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December 3, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Ms. Salas:

Transmitted herewith, on behalf of the New York Times Company, are an original and four copies of its Comments in MM Docket Nos. 01-235 and 96-197, with respect to cross-ownership broadcast stations and newspapers. Electronic copies of this filing are being submitted separately.

In the event there are any questions, please communicate with the undersigned.

Very truly yours,

Arthur B. Goodkind

Arthur B. Goodkind

Enclosures

cc(w/enc:) Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Judy Boley, FCC

Eric J. Bash, Esq., Mass Media Bureau, Policy and Rules Division
Edward Springer, OMB

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
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Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
	)	
	)	
	)	
Newspaper/Radio Cross-Ownership Waiver Policy	)	MM Docket No. 96-197

COMMENTS OF THE NEW YORK TIMES COMPANY

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December 3, 2001

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SUMMARY

The New York Times Company ("The Times") supports full repeal the newspaper/broadcast cross-ownership rule for all but the most highly concentrated markets. By focusing on The Times's own experience as a long-term owner of both newspapers and broadcast stations, these comments demonstrate that repeal of the rule would serve the public interest.

We show (a) that the newspaper/broadcast rule no longer serves any legitimate purpose in today's media-saturated environment, (b) that repeal of the rule will result in an increase, not a decrease, in diverse and competitive sources of news and information available to the public and (c) that because newspapers and television stations do not compete substantially for the same advertising dollars, elimination of the rule would not materially reduce competition in advertising markets.

In Part I, we examine the plethora of separately owned media voices in each of the markets in which The Times owns radio or television stations. We show that even in the smallest Times television market, Fort Smith, Arkansas, the 107th ranked DMA, newspaper readers, television viewers, cable and satellite subscribers, radio listeners and Internet users now have access to a striking multiplicity of independent voices. Given this great diversity, there is no longer any valid rationale for retaining a government-imposed limit on common ownership of newspapers and broadcast stations at the local level.

Part II of these comments describes the experience of The Times in achieving the benefits of local cross ownership in two special circumstances -- (1) in its operation of a grandfathered radio/newspaper cross-ownership combination in New York and (2) in the operation of a 24-hour cable news channel by a Times newspaper in Sarasota under conditions that are closely analogous to those of newspaper/television cross-ownership. In each case, the common operation has permitted the local Times entities to provide a much improved news and information service for their communities. We show further that while some similar benefits may be achieved through cooperative operating arrangements that do not involve common ownership, there are serious inherent limitations to such partnerships with third parties. These limitations include (1) the time-limited nature of such arrangements, which inhibits significant investment and long-term planning, (2) the inability to obtain full-market coverage in most cable news channel arrangements, (3) electronic incompatibilities between businesses that have invested in different technologies, and (4) inevitable conflicts between the unique cultures and internal standards of different business entities, particularly in the news business.

Repeal of the cross-ownership rule would eliminate these obstacles. Repeal would permit newspaper/broadcast entities to use combined resources to provide more news and information services, to do so at a higher level of quality than at present, and to create new services such as all-news DTV channels. In a time when steadily increasing audience fragmentation and the elimination of network compensation has produced consequent great pressure on local station news budgets, the ability to use combined resources is particularly important. Finally, but by no means least, repeal of the rule in all but the most highly concentrated markets is required to permit newspaper/broadcast combinations with strong local news commitments to compete effectively on the local level with outlets owned by increasingly concentrated and dominant national media companies.

Part III of these comments shows that advertisers purchase print and television advertising to reach somewhat different target audiences, to present different types of messages (e.g., images, motion and feeling on television and greater detail about products and services in newspapers), and to reach different geographic areas. For these reasons, larger advertisers have separate budgets for newspapers and for television and such advertisers buy advertising in each medium to serve complementary purposes. A combined newspaper and television operation would thus permit advertisers to achieve different objectives more efficiently through a single advertising buy, but would not materially impact competition for advertising dollars between the two media.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
	)	
	)	
Newspaper/Radio Cross-Ownership Waiver Policy	)	MM Docket No. 96-197

COMMENTS OF THE NEW YORK TIMES COMPANY

The New York Times Company ("The Times"), by its attorneys, hereby files its comments in response to the "Order and Notice of Proposed Rule Making" released September 20, 2001 in the above-captioned proceeding.

The Times is a member of the Newspaper Association of America ("NAA"), which is filing extensive comments today urging repeal of the newspaper/broadcast cross-ownership rules. The Times fully supports the NAA's position. These separate comments are with respect to The Times's own experience as the operator of both broadcast stations and newspapers. Our comments focus on the extent of media competition in the markets in which The Times operates television stations, the public interest benefits The Times believes it will be able to achieve upon elimination of the cross-ownership rules, and on the complementary nature of television and newspaper advertising.

I. There Are Abundant Media Voices Available in Every Market In Which The Times Operates Broadcast Stations.

The Times is the publisher of The New York Times in New York City, the Boston Globe in Boston, and 15 daily newspapers in Florida, Massachusetts, Alabama, Louisiana, North Carolina, South Carolina, Georgia and California. In New York City, The Times has owned WQEW(AM) and WQXR-FM since 1944. The ownership of those stations has accordingly been "grandfathered" under the current cross-ownership rules. The Times also owns eight television stations, which are located in Memphis, Tennessee; Norfolk, Virginia; Scranton, Pennsylvania; Huntsville, Alabama; Des Moines, Iowa; Oklahoma City, Oklahoma; Moline, Illinois; and Fort Smith, Arkansas.

In each of the markets in which The Times operates a broadcast station, there is a plethora of competing local media voices. The extraordinary number and diversity of separately owned media outlets in New York City, where The Times owns radio stations, has recently been chronicled by the Commission itself in its decision concerning the Fox/Chris-Craft merger.[1] Each of the markets in which The Times operates television stations also contains a substantial number of separately owned television stations, radio stations and newspapers, as well as cable systems and direct-to-home satellite services that

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[1] The Commission's opinion in that case noted that, following the Fox/Chris Craft merger, the New York DMA would "still have at least 19 independent television voices," that more than "120 commercial and noncommercial radio stations are licensed to communities within the New York DMA," with over 65 independently owned and operated radio station groups," that New York's cable penetration rate is 74%, with at least 8 independent cable operators providing service to the market," and that 25 daily newspapers are published in the DMA, as well as hundreds of local weeklies." UTV of San Francisco, Inc., 24 CR 288, 299 (2001).

offer their subscribers multiple video channels-- almost always as many as 36 channels and frequently 100 or more channels - - none of which is owned or controlled by The Times.

This media abundance exists in The Times television markets even though none of the markets is ranked higher than 40 in Nielsen's listing of television Designated Market Areas ("DMA's"). Attachment 1 hereto shows the extent of media diversity in each of The Times television markets. For each market, Attachment 1 shows (1) the number of television stations in the DMA, (2) the different owners of television stations in the DMA, (3) the number of radio stations in the DMA, (4) the different owners of radio stations that are not also owners of a television station in the DMA, (5) the DMA household cable penetration percentage, (6) the satellite subscriber penetration percentage in the state or states served by the television station,[2] (7) the daily newspapers published in communities within the DMA and (8) the weekly newspapers published in the DMA. Although it is impossible to quantify on a market-by-market basis the myriad sources of news and information available on the Internet in every television market, Attachment 2 hereto includes two illustrative listings of some of the hundreds of links to such English-language sources.[3]

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[2] DMA satellite penetration figures are not readily available, although state-by-state penetration figures are available. The satellite penetration figures by state include subscribers to DirecTV, EchoStar and C band services.

[3] Recent published figures on Internet usage as of October 2001 show that 62% of U.S. television homes are now online and that work and home Internet usage per user has now reached approximately 19 hours per month. Source: Data released November 13, 2001 by Nielsen/Net Ratings, www.nielsen-ratings.com.

The diversity of media voices available in even the smallest of The Times television markets is striking. In the Fort Smith, Arkansas DMA, currently ranked as the 107th market, there are presently seven full-service television stations owned by five different owners, 52 radio stations and radio construction permits owned by more than 20 different owners (not including any owner that also owns television in the market), six daily newspapers owned by three different owners in different communities throughout the DMA, and 14 weekly newspapers. There are also many low power (LPTV) television stations that originate their own programming. Two such LPTV stations in Fort Smith operate as the local network outlets for UPN and Fox and are widely carried on local cable systems.

Cable penetration in the Fort Smith DMA is 64%. In the state of Arkansas, 31.55% of households subscribe to satellite programming services.[4] According to a recent trade publication,[5] the major cable systems serving Fort Smith and Fayetteville list more than 60 available channels at each location, including C-SPAN, CNN, CNBC, CNN Headline News, Fox News Channel and MSNBC. Subscribers to satellite services in the Fort Smith DMA may choose among service packages offering more than 100 video channels, including all of the news service channels listed above.

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[4] Some satellite subscribers also subscribe to cable so as to receive local stations, but the extent of such dual subscribership is not known.

[5] *Television and Cable Factbook 2001, Cable Volume 1*, at p. D-85.

Residents of the Fort Smith ADI who are online also have access to myriad Internet sources of news and information. Three of the local television broadcasters have substantive news websites, as do a number of local newspapers, local governmental organizations, all of the cable news channels noted above, all of the national television networks, and a large number of major newspapers, wire service news organizations and news magazines in the United States and throughout the world. See Attachment 2. All of this media diversity exists for persons who live in a small television market. As shown in Attachment 1, the media diversity in the other Times television markets is even greater.

Notwithstanding this media diversity, the present newspaper/broadcast cross-ownership rule prevents The Times from acquiring (other than temporarily) any daily newspaper within the Grade A contours of its television stations or from acquiring any television station placing a Grade A contour over any community in which a Times-owned newspaper exists. In the Des Moines market, for example, the rule prohibits The Times from owning a newspaper not only in Des Moines itself, but in any of a number of outlying communities in which newspapers ordinarily concentrate on serving the needs and interests of readers comprising only a very small portion of the viewers served by the Times Des Moines television station. Conversely, ownership by The Times of its daily newspaper in the small community of Lexington, North Carolina, a city with a population of less than 20,000 persons,[6] precludes its ownership of a

[6] 2000 U.S. Census.

station in the Greensboro/High Point/Winston-Salem television market-- a market that includes 600,000 TV households.[7]

In light of today's great diversity of media voices in virtually all communities, no legitimate public purpose continues to be served by the newspaper/broadcast cross-ownership rule. To the contrary, as shown in Section II of these comments, the rule prevents entities such as The Times from realizing the efficiencies of cross-ownership in its markets and from providing enhanced broadcast and newspaper services that would ultimately result in greater, not less, local diversity of news and information.

The benefits of local cross-ownership provide a particularly important public interest consideration in an era that has seen both greatly increased media concentration on a national scale and greatly increased fragmentation of television viewing audiences. Faced with steady year-by-year diminution of their viewing shares and the elimination of network compensation, the ability of local television stations to fund substantial local news operations has come under increasing pressure. This difficulty is further compounded for television stations that do not enjoy the economies of scale realized by a relatively small number of national video production and distribution entities that each own very large numbers of stations. The Commission should now permit these economies of scale to be shared at the local level by owners of stations in markets of all sizes. All such station owners will then be free to use combined

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[7] Nielsen market rankings, 2001.

electronic/print resources to provide superior news and information services, cost effective advertising opportunities, and enhanced local websites.

II. The Experience of The Times Demonstrates That Repeal of the Cross-Ownership Rule Will Produce Real Public Interest Benefits.

The Times has had substantial experience in attempting to create new and enhanced news and information services on the local level through joint use of the resources of newspapers, broadcast stations and cable systems. We believe that a summary of some of this experience will assist the Commission in understanding both the potential public interest benefits of local media cross-ownership and the constraints that can seriously limit those benefits with respect to cooperative arrangements between local print and broadcast media that are not commonly owned.

(1) The WQXR experience.

The Times has been the owner of WQXR-FM ("WQXR") in New York City since 1944. The station's common ownership with The New York Times newspaper has been "grandfathered" under the present rules.[8] WQXR has a classical music and fine arts program format, but also broadcasts news and a wide variety of features and commentaries about topics in the news, the arts, science and technology, books, restaurants, the theater and similar subjects of

---

[8] The Times is also the owner of AM station WQEW, New York, which has similar grandfathered status. Programming for WQEW is presently provided under a time brokerage agreement by Radio Disney, a division of ABC Radio, and that station provides a radio programming service for children.

particular interest to its listeners. Virtually all of these non-music features are written, or written and delivered on-air, by Times staff members.

Attachment 3 hereto is the Declaration of Thomas J. Bartunek, General Manager of WQXR. Mr. Bartunek states that common ownership of WQXR and The New York Times and the station's consequent access to the newspaper's extraordinary staff of reporters and commentators, who have preeminent expertise in a broad spectrum of local, national and international subject areas, has been directly responsible for many of the programming services provided by WQXR. Mr. Bartunek's Declaration describes many of these current and past program services. Current programs include "The Front Page Preview," a daily summary of the stories being considered for the front page of the following morning's New York Times, written by Times reporter James Barron; "Washington Report," a daily morning commentary by reporters and columnists from the newspaper's Washington Bureau; "Inside the New York Times Book Review" (written by Book Review editor Charles McGrath or his designate); "Art and Antiques" (Rita Reif); "Restaurant Times" (both William Grimes and Eric Asimov); "The New York Times on Theater" (Lawrence Van Gelder, Peter Marks, Bruce Webber); and "Design of the Times" (Julie Iovine).

Similar program series broadcast in the recent past have included commentaries and features such as "On the Trail" (reports from the presidential campaign from Peter Marks); "Health Times" (Cornelia Dean); "Sports of the Times" (first Joe Durso, then Richard Sandomir); "Circuits" (derived from the newspaper's special section, first with Peter Lewis and then

Henry Fountain); and "The Advertising News" (Stuart Elliott). In earlier days, WQXR presented regular commentaries from then Managing Editor Clifton Daniel.

Mr. Bartunek states that WQXR's enhanced program service has been a direct result of the station's ownership by The Times:

> It is highly unlikely that we would have been able to offer our listeners these commentaries and features were our station not owned by The New York Times Company. The *Times* has strongly encouraged its staffers to participate in our projects—sometimes during the recruitment process—and has made them available to us in ways that would simply not have happened if our station and the newspaper were competing, separately owned entities. Common ownership also affords us and our listeners an assurance of continuity: several of the commentaries and features have had many hosts through the years, as reporters and columnists come and go from the paper, but key topic areas are always covered by an exceptional professional. That permits us to plan and to commit resources to an extent that would not be possible were we dealing with unrelated third parties. Finally, the fact that our station and the newspaper share a common culture and a set of values, based on a shared tradition of journalistic and programming integrity, permits us to resolve sensitive content issues far more easily than would be the case with unrelated third parties.

Mr. Bartunek believes that the efficiencies resulting from common ownership also benefit both listeners and advertisers:

> Common ownership also produces efficiencies for our station that lower our costs, thus reducing pressure on advertising rates and freeing up more resources for our programming efforts. Our costs for obtaining and administering employee health and retirement benefits, for example, are lower than would be the case if the station were required to obtain and administer equivalent benefits on its own. We also benefit from the Company's cash management, its stock purchase plan, and from the Company's wide ranging employee relations efforts—such as training, admission to cultural institutions (all of which help in our own employee recruitment and retention), and from the "halo" effect that results from our formal relationship with such an important New York institution.

Mr. Bartunek notes further that there are many cross-promotional benefits between the station and the newspaper that create value for each. In addition, WQXR is able to use proprietary market research data developed by the newspaper for its own strategic planning. Finally, because the audiences of the newspaper and station are similar in demographic and psychographic characteristics, the separate sales staffs can work together to create joint presentations for clients who want to reach that audience, providing benefits for the station and newspaper and increased efficiency for potential advertisers.

The long-term past experience of The New York Times and WQXR is thus one clear example of public benefits that flow directly from their common ownership.

(2) The Sarasota News Channel Experience.

In Sarasota, Florida, The Times owns The Sarasota Herald-Tribune ("Herald-Tribune"), a daily newspaper serving the city of Sarasota and Sarasota, Charlotte and Manatee Counties. The Times does not own any other media outlet or any cable systems in that area.

The Herald-Tribune does, however, provide a 24-hour, local cable news service on systems owned by Comcast under conditions more closely analogous to ownership of a newspaper and a television video outlet than do most such arrangements. There are three principal reasons why the conditions are closely analogous. First, the Comcast systems involved are franchised to serve all of Sarasota and Charlotte Counties and a portion of Manatee County, which comprise the major portion of the newspaper's area of circulation. While this is still less than full coverage, Comcast's cable penetration is unusually high in the areas it serves (approximately 80%). Second, the agreement under which the cable news service is provided is for a ten-year term. Even allowing for the cable operator's rights to terminate or change the agreement under specified circumstances, this arrangement has permitted a degree of planning and resource commitment that would not be possible under a short-term arrangement. Finally, the Herald-Tribune is solely responsible for gathering, producing and presenting the news on the cable news channel, a fact that minimizes difficulties that arise owing to cultural conflicts and technological incompatibility of equipment.

Under these circumstances, the Herald-Tribune has been able to develop a high quality news channel (Sarasota News Now 6 ("SNN6")), which has become an electronic local news service that is viewed in the homes in which it is carried by more persons per week than any other cable channel except The Weather Channel and which has 60% more viewers on a cumulative weekly basis than the next most viewed television broadcast station carried on the cable. SNN6 cablecasts the news in the form of successive thirty-minute programs throughout the day and night. These programs are continuously updated and changed so that, by evening of a typical day, the content has become largely different from the content earlier in the day.

Attachment 4 to these comments is the Declaration of Diane H. McFarlin, Publisher and Executive Editor of the Herald-Tribune and the person who has been responsible for SNN6 since its inception in 1995. Ms. McFarlin states that it would not be possible for SNN6 to create either the quantity of original news programming that it cablecasts or to do so at its present high level of quality were it not for SNN6's operation by the Herald-Tribune. This is the case, Ms. McFarlin states, because there are substantial synergies and efficiencies that result from common ownership that benefit both the Herald-Tribune and SNN6. Ms. McFarlin describes these synergies as follows:

> I start with the fact that a daily newspaper such as the Herald-Tribune is in the full-time business of providing a news service for the specific community it serves, which necessarily requires us to be closely involved in the life of our community on a day-to-day basis. Thus, while the Herald-Tribune does include national and international news provided by wire services, our primary focus must be on the needs and interests of Sarasota and its surrounding area. Our fundamental print news business provides an essential base for SNN6's operations. To this base we have added approximately 40 persons specifically employed by SNN6 -- eight in sales and the rest in news and production.
>
> The primary area of convergence between the Herald-Tribune and SNN6 is in the news gathering process. We have a single unified news room for both operations, staffed by general and specialist reporters, and we hold joint news meetings there. All of our news personnel are subject to the same high ethical and journalistic standards that flow from being a part of The Times. Reporters for the Herald-Tribune and SNN6 share news tips, sources, background information and the substance of the news stories they obtain. Herald-Tribune reporters frequently provide some of the written material used by our on-air SNN6 anchors and reporters. SNN6's on-air production and presentation of the news requires a different set of skills from print reporting and Herald-Tribune print reporters only occasionally serve directly in those roles. Herald-Tribune reporters are, however, frequently interviewed on SNN6 about news stories they have covered and this provides an additional and important dimension to our news service.

Ms McFarlin also notes the important efficiencies that flow from joint operation of the newspaper and cable news channel:

> Most of our employees operate under one roof and under a single general and administrative staff. The Herald-Tribune promotes SNN6 and SNN6 promotes the newspaper. As a result, many people tune in to SNN6

because of something they have read in the Herald-Tribune and many people look to the Herald-Tribune for more information about something they have seen on SNN6. Although advertisers usually purchase advertisements in the Herald-Tribune and on SNN6 for different purposes and to target different readers or viewers, we make an effort to sell the two in combination (and in combination with our web site) as complementary advertising buys that can efficiently be made with a single purchase. All of these efficiencies also permit us to devote even greater resources to our essential mission, which is gathering and presenting news and information to the public.

Ms. McFarlin concludes that SNN6 is a far better video news service because it is owned and operated by the Herald-Tribune. She believes that the advantages of common ownership would be even greater in the case of a newspaper and a local television station -- particularly in view of the future possibilities for full-time local news services utilizing one segment of a television station's digital channel.

(3) Other Cooperative Efforts -- and Their Limitations

The Times television stations have, to varying degrees, also attempted to enter into cooperative arrangements with non-owned newspapers and cable systems in their markets. These efforts are described in more detail in Attachment 5, the Declaration of Cynthia H. Augustine, President of The New York Times Broadcast Group.[9] Ms. Augustine describes the formal or informal cooperative arrangements the Times stations presently have with local newspapers in Moline, Oklahoma City and Memphis and with cable systems in

[9] The radio and television stations of The Times are licensed to wholly-owned subsidiaries, but all are functionally considered part of the Broadcast Group.

Memphis, Fort Smith and Scranton. The cable system agreements have generally arisen in the context of retransmission consent negotiations.

As Ms. Augustine states, all of these arrangements have resulted in some elements of new or improved service to the public. The cable system agreements, for example, involve the programming of cable local news channels by Times television stations. These channels are used primarily to provide time diversity for the stations' regular newscasts, which are re-run on the cable channels. In several markets, particularly Memphis, the cable news channel has been used for the creation of some original programming, such as town hall meetings on education funding and reform, live viewer forums concerning education, political debates, programs dealing with energy conservation and children's issues, and local sports and consumer programming. In Moline, where the station operates under news sharing arrangements with a local newspaper, both the newspaper and the station have enhanced their abilities to cover certain news events and have done joint projects concerning matters such as the advantages and disadvantages of economic development and expansion.

All of these joint efforts have resulted in a net public benefit, but there are substantial constraints on the service The Times is able to provide through agreements with unrelated parties. Ms. Augustine lists four such limitations:

> First, all such arrangements are either informal or time-limited pursuant to specific contractual agreements. (Some of these arrangements are retransmission consent agreements with cable operators.) Under such

> conditions, we are limited in the resources we can prudently commit on a long-term basis and in the long term strategic planning we can do to maximize the service we will provide. Our Sarasota cable news channel, for example, has taken six years to reach a point at which we believe it will be profitable next year. We could not do what we have done there under a short-term agreement.
>
> Second, none of our existing arrangements permits us to provide additional or enhanced services to an entire television market. The Memphis cable news channel, for example, is carried in fewer than one-third of the television households in the Memphis DMA.
>
> Third, technology can be a difficult problem when two independent organizations seek to operate cooperatively. Today's television and newspaper news rooms both operate with highly sophisticated and expensive electronic infrastructures. It can be very difficult for two separate business entities with differing strategy for capital investment to agree on the particular investments to be made in their separate news rooms, particularly under short-term cooperation agreements. The electronic exchange of pictures and text news materials has been a constant struggle in newspaper/television convergence efforts.
>
> Finally, but not least, different companies inevitably operate under their own unique cultures and internal standards. Even assuming the best of will on the part of each party, joint operations on a day-to-day basis under these conditions present inevitable difficulties, particularly when there is no clear agreement that one party to an arrangement is to have primary responsibility for a news operation.

The Times believes strongly that common ownership of a newspaper and a television station in the same market will permit both the newspaper and the station to provide a significantly enhanced service to the public. Noting the positive results that have been produced by the synergies and efficiencies realized at WQXR and in Sarasota, Ms Augustine concludes:

> The same synergies and efficiencies should be achievable in our television markets and in The Times's other newspaper markets. Using the combined staffs of a newspaper and a television station, we will not only be able to increase our joint news gathering capacity, but to optimize our use of the unique attributes of each medium -- a newspaper's in-depth news gathering resources, including a greater number of specialist reporters and its ability to present news in far

greater detail, and the mass audience reach and special visual appeal of television. In addition to this more efficient use of combined resources, we would also have the ability to do coordinated long-term planning; we could have coordinated compatible technology; and we would share a common internal culture. Taken together, these factors will permit both our television stations and our newspapers to do a better job than either could alone in fulfilling their common essential mission, which is to provide the highest possible news and information services to their viewers and readers. We look forward, for example, to a time when we may be able to provide a 24-hour local news service as one portion of the digital transmission services that each of our stations will provide to its entire DMA.

(4) Full Repeal of the Newspaper/Broadcast Ownership Rule Will Increase Both Diversity and Competition on the Local Level.

The experience of The Times shows that elimination of the newspaper/broadcast cross-ownership rule will result in an increase, not a decrease, in the quality and diversity of local news and information services available to the public. A combined newspaper/broadcast operation will be able to assign more reporters and news teams to provide in-depth coverage of different local events than would be the case if each were assigning its own reporters to provide duplicative coverage of the same local events.[10] Moreover, the greater institutional strength of such a combined operation would not only increase its financial capacity to take on new and innovative projects, such as digital all-news channels, but would solidify its independence and insulation from both political and advertiser pressures.

[10] A newspaper/broadcast combined operation could, for example, utilize ten reporters to cover ten different news events or issues rather than each sending five reporters to cover the same five events. Alternatively, larger news teams could be used to provide greater in-depth coverage of specific matters.

Full repeal of the rule in all but the most highly concentrated markets is particularly important as a small number of national media companies continue to grow more dominant. As the national TV ownership cap has been steadily raised to its present 35% level (which frequently permits national coverage far exceeding 35% by reason of the UHF discount), the number of stations owned by a relatively small number of national media companies has grown to unprecedented levels.[11] The 35% national TV cap is currently under serious challenge both in the courts and before the FCC and Congress, and it thus appears likely that there will be still further consolidation in the future, particularly if the newspaper/broadcast rule is relaxed for large markets.[12] Under these circumstances, it would be highly inappropriate to limit any relaxation of the newspaper/broadcast rule only to large markets. To permit the owners of television stations in smaller communities to compete in their markets with newspapers and stations owned by national media giants, complete repeal of the rule is essential for virtually all markets.[13]

A vibrant local media presence will only be maintained if those companies focused on the local marketplace in communities of all sizes -- local

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[11] See Broadcasting and Cable, Annual Survey of TV Stations Groups, April 23, 2001, at pp. 59-80.

[12] A recent trade press report, for example, states: "Gannett and Hearst-Argyle Television (HTV) executives have had 'very preliminary' conversations about melding their TV operations, with Gannett the buyer. Included in the talks, sources say, is Disney, which might get one or more of HTV's ABC affiliates, which include WCVB-TV, Boston and WTAE-TV, Pittsburgh, in a spin-off." Broadcasting and Cable, November 19, 2001, at p.4.

[13] The only exceptions should be those few markets similar to "the most egregious" case in which divestiture was required when the FCC grandfathered most newspaper/broadcast cross-ownership at the time it adopted the present rule. See Second Report and Order in Docket 18110, 50 FCC 2d 1046 (1975), paragraph 112.

newspapers and broadcast stations with strong local news commitments -- are permitted to operate in a way that combines, rather than splits, their comparatively limited resources. Gathering, editing and distributing news is an expensive activity. The competitive pressures on local broadcasters are already beginning to cause many television stations to consider reducing the resources devoted to local news. These pressures can only intensify as network compensation revenue disappears. Daily newspapers, which are generally the largest news organizations in a community, are subject to similar financial pressures. Full repeal of the cross-ownership rule would permit newspapers and stations to work together to optimize use of their joint news gathering capacities. The public will be the ultimate beneficiary when this occurs. [14]

III. Television Stations and Newspapers Are Not in Substantial Competition for Advertising Dollars.

As the NAA will show in its comments, television stations and newspapers do not compete materially for the same advertising dollars or, put differently, the two types of advertising are not close substitutes for each other. That has also been the experience of The New York Times Broadcast Group. While it is undoubtedly true that television stations and their trade associations have in the past made efforts to divert to TV portions of

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[14] Elimination of the rule would not, in the case of The Times, result in any loss of national media diversity. The stations and regional newspapers of The Times operate so as to serve the needs of their own communities. While The Times requires adherence to high journalistic standards, the local newspapers and stations are free to take their own positions on substantive issues. Indeed, different newspapers owned by The Times have in the past endorsed different Presidential candidates.

advertisers' budgets for newspapers, far more successful sales strategies on the part of newspapers and television stations that attempt to sell newspaper and television advertising jointly have been efforts to sell the two types of advertising as a total package that serves complementary purposes.

Attachment 6 hereto is the Declaration of James Beloyianis. Mr. Beloyianis is the President of Katz Television Group, a "national spot rep" organization that sells national spot advertising for a number of different television clients. National spot advertising consists of spots that advertisers place directly on local television stations, as contrasted with other national advertising that advertisers buy on television or cable networks. Mr. Beloyianis has had 28 years of day-to-day experience in selling national spot advertising. His Katz Television Group is a subsidiary of Katz Media Group, which has other subsidiaries that sell national spot advertising on radio and on cable.

Mr. Beloyianis states that in his many years of experience he has never been in a situation in which he felt that he was competing with newspapers for national advertising dollars. His competition has been primarily with television and cable networks, with those selling national spot advertising for other television stations, to a much lesser extent with radio networks and stations and, to a small extent thus far, with Internet advertising.

Mr. Beloyianis states that to the extent national advertising is placed in newspapers, such advertising comes from budgets that are totally separate for the budgets advertisers have for national television advertising. He believes that this reflects different advertiser objectives for the two media. Television advertising is best at depicting sight, sound, motion and feelings and for conveying striking visual images. Newspaper advertising, on the other hand, has greater residual value and can offer far more detail concerning products and pricing. Because advertisers seek to achieve these different objectives in the different media, he has not found it a productive use of the time of his organization to try and divert newspaper advertising dollars to national spot television.

Attachment 7, the Declaration of Kenneth A. Sossaman, provides further information with respect to the decisions advertisers make in allocating their budgets between television and newspapers. Mr. Sossaman is the President of Sossaman Associates, one of the largest advertising agencies in Memphis, Tennessee (a city in which a Times subsidiary is the licensee of WREG-TV). He has been in the business of purchasing advertising for clients and helping clients develop their media buying strategies for more than 25 years.

Mr. Sossaman states that advertisers establish a plan and ultimately purchase advertising on television and in newspapers by judging each medium on its own specific strengths and efficiencies so as to best reach their target audiences at the lowest cost. Mr. Sossaman notes four factors considered by advertisers in making their budget allocations.

The first factor is the specific target audience an advertiser seeks to reach. Newspaper readers tend to be weighted more heavily toward older and more upscale demographic groups than are the audiences for most television programs. Television buys are based on specific programs and time periods and the unique audiences associated with specific programs, based on Nielsen estimates. Newspaper advertising purchases, too, can be based on the readers of a newspaper on specific days and specific sections of the newspaper can be used to increase exposure to a specific audience.

Second, television advertising and newspaper advertising each have their own unique advantages in presenting particular types of messages most effectively. Mr. Sossaman notes television's effectiveness in "branding" advertisements and in presenting messages requiring an immediate response. Newspapers, on the other hand, can offer greater detail about an advertiser's products or services and can call a person to action with the use of sales, offers and coupons or through detailed information to which a reader may refer to in deciding whether to make a purchase.

Third, geographic coverage can be important. Mr. Sossaman notes that most television DMA's in the United States are very large and that many newspapers within a DMA serve more limited areas. Each advertising client's objectives determine the best use of its advertising dollars. A local Memphis store that is patronized primarily by Memphis residents may buy less wasted coverage by advertising in the Memphis newspaper than on a Memphis television station.[15] Similarly, a small business serving an outlying community or a candidate for office in a community comprising only a small portion of a DMA may do better with an outlying newspaper or radio station.

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[15] The Memphis DMA includes 30 counties in Tennessee, Arkansas, Mississippi and Missouri.

Finally, Mr. Sossaman states, an advertiser seeks the most cost-efficient buy possible consistent with the other factors he describes. Cost efficiency is used more in comparing one TV station to another TV station than in comparing one medium with another. A small newspaper ad, for example, has a very different cost-per-thousand readers from a large newspaper ad, but an advertiser may well decide that a large ad best serves its purposes. The best cost-per-thousand comparison for newspapers, Mr. Sossaman states, would be between two competing newspapers.

Mr. Sossaman concludes that the advertising products being sold by newspapers and by television stations "are not the same and should be judged on the strengths of each." When an advertiser buys both newspaper and television advertising, Mr. Sossaman states, that means that the advertiser has determined that both media are needed to reach its target audience. Combination packages that would enable an advertiser to accomplish this objective would, in Mr. Sossaman's view, benefit both the media and the advertiser.

The experience of The Times confirms the views expressed in the Declarations of Mr. Beloyianis and Mr. Sossaman, as evidenced by Attachment 8 hereto, the Declaration of Maureen A. O'Connor. Ms. O'Connor has been the General Sales Manager of Times television station WREG-TV, Memphis, for the past three years and, prior to that, had spent more than 16 years in Times newspaper advertising sales.

Ms. O'Connor's experience has been that newspapers and television stations serve advertiser needs in different ways. Television excels in image advertising and in showing products such as automobiles in motion. Television use is targeted to appeal to the feelings and emotions of specific demographic audiences that watch specific television programs. Newspaper advertising can offer more details about products or services such as grocery store specials, price and product information about an auto dealer's array of new and used cars, or about real estate offerings or employment opportunities. Department stores tend to use newspapers extensively to display a wide range of products and to permit readers to have the pictures and prices of those products available from the ads for several days.

Ms. O'Connor confirms that larger advertisers tend to have distinct budgets for television, newspapers, other types of media, and for indirect forms of promotion such as charitable contributions and public service activities. She observes:

> While trade organizations (such as the Television Bureau of Advertising) attempt to promote the advantages of one medium over the other, individual television stations tend to compete primarily with each other in selling advertising. To the extent television stations try to compete directly with newspapers for advertising dollars that an advertiser has earmarked for print so as to reach different people or to deliver a message with different content, stations have not had much success. Our own focus in trying to create joint advertising offerings with newspapers has been to put together packages that will enable an advertiser to achieve different objectives with a single buy, and to focus on categories of business that neither a newspaper or a television station has been successful in developing individually, such as combined newspaper/television campaigns appealing to senior citizens or advertising an upcoming event.

In sum, advertisers tailor their advertising purchases to specific needs that are usually best served by the unique attributes of different media and television and newspapers thus do not compete materially for the same advertising dollars.

CONCLUSION

The relevant markets for television and newspaper advertising are not the same, but the "market" for diversity purposes is far more extensive. For purposes of diversity, any independently owned "voice" serving a common area is a separately owned source of news, information or opinion, without regard to the means by which that voice may be transmitted to a listener, viewer or reader. In today's media-saturated environment, the average resident of even a small community is literally bombarded throughout a typical day by a vast multiplicity of sources of news, information and opinion -- sources that include television, radio, newspapers, local and national cable and satellite program services, local, regional and national Internet sites, magazines, other print media and local civic meetings and forums.

Given the rich and diverse media environment that the Commission has explicitly acknowledged in its rule making notice in this proceeding, it is clear that the facts that supported the newspaper/broadcast rule when it was adopted have now materially changed. The newspaper/broadcast rule is no longer necessary to insure that there will be a broad diversity of media voices available to consumers, nor is the rule needed to preserve competition in any advertising market. There accordingly remains no public interest justification for the rule's retention. On the other hand, as we have shown in these comments, elimination of the rule for all but the most highly concentrated markets will improve the quality and diversity of news and information services available to the public. The Commission should therefore comply with the direction of Congress in Section 202(h) of the Telecommunications Act of 1996 and should repeal the rule as "no longer in the public interest."[16]

Respectfully submitted,

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[16] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat.56 (1996), Section 202(h).