in the United States that is barred by federal law from investment by local television companies. The NAA opposes the continuation of the absurdly outdated and decades-old newspaper-broadcast cross ownership ban. This rule no longer serves the public interest, a fact the FCC determined more than a decade ago.[1]

The newspaper-broadcast cross ownership ban was enacted in 1975, when the Commission feared that if an owner had both a newspaper and a TV or radio station in the same market, that owner could control all of the news and editorial viewpoints in the community. That was 40 years ago, when each market had one newspaper and perhaps as many as three television stations, and cable and the Internet did not exist. Today, amid the surge of online media that have become vital to the 21st century media marketplace, the cross ownership ban makes no sense at all.

Not only does the ban not make sense, but it also prevents newspapers from receiving key investments that would serve to maintain their role in the community. There is a broad recognition that newspaper journalism is essential to our democracy and should be supported. But the Commission, in maintaining this flat ban on investment, does the opposite. The government should not prohibit a company from investing in newspapers just because they also have broadcast interests—especially when broadcast companies may share the same core journalistic values as newspapers. Indeed, such investments have been shown to improve

[1] *See Prometheus Radio Project v. Fed. Commc'n Comm'n*, 824 F.3d 33, 51-52 (3d Cir. 2016) ("[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.").

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American Press Institute
4401 Wilson Boulevard, Suite 900, Arlington, VA 22203-1867
www naa.org

journalism.[2] Nor does the cross-ownership ban advance localism, competition, or diversity of ownership. If the FCC—which does not regulate newspapers in any other way—continues this regulation without a rational basis, it will be harming a critically important industry for no reason.

For the same reasons, it would be absurd to keep the rule but somehow structure a "waiver" provision in a purported attempt to lessen the clear harms of the rule. As NAA has consistently maintained, requiring that a newspaper-broadcast transaction satisfy a "waiver" standard means that otherwise beneficial transactions will be delayed and denied. In particular, the Chairman's proposed "failed or failing newspaper" waiver would be particularly inapposite. This concept, which has no basis whatsoever in the record of this proceeding, apparently would apply the Commission's familiar "failing station" exception to newspapers. This exception, however, does not fit the newspaper industry at all—because, as we have consistently maintained, newspapers are simply not the same as broadcast stations.

Under the Commission's rules, a broadcast station is "failing" when it has an all-day audience share of no more than four percent; has had negative cash flow for three consecutive years immediately prior to the application; and when consolidation of the two stations would result in tangible and verifiable public interest benefits that outweigh any harm to competition and diversity. It is not fitting to apply this standard to the newspaper industry for a variety of reasons. First, of course, "all day audience share" is a broadcast-only term that is a meaningless metric for the newspaper industry. Second, "negative cash flow" is an entirely different concept in the newspaper setting. Third, investments from media companies into newspapers may not result in "consolidation" at all, and mandating a broad-ranging inquiry into "competition and diversity" will only delay any transactions and subject them to multiple layers of unbounded administrative and judicial review. Overall, this "waiver" standard will not open any opportunities for newspaper companies to obtain investment from the media industry, and certainly will not serve the public interest.

Please direct any questions to the undersigned.

Respectfully submitted,

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Danielle Coffey
Kurt Wimmer
Newspaper Association of America

[2] *See* Comments of Newspaper Association of America, MB Docket Nos. 14-50, 09-182, 07-294 (Aug. 6, 2014) at 2-10 (demonstrating how cross-ownership has led to stronger local journalism across the country, from Atlanta to South Bend to Spokane).