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

In the matter of		
2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 02-277
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317
Definition of Radio Markets	)	MM Docket No. 00-244

COMMENTS OF GRAY TELEVISION, INC.

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January 2, 2003

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EXECUTIVE SUMMARY.

Gray Television, Inc. ("Gray") owns and operates twenty-nine network-affiliated television broadcast stations in a wide range of markets throughout the United States. In these Comments, Gray urges the Commission to repeal the local television multiple ownership, or "duopoly," rule and thereby allow the proven public interest benefits of common ownership to extend to mid-level and smaller markets. The duopoly rule cannot be shown to be necessary in the modern information marketplace to achieve the Commission's objectives of diversity, competition, and localism. To the contrary, elimination of this outdated restriction will make possible operating efficiencies that can translate into enhanced news and information programming and better service to the public.

Section 202(h) of the Telecommunications Act of 1996 directs the Federal Communications Commission to "review . . . all of its ownership rules biennially" in order to "determine whether any of such rules are necessary in the public interest as the result of competition."[1] Further, the agency is required to "repeal or modify any regulation it determines to be no longer in the public interest."[2] Recent decisions by the D.C. Circuit Court of Appeals have called into question the adequacy of the approach taken by the Commission in its previous biennial review efforts and have made clear that a far more rigorous analysis is required in this proceeding.

Indeed, the D.C. Circuit concluded that Section 202(h) "carries with it a presumption in favor of repealing or modifying the ownership rules."[3] Further, a review of the plain language

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

[2] *Id*.

[3] *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, 1048 (D.C. Cir. 2002); *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148, 159 (D.C. Cir. 2002).

and legislative history of Section 202(h) demonstrates that Congress intended for the Commission to repeal or modify any ownership restriction that cannot be shown to be *required* or *indispensable* in the public interest.

Application of this heightened standard of review to the television duopoly rule clearly demonstrates that this restriction is not required in the public interest, and therefore must be repealed. Since this rule first was adopted, there has been a tremendous increase in not only the sheer number, but also the types, of media outlets to which consumers may turn for news and information—and, as a result of continued technological innovation, this expansion can only be expected to continue. As a consequence, retention of the rule is not necessary to *advance* any of the Commission's identified public interest goals. To the contrary, the duopoly rule actually *disserves* the public interest, particularly in smaller markets, by denying broadcasters the economic efficiencies that can arise from station combinations, which increasingly are becoming critical to the profitable provision of local content, including local newscasts.

Accordingly, Gray urges the FCC to repeal the television duopoly rule. Should the Commission determine to maintain some residual limitation on local television station ownership, however, the agency must take full account of the tremendous number and variety of media outlets available to consumers and advertisers today, as well as the disproportionate impact that any continued prohibition would have on smaller market stations. In addition, if any restriction survives this biennial review, the FCC should establish a waiver policy that would provide it with flexibility, when warranted, to address unique factual circumstances, and acknowledge potential public interest benefits, on a case-by-case basis.

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COMMENTS OF GRAY TELEVISION, INC.

I. INTRODUCTION.

Gray Television, Inc.[4] ("Gray"), by its attorneys, respectfully submits its Comments in response to the *Notice of Proposed Rule Making*[5] in the above-referenced proceeding. As shown

[4] Gray Television, Inc. is a communications company headquartered in Atlanta, Georgia, whose primary mission is to provide quality news and entertainment services to the local markets in which the Company operates. Gray Television, Inc. currently owns and operates 15 CBS-affiliated television stations, seven NBC-affiliated television stations, seven ABC-affiliated television stations, and four daily newspapers.

[5] *2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Cross-Ownership of Broadcast Stations and Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets*, Notice of Proposed Rule Making, FCC 02-249 (rel. Sept. 23, 2002) ("*Ownership NPRM*").

herein, Section 202(h) of the Telecommunications Act of 1996 (the "1996 Act")[6] requires the Federal Communications Commission ("FCC" or "Commission") to take a more deregulatory, proactive, and consistent approach to its biennial review of the media ownership rules than it has in prior proceedings. When considered in light of the rigorous standard established by Congress (and clarified by recent D.C. Circuit Court decisions), the tremendous expansion in the number of media "voices" available to consumers today inevitably leads to the conclusion that the current local television multiple ownership, or "duopoly," rule[7] is not "necessary in the public interest as a result of competition."[8] This is particularly true in smaller markets, where the realities of the broadcasting industry have made it increasingly difficult for stations to remain economically viable and the efficiencies to be achieved through joint ownership could translate into enhanced news and information programming. Accordingly, Gray urges the Commission to repeal the local TV multiple ownership rule.[9]

II. AS MANDATED BY RECENT D.C. CIRCUIT COURT DECISIONS, THE COMMISSION MUST TAKE A MUCH MORE DEREGULATORY, PROACTIVE, AND CONSISTENT APPROACH DURING THIS BIENNIAL REVIEW OF ITS MEDIA OWNERSHIP RULES THAN IT HAS IN PRIOR PROCEEDINGS.

Through two recent decisions, the D.C. Circuit Court has made it clear that the standard of review the FCC has employed in its two previous biennial review proceedings is inconsistent

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6 Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("*1996 Act*").

7 47 C.F.R. § 73.3555(b).

8 *1996 Act*, § 202(h).

9 If, however, the FCC determines instead to retain some vestige of that rule, it must, at a minimum, (1) account for *all* of the sources of news and information available to consumers today; (2) address the unique difficulties faced by broadcasters in smaller markets; and (3) establish a flexible waiver policy that will provide it with the latitude necessary to consider, when warranted, exceptional factual scenarios and potential public interest benefits on a case-by-case basis.

with congressional intent. Specifically, the *Fox*[10] and *Sinclair*[11] decisions—in addition to setting aside several of the Commission's TV ownership rules, including the local TV duopoly rule—direct the agency to refocus its biennial review process on advancing the deregulatory agenda initiated by the 1996 Act in a more expedient and consistent manner.

Section 202(h) directs the FCC to repeal or modify any ownership rule that is not "*necessary* in the public interest as the result of competition."[12] As the D.C. Circuit Court held in both the *Fox* and *Sinclair* cases, this provision "carries with it a presumption in favor of repealing or modifying the ownership rules."[13] Those decisions—even when the revisions made to the *Fox* decision upon rehearing are taken into account—make plain that the Commission must subject its remaining ownership rules to a far more searching analysis than it has in the past to ensure that, going forward, FCC biennial review proceedings reflect the deregulatory thrust intended by Congress.

The Court of Appeals initially held in the *Fox* case that "the statute is clear that a regulation should be retained only insofar as it is *necessary in, not merely consonant with*, the public interest."[14] The Court deleted this language from its opinion upon rehearing, concluding that it was unnecessary to its decision to vacate the cable/television cross-ownership restriction and remand the national TV "cap," but it expressly declined to adopt the more lenient

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[10] *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027 (D.C. Cir. 2002) ("*Fox Television*"), *rehearing granted*, 293 F.3d 537 (D.C. Cir. 2002) ("*Fox Television Re-Hearing*").

[11] *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002) ("*Sinclair*").

[12] *1996 Act*, § 202(h) (emphasis added).

[13] *Fox Television* at 1048*; Sinclair* at 159.

[14] *Fox Television* at 1050 (emphasis added).

interpretation suggested by the Commission.[15] Even in the absence of a clear judicial directive, however, a review of Section 202(h)—either standing alone or within the overall context of the 1996 Act—compels the conclusion that the Commission, as part of its biennial review process, must repeal or modify any media ownership restriction that is not *essential* or *indispensable* to the advancement of the public interest objectives that form the basis for that rule.

First, the inclusion of the term "necessary"—which is defined by Merriam-Webster's Collegiate Dictionary as "of an inevitable nature: INESCAPABLE . . . determined or produced by the previous condition of things . . . absolutely needed: REQUIRED"[16]—within the language of Section 202(h) reveals that Congress intended for the biennial review process to be governed by a more stringent standard than the traditional public interest rationale pursuant to which FCC rules are initially promulgated—*i.e.*, a "zero-based" standard under which any ownership restriction that is not "required" or "indispensable" is to be repealed or modified. Moreover, the term "necessary" itself is used elsewhere in the 1996 Act—specifically, in Section 251(c)(6)—and, in that context, courts have interpreted it to mean "that which is required to achieve a desired goal."[17]

Second, Section 202(h) is part of the watershed overhaul of communications regulation in the 1996 Act; as a result, its true meaning can only be gleaned when it is viewed in the broader context of that legislation. The overall purpose of the 1996 Act, as set forth in its preamble, is "to promote competition and reduce regulation."[18] This language establishes a general presumption that individual subsections of the legislation should be interpreted in a manner that

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15 *Fox Television Re-Hearing* at 540.

16 Merriam-Webster's Collegiate Dictionary, Tenth Edition, at 776.

17 *See, e.g.*, *GTE Serv. Corp. v. FCC*, 205 F.3d 416, 423 (D.C. Cir. 2000).

18 *1996 Act*, Preamble.

leads to a *decrease* in the total amount of regulation. Thus, it is clear that Congress' objective in passing Section 202(h) was to direct the FCC to continue, via biennial review proceedings, the process of deregulation initiated by passage of the 1996 Act by eliminating—or, if appropriate, substantially scaling back—any ownership restriction that is not clearly required to advance a concrete public interest objective.

The D.C. Circuit Court also objected to both (1) the Commission's practice of taking a "wait-and-see" approach, rather than taking action, when the record evidence fails to demonstrate that one of its ownership restrictions is "necessary in the public interest as the result of competition,"[19] and (2) its failure to ensure that its rules are consistent, not only with other rules, but also with prior Commission Orders.[20] The former concern dictates that the agency has an affirmative and immediate obligation to demonstrate that any rule it seeks to retain is in fact required or essential. The latter, meanwhile, requires the Commission to justify any deviations from rule to rule, or between a rule and other agency action.[21]

In summary, the language of and congressional intent underlying Section 202(h), taken together with the D.C. Circuit's holdings in the *Fox* and *Sinclair* cases, require the Commission, going forward, to embrace an approach to the biennial review process that is:

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[19] *See Fox Television* at 1042.

[20] *See Sinclair* at 164, *Fox Television* at 1044-45.

[21] In particular, the Court objected to the inconsistency between the television duopoly rule and the radio-television cross-ownership limit. The duopoly rule counts only independently owned broadcast television stations as "voices" in the local market, whereas the radio-television cross-ownership rule treats as voices broadcast television and radio stations, daily newspapers, and cable systems. *See Review of the Commission's Regulations Governing Television Broadcasting*, Report and Order, 14 FCC Rcd 12903, 12950-52 (1999); *see also Sinclair* at 162 ("Succinctly put, Sinclair contends that the Commission has not provided any justification for counting fewer types of 'voices' in the local ownership rule than it counted in its rule on cross-ownership of radio and television stations. We agree, for notwithstanding the substantial deference to be accorded to the Commission's line drawing, the Commission cannot escape the requirements that its action not 'run[] counter to the evidence before it' and that it provide a reasoned explanation for its action.") (citation omitted).

- Presumptively deregulatory (*i.e.*, the FCC must repeal or modify any ownership restriction that is not proven to be required or indispensable in the public interest);

- Proactive (*i.e.*, the agency cannot opt to continue to monitor marketplace developments rather than repeal or modify a rule that is unsupported by empirical evidence); and

- Consistent (*i.e.*, the Commission cannot ignore its prior findings or past conclusions without satisfactory explanation, and must take into account the full range of competing media outlets in analyzing the continued need for any of its remaining broadcast ownership regulations).

As demonstrated below, the local television duopoly rule, when examined in the light of this amended analytical framework, cannot be found to be "necessary in the public interest as the result of competition" and therefore should be eliminated.

III. THE REALITY OF THE MODERN MEDIA MARKETPLACE GUARANTEES THAT ELIMINATION OF THE TELEVISION DUOPOLY RULE WOULD HAVE NO NEGATIVE IMPACT ON THE PUBLIC INTERESTS GOALS UPON WHICH IT IS FOUNDED.

As explained above, Section 202(h) requires the FCC to repeal or modify any media ownership restriction that is not necessary in the public interest "*as the result of competition*." Consequently, an overview of the extensive array of sources from which consumers today obtain news and information is of critical importance to the biennial review of the local television ownership rule. As demonstrated below, the vast increase in the number, as well as the types, of media voices available to consumers compels the conclusion that the television duopoly rule is not "necessary" to advance the public interest goals—viewpoint diversity, competition, and localism—identified by the Commission as the bases for its ownership restrictions.

A. The Impact Of The Tremendous Expansion In The Number Of Both Traditional And New Media Voices Available Simply Cannot Be Overstated.

The number of traditional media voices—*i.e.*, television stations, radio stations, and newspapers—has increased dramatically since the local TV multiple ownership rule was first

adopted in 1964.[22] As the Commission noted in its September 2001 *Order and Notice of Proposed Rule Making* in the newspaper cross-ownership proceeding,[23] between 1975 and 2001:

- The number of radio stations increased from approximately 7,500 to 12,000;
- The number of television stations increased from fewer than 1,000 to 1,600—and that latter figure includes only full-power stations; and
- The number of national commercial networks increased from three to seven.[24]

Moreover, these figures have risen still further in the past year: as reported in the *Notice of Proposed Rulemaking* in the instant proceeding, there were over one thousand more radio[25] and over one hundred more television[26] stations on the air as of September 2002.[27] Several of the studies released by the Commission in connection with this proceeding confirm this trend. For example, Study No. 1, "A Comparison of Media Outlets and Owners for Ten Selected Markets (1960, 1980, 2000)," concludes that "[t]he number of media outlets and owners increased tremendously over the 40-year period from 1960 to 2000."[28]

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[22] *See generally Amendment of Sections 73.35, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM and Television Broadcast Stations*, 45 F.C.C. 1476 (1964).

[23] *Cross-Ownership of Broadcast Stations and Newspapers; Newspaper/Radio Cross-Ownership Waiver Policy*, Order and Notice of Proposed Rule Making, 16 FCC Rcd 17283 (2001).

[24] *Id*.

[25] *See Ownership NPRM* at ¶ 26 (stating that "[o]ver 13,260 radio stations are currently on the air (4,811 AM, 6,147 commercial FM and 2,303 educational FM)") (citation omitted).

[26] *See id*. at ¶ 24 ("Over-the-air outlets include: 1,331 commercial TV stations (752 UHF, 579 VHF); 381 non-commercial, educational TV stations (254 UHF, 127 VHF; 554 Class A TV stations (451 UHF, 103 VHF); and, over 2,100 other low-power TV stations.") (citations omitted).

[27] In addition, print sources—daily and weekly newspapers, as well as periodicals—continue to serve communities both small and large, niche and mainstream.

[28] Scott Roberts, Jane Frenette, and Dione Stearns, "A Comparison of Media Outlets and Owners For Ten Selected Markets," released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, at 4 (Sept. 2002) ("*Study No. 1*"); *see also id*. at 3 ("The percent increase in the number of outlets averaged almost 200 percent across all ten markets."); *see generally* Nielsen Media Research, "Consumer Survey On Media Usage," released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244 (Sept. 2002) ("*Study No. 8*").

Of equal—or even greater—significance, however, has been the rise of new media outlets. Cable networks, for example, have emerged as significant competitors to the broadcast networks. In 1975, the three largest broadcast networks had a combined prime time market share of 95 percent, but by 2001, the four largest broadcast networks had a combined prime time market share of only 50 percent; nearly all of broadcast television's losses—42 percent—were basic cable networks' gains.[29]

Similarly, the rise of cable television as the dominant multichannel video programming distribution platform (passing approximately 97 percent of homes[30]), along with the introduction of and rapid growth enjoyed by direct broadcast satellite ("DBS") services (serving approximately18.2 percent of all MVPD subscribers[31]), have transformed the video programming landscape: as of June 2001, approximately 86.4 percent of homes subscribed to an MVPD.[32]

Finally, the emergence of the Internet has transformed the public's relationship to the media, offering not only a virtually endless array of international, national, regional, and local sources of news and information, but also the ability for virtually anyone to become involved in the news reporting process, through personal web sites and, increasingly, weblogs, or "blogs." Indeed, recent political events offer a telling example of the increasingly powerful impact that

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[29] *Cross-Ownership of Broadcast Stations and Newspapers; Newspaper/Radio Cross-Ownership Waiver Policy*, Order and Notice of Proposed Rule Making, 16 FCC Rcd 17283 (2001).

[30] *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Eighth Annual Report, 17 FCC Rcd 1244, 1254-55 (2002).

[31] *Id*. at 1247-48.

[32] *Id*. at 1247. This figure includes not only cable and DBS, but also alternative MVPDs such as home satellite dish (*i.e.*, C-Band satellite services), wireless cable (*i.e.*, MDS/MMDS and ITFS), satellite master antenna television systems ("SMATV"), open video systems ("OVS"), and cable overbuilders. *See generally id.* at 1276-97. All of these MVPD choices were introduced after the television duopoly rule originally was adopted.

blogs can have: two popular weblogs, University of Tennessee law professor Glenn Reynolds' "Instapundit" and political columnist Joshua Marshall's Talking Points Memo," have been cited as being among the first to bring to national attention the controversial comments made by Senator Lott at Senator Thurmond's birthday celebration.[33]

Not only has there been a dramatic expansion in the types of media outlets available to consumers, but—as Study No. 3, "Consumer Substitution Among Media"—demonstrates, consumers are increasingly turning to new media outlets in lieu of traditional sources of news and information, including broadcast television.[34] This conclusion is also corroborated by Study No. 1, which "compare[s] the availability and ownership of media in ten different radio markets at three different points in time:"[35]

> In 1960, cable was present only in two of the selected markets. By 1980, cable was available in all ten markets and about one-third of TV households, on average, subscribed to cable. Cable subscription doubled in these markets by the year 2000, to about two-thirds of households, on average. . . . [Meanwhile, d]irect broadcast satellite (DBS), which was unavailable in 1960 and 1980, is now available nationwide.[36]

Thus, broadcast television today is by no means the only source—let alone the dominant one—from which consumers receive video programming. Moreover, as the pace of technological innovation continues to accelerate, additional sources of news and information—such as services

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[33] Noah Shachtman, "Blogs Make the Headlines," Dec. 23, 2002 <http://www.wired.com/news/culture/0,1284,56978,00.html>; *see also* Sergey Kuznetsov, "Russia: Dial 'H' for Hostage," Oct. 30, 2002 <http://www.wired.com/news/culture/0,1284,56073,00.html> (describing how one of 750 people held by Chechen rebels in a Moscow theatre was able to get information regarding the hostage crisis onto livejournal.com, a popular weblog site, and noting that this "wasn't the first time that Russians had turned to LiveJournal for news of the day").

[34] *See, e.g.*, Joel Waldfogel, "Consumer Substitution Among Media," released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, at 39-41 (noting that "there is clearest evidence of substitution between Internet and broadcast TV" and concluding that the evidence "at least suggests some degree of substitution") ("*Study No. 3*").

[35] *Study No. 1* at 3 (citation omitted).

[36] *Id*. (citation omitted).

that transmit data to cell phones, pagers, personal digital assistants ("PDAs"), and other devices with wireless capabilities—will continue to be introduced. As a result, the information marketplace in which broadcast television stations participate will only become more diverse over time.

The following overviews of three of the markets—Madison, Wisconsin; Lincoln-Hastings-Kearney, Nebraska; and Greenville-New Bern-Washington, North Carolina—served by Gray's local television stations illustrates the tremendous degree of choice among media outlets enjoyed by consumers today.[37]

Madison, Wisconsin. In Madison, Wisconsin, the eighty-fifth largest DMA,[38] consumers can choose between a wide selection of news and information sources, including approximately:

- Five commercial television stations;[39]
- One non-commercial television station;[40]
- Two low-power stations;[41]
- Fifteen cable operators,[42] with cable penetration at approximately 63 percent;[43]
- Sixteen FM stations;[44]

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[37] *See generally* Appendices A through C for the lists of media outlets upon which these summaries are based. This information was provided by the management of Gray's television stations in these markets, as well as the sources indicated herein.

[38] *See Investing In Television Market Report 2002, BIA Financial Network*.

[39] *See Broadcasting & Cable Yearbook 2002-2003*, at B-194.

[40] *See id*.

[41] *See Broadcasting & Cable Yearbook 2002-2003*, at B-129.

[42] *See Warren Cable & Station Coverage Atlas 200*, at 452-59.

[43] *See Broadcasting & Cable Yearbook 2002-2003*, at C-4.

[44] *See Radio Market Report 2001*, 4th ed.

- Ten AM stations;[45]
- Eight daily newspapers;[46]
- Forty-five weekly newspapers;[47]
- Two MDS[48] and two MMDS[49] licensees; and
- Countless web sites dedicated to local topics of interest.[50]

Lincoln-Hastings-Kearney, Nebraska. The Lincoln-Hastings-Kearney, Nebraska market is the 102nd largest DMA.[51] The media outlets available to consumers living in that area include approximately:

- Nine commercial television stations;[52]
- Four non-commercial television stations;[53]
- Five low-power stations;[54]
- Fifty-two cable operators,[55] with cable penetration at approximately 67 percent;[56]

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45 *See id*.

46 *See Editor & Publisher International Yearbook 2002*, at I-457-68.

47 *See id*. at II-349-62.

48 *See Television & Cable Factbook 2002*, at E-9.

49 *See id*. at E-46.

50 *See, e.g.*, the WKOW-TV 27 website <http://www.wkowtv.com/>; Channel 3000, the WISC-TV website <http://www.channel3000.com/>; *The Madison Times* weekly newspaper's web page <http://www.madtimes.com/>; *The Capital Times* web edition <http://www.madison.com/captimes/>; the Wisconsin Public Radio home page <http://www.wpr.org/>; WisPolitics.com, "Wisconsin's Premier Political News Service" <http://www.wispolitics.com/>; and the City of Madison web site <http://www.ci.madison.wi.us/>.

51 *See Investing In Television Market Report 2002, BIA Financial Network*.

52 *See Broadcasting & Cable Yearbook 2002-2003*, at B-192.

53 *See id*.

54 *See Broadcasting & Cable Yearbook 2002-2003*, at B-123.

55 *See Warren Cable & Station Coverage Atlas 2000*, at 326-29.

- Fifty FM stations;[57]
- Twenty-one AM stations;[58]
- Eight daily newspapers;[59]
- Eighty-three weekly newspapers;[60]
- Two MDS[61] and 14 MMDS[62] licensees; and
- Countless web sites dedicated to local topics of interest.[63]

Greenville-New Bern-Washington, North Carolina. In the Greenville-New Bern-Washington, North Carolina market, which is the 106th largest DMA, the list of sources for news and information includes approximately:

- Seven commercial television stations;[64]
- Three non-commercial television stations;[65]

(Continued . . .)

56 *See Broadcasting & Cable Yearbook 2002-2003*, at C-4.

57 *See Radio Market Report 2001*, 4th ed.

58 *See id*.

59 *See Editor & Publisher International Yearbook 2002*, at I-248-54.

60 *See id*. at II-196-204.

61 *See Television & Cable Factbook 2002*, at E-5.

62 *See id*. at E-29-31.

63 *See, e.g.*, the KHAS-TV News 5 home page <http://www.khastv.com/>; Channel 8 KLKN-TV's web site <http://www.klkntv.com/>; the *Daily Nebraskan* online edition <http://www.dailynebraskan.com/>; the *Lincoln Journal Star* web site <http://www.journalstar.com/>; the Kearney Cyberhub, a web site of the *Kearney Hub* newspaper <http://www.kearneyhub.com/>; the City of Lincoln and Lancaster County home page <http://www.ci.lincoln.ne.us/>; the Lincoln, Nebraska Chamber of Commerce web page <http://www.lincolnchamber.org/>; and citygold.com, "Lincoln's Official Web Site Directory™" <http://www.citygold.com/>.

64 *See Broadcasting & Cable Yearbook 2002-2003*, at B-179.

65 *See id*.

- Two low-power stations;[66]
- Nine cable operators,[67] with cable penetration at approximately 63 percent;[68]
- Twenty-five FM stations;[69]
- Sixteen AM stations;[70]
- Five daily newspapers;[71]
- Sixteen weekly newspapers;[72]
- Three MMDS[73] licensees; and
- Countless web sites dedicated to local topics of interest.[74]

Thus, as illustrated above, even in smaller markets, the number of local media outlets available—not to mention the tremendous array of regional, national, and international news and information sources—is so great that the television duopoly rule cannot reasonably be expected to have any appreciable impact on the public interest justifications discussed below. In fact, the prohibition of ownership of more than a single television station in most markets frustrates the

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66 *See Broadcasting & Cable Yearbook 2002-2003*, at B-124-25.

67 *See Warren Cable & Station Coverage Atlas 2000*, at 351-58.

68 *See Broadcasting & Cable Yearbook 2002-2003*, at C-3.

69 *See Radio Market Report 2001*, 4th ed.

70 *See id*.

71 *See Editor & Publisher International Yearbook 2002*, at I-294-309, II-236-46.

72 *See id*. at II-236-46.

73 *See Television & Cable Factbook 2002*, at E-18-19.

74 *See, e.g.*, the WNCT web site <http://www.wnct.com/>; the WFXI/WYDO web site <http://www.fox8fox14.com/>; Reflector.com, a product of *The Daily Reflector* <http://www.reflector.com/>; the *New Bern Sun Journal* on the web <http://www.newbernsunjournal.com/>; GreenvilleOnline.com, a service of *The Greenville News* <http://greenvilleonline.com/>; the Bob 93.3 web site <http://www.bob933.com/>; the City of Greenville Official Site <http://ci.greenville.nc.us/>; the Greenville-Pitt County Convention & Visitors Bureau web site <http://www.visitgreenvillenc.com/index1.html>; and Experience New Bern, North Carolina! <http://www.visitnewbern.com/>.

ability of broadcasters to achieve efficiencies that would allow them to provide more and better informational programming and more effectively meet the needs of consumers and advertisers. Accordingly, the duopoly rule clearly is not "necessary in the public interest as the result of competition" and should be repealed.

B. Elimination Of The Television Duopoly Rule Would Have No Negative Impact On The Public Interest Goals—Viewpoint Diversity, Competition, And Localism—That Serve As The Foundation For The FCC's Media Ownership Restrictions.

As the above fact-specific market overviews make plain, the incredibly wide and ever-increasing range of options from which consumers—including those that reside in smaller markets—today can obtain news and information guarantees that elimination of the local television multiple ownership rule would have no negative impact on the public interest goals upon which the FCC traditionally has based its media ownership restrictions.

1. Viewpoint Diversity.

As the *Notice of Proposed Rule Making* explains, the media ownership rules are designed to advance three long-standing public interest objectives: (1) diversity—and, in particular, viewpoint diversity; (2) competition; and (3) localism. As the proceeding subsection demonstrates, however, viewpoint diversity today is guaranteed by the ever-expanding number of media options from which consumers are able to choose. Indeed, in an environment where consumers easily can obtain the news and information they seek from numerous radio and television stations; hundreds of video programming services; cable, DBS, and other MPVDs; daily and weekly newspapers; thousands of periodicals; literally millions of web sites; and an ever-increasing selection of wireless data services, it is difficult, if not impossible, to imagine how elimination of the television duopoly rule could have *any* appreciable impact on the level of

viewpoint diversity available in the modern media marketplace. Consequently, the duopoly rule is not necessary to achieve this public interest goal. In fact, as discussed further below, retention of the restriction disserves the public interest by precluding combinations that could offer enhanced news, public affairs, and other informational programming.

2. Competition.

The sheer number of media outlets available today guarantees that consumers as well as advertisers reap the benefits of a vibrantly competitive landscape. First, as demonstrated above, the number of outlets *within* each type of media (*e.g.*, television, radio, newspapers, etc.), even in smaller markets, is such that no single entity is likely to gain an anticompetitive advantage that could result in harm to consumers. Further, the price differential between local television advertising spots and other means of reaching local consumers—*e.g.*, cable television and radio spots, local newspaper ads, and ads on locally oriented websites—typically is lower in smaller markets than in large markets, which suggests that broadcast television may face a greater degree of competition from a broader array of alternative media in those smaller markets.[75]

In any event, competition rightfully is the purview of the antitrust agencies. By design, the antitrust laws ensure that no single entity can maintain an anticompetitive advantage over its rivals. The vast majority of television station transactions today, even in smaller markets, trigger

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[75] *See, e.g.*, *Ownership NPRM* at ¶ 60 ("A recent study indicated that Internet users spend approximately 25% less time watching television stations than non-Internet users. This phenomenon suggests that the Internet may compete with television for viewers, which could reduce advertising revenues for both broadcast and non-broadcast channels. Competitive developments such as these are not reflected in past Commission evaluations of the advertising market, yet they may have a meaningful effect on broadcasters' ability to compete in today's media market.") (citation omitted); *cf.* C. Anthony Bush, "On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales," released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, at 3 (concluding that "[t]he estimated elasticities of substitution and the estimated ordinary cross-price elasticities suggest weak substitutability between local media").

Hart-Scott-Rodino review by the FTC or the Department of Justice.[76] There is no need for the FCC to duplicate that process.

3. Localism.

Localism, meanwhile, is unaffected by the TV duopoly rule. Regardless of the identity of its owner, a broadcast television station is required to serve the needs and interests of its community. More importantly, licensees have strong economic and professional incentives to provide their viewers with the content—and, especially, the local content—that they seek. Finally, as shown in the following section, if the television duopoly rule has *any* impact on the provision of programming responsive to local needs and interests, that impact is in fact detrimental, particularly in smaller markets.

IV. BY DENYING BROADCASTERS THE EFFICIENCIES THAT WOULD RESULT FROM STATION COMBINATIONS, THE TV DUOPOLY RULE PRODUCES SIGNIFICANT PUBLIC INTEREST HARMS, PARTICULARLY IN SMALLER MARKETS.

Gray submits that the local television multiple ownership rule is not "necessary in the public interest as the result of competition." Rather, the opposite is true: the rule disserves the public interest by denying consumers the benefits—*e.g.*, greater viewpoint diversity, expanded local content, and sustainable local news operations—that television duopolies can produce, particularly in smaller markets.

First, regardless of market size, television duopolies can be expected to result in *greater* viewpoint diversity. In a market where every station is independently owned, one would expect

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[76] For example, WTOV-TV, in Wheeling, WV, the 150th largest market, sold for approximately $58 million dollars in January 2001. Other recent smaller-market transactions in excess of $50 million include: KCBD-TV, in Lubbock, TX, the 148th largest market, for approximately $59.8 million in February 2000; WALB-TV, in Albany, GA, the 147th largest market, for approximately $78 million in July 1998; and KLFY-TV, in Lafayette, LA, the 124th largest market, for approximately $51 million in February 1988. *See generally Investing In Television Market Report 2002, BIA Financial Network*.

broadcasters to compete directly with each other in order to become the top station in that market. In a market where two stations are commonly owned, however, those stations would have strong economic incentives to differentiate their offerings—including news and other local programming—in order to capture difference audience segments, rather than competing directly with one another for the same viewers. As the Commission previously has noted, "a single owner of multiple outlets may have stronger incentives to provide diverse entertainment formats, programs, and content on its multiple outlets than would separate station owners."[77]

Second, television duopolies can render it economically feasible for the stations involved to provide a greater amount of local content (including local news broadcasts) than they would if they were to remain independent. The efficiencies and synergies that can arise through the shared use of production facilities such as mobile news units and satellite uplinks, for example, can make the difference between a profit and a loss, which, in turn, determines whether or not such local content makes it onto the stations' schedules. The ability to achieve such efficiencies is especially critical in smaller markets.

Television stations generate revenues predominantly through the sale of advertising, and, as a rule, smaller market stations are not able to charge as much for advertising spots as stations in larger markets.[78] To make matters worse, smaller market stations are *not* significantly less

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[77] *Ownership NPRM* at ¶ 82. *See also id*. ("An entity that owns multiple stations in a market may have the incentive to target its programming to appeal to a variety of interests in an effort to maximize audiences, rather than program its multiple outlets with the same format or programming, thereby competing with itself."); David Pritchard, "Viewpoint Diversity in Cross-Owned Newspapers and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign," released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, at 10 (noting that, "in five of the 10 newspaper-television combinations studied, the overall slant of the coverage broadcast by a company's television station was noticeably different from the overall slant of the coverage provided by the same company's newspaper, and often contradicted the newspaper's endorsement of a candidate").

[78] In addition, as noted above, the price differential between television and other options available to advertisers (radio, cable, newspaper, etc.) frequently is much lower in smaller markets than in larger markets. *See generally* subsection III.B.2., *supra*.

expensive to operate than larger market stations, because many of the costs involved—news production budgets, power bills, DTV tower construction and equipment costs, etc.—are generally the same regardless of market size. Consequently, the combination of two television stations in a smaller market, and the efficiencies and synergies that would result, potentially could push both stations' local content offerings into profitability, whereas independent smaller market stations increasingly are finding the costs of continuing to provide local content—including local newscasts—prohibitive.

Indeed, there are numerous examples of smaller market stations that have shut down or significantly scaled back their local news operations due to financial concerns. For instance, the NBC affiliate in Tallahassee, Florida, the home of Gray's WCTV, cancelled its local newscasts approximately two years ago.[79] Similarly, in the Wichita-Hutchinson, Kansas market, where Gray's station KAKE-TV operates, KBSH-TV (formerly KAYS) was forced to eliminate its news operations in the late 1980s; today that station is operated as a satellite station of KWCH-TV.

Gray recently witnessed another example in the Lansing, Michigan market, when the ABC affiliate, WLAJ, cancelled its 11 pm newscast, apparently for financial reasons, and replaced it with a prerecorded 5-minute update. And KTKA, the ABC affiliate serving the Topeka, Kansas market (home to Gray's WIBW-TV), pulled the plug on its news operation

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[79] That station, WTWC-TV, subsequently combined some of its operations with ABC affiliate WTXL-TV, which has been able to continue its local newscasts and, in addition, provide a 10 p.m. newscast for a local cable channel carrying WB programming. *See also* Dan Trigoboff, "All news is local," *Broadcasting & Cable*, Jan. 14, 2002 (Sinclair Broadcasting "has recently eliminated newscasts and openly ties its news operations to profitability. This month, it shut its news department at WXLV-TV Winston-Salem, N.C. It pulled the plug at its ABC affiliate KDNL-TV St. Louis late last year and at WTWC-TV Tallahassee, Fla., in 2000."); Dan Trigoboff, "Live at 11? Maybe not for long; As profit pressure mounts, some experts consider local newscasts to be endangered," *Broadcasting & Cable*, Feb. 11, 2002, at 29 ("Was the elimination of local news at three TV stations in recent weeks—including in major market St. Louis—a series of isolated cases of stations unable to make news profitable or, as veteran station executive and former consultant Hank Price believes, a sign of things to come?").

earlier this year. Elimination of the current duopoly restriction, Gray submits, could help reverse this trend by enabling small market television station combinations to achieve the efficiencies necessary to support local news operations.

V. CONCLUSION.

For all of the reasons stated above, Gray respectfully urges the Commission to repeal the television duopoly rule. The highly diverse and intensely competitive contemporary information marketplace provides strong assurance that the FCC's public interest objectives will be fully satisfied without the need for continued regulatory intervention into local ownership decisions. Further, the efficiencies that can be achieved through common ownership and operation can serve to strengthen local television stations and significantly enhance the news and information programming they provide to their audiences.

If, however, the agency determines not to eliminate the local TV ownership restriction entirely, the FCC still must acknowledge the tremendous growth that has occurred since the rule first was adopted in the number and types of media outlets available to consumers. (Indeed, in order to survive judicial scrutiny, any restriction on local television ownership that may be retained would have to give full consideration to the ever-increasing number of information sources from which consumers in the 21st century are able to choose.)

Further, the Commission must fully acknowledge and address the particularly difficult economic conditions faced by stations in smaller markets, where the efficiencies to be achieved through common ownership are particularly critical to the preservation of high-quality, locally oriented news and informational programming. Finally, should the FCC stop short of outright repeal of the duopoly restrictions, it must establish a waiver policy that would provide it with the flexibility to address unique factual circumstances and potential public interest benefits on a case-by-case basis.

Respectfully submitted,

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APPENDIX A:
MEDIA OUTLETS IN THE MADISON, WISCONSIN MARKET[80]

TV HOUSEHOLDS/CABLE PENETRATION[81]

339,290 TV Households 158,240 Cable Households 63 % Penetration

TV STATIONS[82]

Station	Channel	Service	Ownership	City
WISC-TV	3	CBS	Morgan Murphy Stations	Madison, WI
WISC-DT	50	CBS	Morgan Murphy Stations	Madison, WI
WMTV	15	NBC	Benedek Broadcasting Co. LLC	Madison, WI
WMTV-DT	19	NBC	Benedek Broadcasting Co. LLC	Madison, WI
WHA-TV	21	ETV	Board of Regents of the University of Wisconsin System	Madison, WI
WHA-DT	20	ETV	Board of Regents of the University of Wisconsin System	Madison, WI
WKOW-DT	26	ABC	Quincy Broadcasting Co.	Madison, WI
WKOW-TV	27	ABC	Quincy Broadcasting Co.	Madison, WI
WMSN-TV	47	FOX	Sullivan Broadcasting Co.	Madison, WI
WMSN-DT	11	FOX	Sullivan Broadcasting Co.	Madison, WI
WBUW-TV	57	WB	Acme Communications	Janesville, WI

MULTICHANNEL DISTRIBUTION SERVICES[83]

Station	Operator	City
WFY430	Tel-Radio Communications Properties Inc.	Janesville-Beloit, WI
KNSC405	PCTV Gold Inc.	Madison, WI

MULTICHANNEL MULTIPOINT DISTRIBUTION SERVICES[84]

Station	Operator	City
WDU380	Edna Cornaggia	Madison, WI
WHT772	Skycable TV of Madison LLC	Madison, WI
WNTJ388	Skycable TV of Madison LLC	Madison, WI

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80 This list of media outlets is based upon information provided by the management of Gray's television station in this market, as well as the sources indicated herein.

81 *See Broadcasting & Cable Yearbook 2002-2003*, at C-4.

82 *See Broadcasting & Cable Yearbook 2002-2003*, at B-194.

83 *See Television & Cable Factbook 2002*, at E-9.

84 *See id*. at E-46.

WNTJ432	Skycable TV of Madison LLC	Madison, WI
WNTJ374	Skycable TV of Madison LLC	Madison, WI

LOW POWER TELEVISION[85]

Station	Operator	City
W23BW	Three Angels Broadcasting Network	Madison, WI
W08CK	Healthy's Inc.	Madison/Middleton, WI

CABLE OPERATORS[86]

Charter Communications Inc.
Merrimac Area Cable
LaValle Long Distance
LVT Corp.
Richland-Grant Long Distance
Dairyland Cable Systems
Mediacom
Tech Com, Inc.
Dowden Cable
Community Antenna System Inc.
CenturyTel TeleVideo
Village of Boaz
HLM Cable Corp.
Steuben Communications TV System
Woodman Community TV System

RADIO STATIONS[87]

Call Sign	Service	Owner	City of License
WMAD	FM	Clear Channel	Sun Prairie
WEKZ	FM	Green County Broadcasting	Monroe
WJJO	FM	Mid-West Family	Watertown
WOLX	FM	Entercom	Baraboo
WMLI	FM	Clear Channel	Sauk City
WMGN	FM	Mid-West Family	Madison
WTLX	FM	Good Karma Broadcasting	Columbus
WIBA	FM	Clear Channel	Madison
WZEE	FM	Clear Channel	Madison
WBZU	FM	Entercom	Waunakee

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85 *See Broadcasting & Cable Yearbook 2002-2003*, at B-129.

86 *See Warren Cable & Station Coverage Atlas 2000*, at 452-59.

87 *See Radio Market Report 2001*, 4th ed.

Call Sign	Service	Owner	City of License
WMMM	FM	Entercom	Verona
WKPO	FM	Good Karma Broadcasting	Evansville
WWQM	FM	Mid-West Family	Middleton
WSJY	FM	Marathon Media	Janesville
WORT	FM	Basic Choices, Inc.	Madison
WERN	FM	Board of Regents of the University of Wisconsin System	Madison
WTSO	AM	Clear Channel	Madison
WHFA	AM	Starboard Broadcasting Inc.	Poynette
WEKZ	AM	Green County Broadcasting	Monroe
WIBA	AM	Clear Channel	Madison
WTDA	AM	Mid-West Family	Madison
WHIT	AM	Mid-West Family	Madison
WTDY	AM	Mid-West Family	Madison
WIBU	AM	Magnum	Poynette
WTUX	AM	Midwest Radio	Madison
WHA	AM	Board of Regents of the University of Wisconsin System	Madison

NEWSPAPERS[88]

Dailies:

Newspaper	City
Baraboo News-Republic	Baraboo, WI
Beloit Daily News	Beloit, WI-South Beloit, WI-Rockton, IL
The Janesville Gazette	Janesville, WI
Madison Newspapers Inc.	Madison, WI
The Capital Times	Madison, WI
Wisconsin State Journal	Madison, WI
The Monroe Times	Monroe, WI
Daily Register	Portage, WI

Weeklies:

Newspaper	City
Argyle Agenda	Argyle, WI
Belleville Recorder	Belleville, WI
News-Sickle-Arrow	Black Earth, WI
Blade-Atlas	Blanchardville, WI
The Boscobel Dial	Boscobel, WI
Independent-Register	Brodhead, WI
Clinton Topper	Clinton, WI

[88] *See Editor & Publisher International Yearbook 2002*, at. I-457-468, II-349-62.

Newspaper	City
Columbus Journal	Columbus, WI
Tri-County Press	Cuba City, WI
De Forest Times-Tribune	Dane County, WI
Republican-Journal	Darlington, WI
The Independent	Deerfield/Dane, WI
The Dodgeville Chronicle	Dodgeville, WI
Edgerton Reporter	Edgerton, WI
Evansville Review	Evansville, WI
Fitchburg Star	Fitchburg, WI
Grant County Herald Independent	Grant County/Lancaster, WI
Sunday Janesville Messenger	Janesville, WI
Juneau County Star-Times	Juneau County
The Lodi Enterprise	Lodi, WI
Community Life	McFarland, WI
Middleton Times-Tribune	Middleton, WI
The Milton Courier	Milton, WI
Democrat Tribune	Mineral Point, WI
The Community Herald	Monona, WI
The Marquette County Tribune	Montello, WI
Rural Register	Montfort, WI
Mount Horeb Mail	Mt. Horeb, WI
The Post Messenger	New Glarus, WI
Oregon Observer	Oregon, WI
Journal & Footville News	Orfordville, WI
Platteville Journal	Platteville/Grant, WI
The Poynette Press	Poynette, WI
Neighbors	Randolph, WI
Times	Reedsburg, WI
The Richland Observer	Richland Center, WI
Stateline Shopping News	Rock/Winnebago Counties
Sauk Prairie Star	Sauk City/Prairie du Sac
The Weekly Home News	Spring Green, WI
Stoughton Courier-Hub	Stoughton, WI
The Star	Sun Prairie, WI
The Verona Press	Verona, WI
Waunakee Tribune	Waunakee, WI
Wisconsin Dells Events	Wisconsin Dells, WI
Wisconsin State Farmer	Wisconsin Statewide

WEB SITES

http://www.nbc15.com/
http://www.wkowtv.com/
http://www.channel3000.com/

http://www.thedailypage.com/
http://www.madtimes.com/
http://www.wnanews.com/
http://www.madison.com/
http://www.wort-fm.org/
http://wjjo.com/
http://www.wpr.org/
http://www.wispolitics.com/
http://www.ci.madison.wi.us/
http://www.meadowoodchurch.org/
http://www.downtownmadison.org/
http://www.greatermadisonchamber.com/
http://www.visitmadison.com/
http://www.madisonsource.com/

APPENDIX B:
MEDIA OUTLETS IN THE LINCOLN-HASTINGS-KEARNEY, NEBRASKA MARKET[89]

TV HOUSEHOLDS/CABLE PENETRATION[90]

269,270 TV Households 179,970 Cable Households 67% Penetration

TV STATIONS[91]

Station	Channel	Service	Ownership	City
KLNE-TV	3	ETV	Nebraska Educational Telecommunications Commission	Lexington, NE
KHAS-TV	5	NBC	Greater Nebraska Television, Inc.	Hastings, NE
KSNB-TV	4	Satellite to KTVG	Collins Broadcasting Company	Superior, NE
KWNB-TV	6	Satellite to KHGI-TV	Pappas Telecasting of Central Nebraska	Hayes Center, NE
KMNE-TV	7	ETV	Nebraska Educational Telecommunications Commission	Bassett, NE
KLKN	8	ABC	Citadel Communications Company, Ltd	Lincoln, NE
KOLN	10	CBS	KOLN/KGIN License, Inc.	Lincoln, NE
KGIN	11		KOLN/KGIN License, Inc.	Grand Island, NE
KUON-TV	12	ETV	The University of Nebraska	Lincoln, NE
KHGI-TV	13	ABC	Pappas Telecasting of Central Nebraska, A California LP	Kearney, NE
KTVG	17	FOX	Hill Broadcasting Company, Inc.	Grand Island, NE
KLKE	24	Satellite to KLKN	Citadel Communications, LLC	Albion, NE
KHNE-TV	29	ETV	Telecomm Commission	Hastings, NE

MULTICHANNEL DISTRIBUTION SERVICES[92]

Station	Operator	City
WFY431	Cable USA Inc.	Kearney, NE
KNSC446	American Telecasting of Lincoln, Inc.	Lincoln

MULTICHANNEL MULTIPOINT DISTRIBUTION SERVICES[93]

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89 This list of media outlets is based upon information provided by the management of Gray's television station in this market, as well as the sources indicated herein.

90 *See Broadcasting & Cable Yearbook 2002-2003*, at C-4.

91 *See Broadcasting & Cable Yearbook 2002-2003*, at B-192.

92 *See Television & Cable Factbook 2002*, Cable Volume 2, at E-5.

93 *See id.* at E-29-31.

Station	Operator	City
WLW974	Kannew Broadcast Technologies	Adams, NE
WLW999	Nebraska Telecommunications Inc.	Bartley, NE
WHK929	Southwest Telecomm. Cooperative Ass'n Inc.	Bartley, NE
WNEX783	Southwest Telecomm. Cooperative Ass'n Inc.	Bartley, NE
WNEX653	Nebraska Telecomm. Inc.	Bartley, NE
WMH765	American Telecasting of Nebraska Inc.	Geneva, NE
WHH768	American Telecasting of Nebraska Inc.	Geneva, NE
WLW922	Cable USA Inc.	Grand Island, NE
WNTG845	Fortuna Systems Corp.	Grand Island, NE
WNTH847	Integration Communications International Inc.	Grand Island, NE
WNTH392	Richard J. Amons Jr.	Grand Island, NE
KNSC485	Antilles Wireless LLC	Kearney, NE
KNSC486	Antilles Wireless LLC	Kearney, NE
WNTK371	Cable USA Inc.	Kearney, NE
WDU307	Affiliated Communications Corp.	Lincoln, NE
WFY986	American Telecasting of Lincoln Inc.	Lincoln, NE
WNTF780	Fortuna Systems Corp.	Lincoln, NE
WNTH475	John Dudeck	Lincoln, NE
WNTH745	Blake Twedt	Lincoln, NE
WMX945	MDS Nucentrix Trust	Silver Creek, NE
WMX946	MDS Nucentrix Trust	Silver Creek, NE
WMX944	MDS Nucentrix Trust	Silver Creek, NE
WLW998	Nebraska Telecommunications Inc.	Wauneta, NE
WHK926	Southwest Telecomm. Cooperative Ass'n Inc.	Wauneta, NE
WNEX784	Southwest Telecomm. Cooperative Ass'n Inc.	Wauneta, NE
WNEX654	Nebraska Telecommunications Inc.	Wauneta, NE

LOW POWER TELEVISION[94]

Station	Operator	City
K56FC	Hall County	Grand Island, NE
K18CD	Collins Broadcasting Co.	Lincoln, NE
K67CV	Channel America LPTV Lic. Subsidiary	Lincoln, NE
KWAZ-LP	Collins Broadcasting Company	Lincoln, NE
K27GX	Three Angels Broadcasting Network	Lincoln, NE

[94] *See Broadcasting & Cable Yearbook 2002-2003*, at B-123.

CABLE OPERATORS[95]

Ainsworth Cable TV
American Media
Arapahoe Cable TV Inc.
AT&T Cable Services
Beatrice Cable TV Company
Cable Direct
Cable One
Cable TV Association
Cable TV Company Inc.
Cable USA
Cablevision
Cambridge Cable TV
Cencom Inc.
Center Cable TV
Charter Communications
City of Cawker
Clarks Cable TV
Classic Cable
Community CATV/Time Warner
Comstar Cable TV Inc.
Consolidated Cable TV
Courtland Cable
Cunningham Cable
Curtis Cable TV Company Inc.
Diode Cable Company
Eustis Telephone Exchange
Galaxy Cablevision
Glenwood Communications
Grant Cable TV
Great Plains Cable TV
Hebron Cable TV
Henderson Co-op Telephone Company
Hillcom Communications Inc.
Huntel Cablevision
Kuesters Lake TV
Long Pine Cable TV
Mainstay Communications
Midcontinent Cable TV
Mid-State Community TV
Nex Tech Inc.
Patriot Cable TV Inc.
Peregrine Communications

[95] *See Warren Cable & Station Coverage Atlas 2000*, at 326-29.

Pinpoint Communications Inc.
Rock County Telephone Company
Scope CATV of Nebraska Company
Springview Cable TV
Sky Scan Cable Company
Telepartners
Time Warner Cable
Vision Electronics
Vision Plus Inc.
Westcom

RADIO STATIONS[96]

Call Sign	Service	Owner	City of License
KBBK	FM	Monterey Licenses, LLC	Lincoln, NE
KBBN-FM	FM	Custer County Broadcasting Company	Broken Bow, NE
KBRB-FM	FM	K.B.R. Broadcasting Company	Ainsworth, NE
KBRX-FM	FM	Ranchland Broadcasting Company, Inc	O'Neill, NE
KCNT	FM	Central Community College	Hastings, NE
KDNE	FM	Doane College Board of Trustees	Crete, NE
KFGE	FM	Monterey Licenses, LLC	Milford, NE
KFKX	FM	Hastings College	Hastings, NE
KFLV	FM	Educational Media Foundation	Wilber, NE
KFRX	FM	Three Eagles of Lincoln, Inc.	Lincoln, NE
KGRD	FM	The Praise Network, Inc.	Orchard, NE
KHNE-FM	FM	Nebraska Ed Telecomm. Commission	Hastings, NE
KIBZ	FM	Capstar TX Limited Partnership	Lincoln, NE
KICX-FM	FM	McCook Radio Group, LLC	McCook, NE
KIOD	FM	Austin McCook, LLC	McCook, NE
KKPR-FM	FM	Platte River Radio, Inc.	Kearney, NE
KKUL	FM	Monterey Licenses, LLC	Lincoln, NE
KLCV	FM	Community Broadcasting, Inc.	Lincoln, NE
KLIQ	FM	Waitt Radio, Inc.	Hastings, NE
KLNE-FM	FM	Nebraska Ed Telecomm. Commission	Lexington, NE
KLPR	FM	University of Nebraska @ Kearney	Kearney, NE
KLTQ	FM	Waitt Radio, Inc.	Lincoln, NE
KMNE-FM	FM	Nebraska Ed Telecomm. Commission	Bassett, NE
KMTY	FM	Waitt Radio, Inc.	Holdrege, NE
KNLV-FM	FM	Sandhills Advertising Corp.	Ord, NE
KQIQ	FM	Southeast Community College	Beatrice, NE
KQKY	FM	Waitt Radio, Inc.	Kearney, NE
KRFS-FM	FM	CK Broadcasting, Inc.	Superior, NE
KRGI-FM	FM	JRK Broadcasting, LLC	Grand Island, NE
KRGY	FM	JRK Broadcasting, LLC	Aurora, NE

[96] *See Radio Market Report 2001*, 4th ed.

Call Sign	Service	Owner	City of License
KRKR	FM	Three Eagles of Lincoln, Inc.	Lincoln, NE
KRKU	FM	McCook Radio Group, LLC	McCook, NE
KRNU	FM	University of Nebraska	Lincoln, NE
KRNY	FM	Waitt Radio, Inc.	Kearney, NE
KROA	FM	Grace University	Grand Island, NE
KROR	FM	Eternal Broadcasting, LLC	Hastings, NE
KRVN-FM	FM	Nebraska Rural Radio Association	Lexington, NE
KSLI-FM	FM	Capstar TX Limited Partnership	Crete, NE
KSWN	FM	Austin-McCook, LLC	McCook, NE
KSYZ-FM	FM	Mid-Nebraska Broadcasting, Inc.	Grand Island, NE
KTGL	FM	Capstar TX Limited Partnership	Beatrice, NE
KTMX	FM	Prairie States Broadcasting, Inc.	York, NE
KUCV	FM	Nebraska Ed Telecomm. Commission	Lincoln, NE
KURK	FM	Imperial Media Association	Imperial, NE
KUSO	FM	Flood Communications, LLC	Albion, NE
KUTT	FM	Siebert Communications, Inc.	Fairbury, NE
KXLJ	FM	American Family Association	Grand Island, NE
KZEN	FM	Osage Radio, Inc.	Central City, NE
KZKX	FM	Capstar TX Limited Partnership	Seward, NE
KZUM	FM	Sunrise Communications, Inc.	Lincoln, NE
KBRB	AM	KBRB Broadcasting Company	Ainsworth, NE
KBRL	AM	McCook Radio Group, LLC	McCook, NE
KBRX	AM	Ranchland Broadcasting Company	O'Neill, NE
KCNI	AM	Custer County Broadcasting Company	Broken Bow, NE
KFOR	AM	Three Eagles of Lincoln, Inc.	Lincoln, NE
KGFW	AM	Waitt Radio, Inc.	Kearney, NE
KGMT	AM	Siebert Communications, Inc.	Fairbury, NE
KHAS	AM	KHAS Broadcasting. Inc.	Hastings, NE
KICS	AM	KHAS Broadcasting, Inc.	Hastings, NE
KKPR	AM	Platte River Radio, Inc.	Kearney, NE
KLIN	AM	Monterey Licenses, LLC	Lincoln, NE
KLMS	AM	Three Eagles of Lincoln, Inc.	Lincoln, NE
KMMJ	AM	JRK Broadcasting, LLC	Grand Island, NE
KNGN	AM	Kansas Nebraska Good News Broadcasting Corporation	McCook, NE
KNVL	AM	Sandhills Advertising Corp.	Ord, NE
KRFS	AM	CK Broadcasting, Inc.	Superior, NE
KRGI	AM	JRK Broadcasting, LLC	Grand Island, NE
KRVN	AM	Nebraska Rural Radio Association	Lexington, NE
KSNK	AM	Emmis Television License Corporation of Wichita	McCook, NE
KUVR	AM	Waitt Radio, Inc.	Holdrege, NE
KWBE	AM	Monterey Licenses, LLC	Beatrice, NE

NEWSPAPERS[97]

Dailies:

Newspaper	**City**
Beatrice Daily Sun	Beatrice, NE
The Grand Island Independent	Grand Island, NE
Hastings Tribune	Hastings, NE
Holdrege Daily Citizen	Holdrege, NE
Kearney Hub	Kearney, NE
Lincoln Journal Star	Lincoln, NE
McCook Daily Gazette	McCook, NE
York News-Times	York, NE

Weeklies:

Newspaper	**City**
Ainsworth Star-Journal	Ainsworth, NE
Albion News	Albion, NE
Harlan County Journal	Alma, NE
Arapahoe Public Mirror	Arapahoe/Edison/Hendley/Holbrook, NE
Arnold Sentinel	Arnold, NE
Atkinson Graphic	Atkinson, NE
Aurora News-Register	Aurora, NE
Rock County Leader	Bassett, NE
Times-Tribune	Beaver City, NE
Bertrand Herald	Bertrand, NE
The Blue Hill Leader	Blue Hill, NE
Custer County Chief	Broken Bow, NE
The Burwell Tribune	Burwell, Ne
The Butte Gazette	Butte, NE
Cairo Record	Cairo/Boclus/Dannebrog, NE
The Callaway Courier	Callaway, NE
Cambridge Clarion	Cambridge, NE
Cedar Rapids Press	Cedar Rapids, NE
Republican-Nonpareil	Central City, NE
Chester Herald	Chester/Hubbell/Byron, NE
Clearwater Record- Ewing News	Clearwater, NE
Cozad Free Press	Cozad, Ne
The Tri-City Tribune	Cozad, NE
The Crete News	Crete, NE
Hi-Line Enterprise	Curtis/Eustis, NE
Lexington Clipper-Herald	Dawson County
Deshler Rustler	Deshler, NE

[97] *See Editor & Publisher International Yearbook 2002*, at I-248-54, II-196-204.

Newspaper	City
The Doniphan Herald	Doniphan, NE
The Elgin Review	Elgin, NE
Eustis News	Eustis, NE
Fairbury Journal-News	Fairbury, NE
Franklin County Chronicle	Franklin/Bloomington, NE
Sentinel	Friend, NE
Nance County Journal	Fullerton, NE
Nebraska Signal	Geneva, NE
The Genoa Leader-Times	Genoa, NE
The Gibbon Reporter	Gibbon, NE
Gothenburg Times	Gothenburg, NE
West Nebraska Register	Grand Island, NE
Hayes Center Times-Republican	Hayes County
Hebron Journal-Register	Hebron/Thayer County, NE
The Henderson News	Henderson, NE
Imperial Republican	Imperial, NE
Indianola News	Indianola, NE
Kenesaw Clarion	Kenesaw/Juniata/Hearwell Prosser, NE
Springview Herald	Keya Paha County
Lawrence Locomotive	Lawrence, NE
Neighborhood Extra	Lincoln, NE
Milford Times	Milford, Ne
The Minden Courier	Minden/Kearney County, NE
The Neligh News and Leader	Neligh, Ne
Nelson Gazette	Nelson, NE
Holt County Independent	O'Neill. NE
The Orchard News	Orchard, NE
The Ord Quiz	Ord, NE
Polk County News	Osceola, Ne
Beacon-Observer	Overton/Elm Creek, NE
Oxford Standard	Oxford/Orleans, NE
Palmer Journal	Palmer, NE
The Pawnee Republican	Pawnee City County
Petersburg Press	Petersburg, NE
The Ravenna News	Ravenna, NE
The Red Cloud Chief	Red Cloud, NE
The St. Edward Advance	St. Edward, NE
The Phonograph-Herald	St. Paul, NE
Sargent Leader	Sargent/Milburn/Comstaock/Arcadia, NE
The Scotia Register	Scotia/North Loop/Elba/Ord/St. Paul
Seward County Independent	Seward County
The Shelton Clipper	Shelton, Ne
Sherman County Times	Sherman County
Spalding Enterprise	Spalding, NE
The Spencer Advocate	Spencer, NE

Newspaper	City
The Superior Express	Superior/Nelson, NE /Mankato (KS)
Clay County News	Sutton/Clay County, NE
Taylor Clarion	Taylor/Almeria, NE
Hitchcock County News	Trenton/Hitchcock County, NE
The Wauneta Breeze	Wauneta, NE
The News	Waverly, NE
Voice News	Western Otoe/Northern Gage/Lancaster Counties
Wilber Republican	Wilber/Saline County, NE
The Wolbach Messenger	Wolbach, NE
The Wood River Sunbeam	Wood River, NE
Wymore Arbor State	Wymore/Odell, NE

WEB SITES

http://www.kolnkgin.com/
http://www.khastv.com/
http://www.klkntv.com/
http://www.dailynebraskan.com/
http://www.journalstar.com/
http://hastingstribune.com/
http://www.kearneyhub.com/
http://www.citygold.com/
http://www.lincoln.org/
http://www.lincolnjobs.com/links.html/
http://www.lincolnchamber.org/community.htm/
http://www.accessamer.com/Nebraska/Lincoln.html/

APPENDIX C:
MEDIA OUTLETS IN THE GREENVILLE-NEW BERN-WASHINGTON, NORTH CAROLINA MARKET[98]

TV HOUSEHOLDS/CABLE PENETRATION[99]

250,780 TV Households 158,240 Cable Households 63 % Penetration

TV STATIONS[100]

Station	Channel	Service	Operator	City
WUND-TV	2	ETV	University of North Carolina	Columbia, NC
WITN-TV	7	NBC	Gray Communications Systems Inc.	Washington, NC
WFXI	8	IND	GOCOM Holdings LLC	Morehead City, NC
WNCT-TV	9	CBS	Media General Inc.	Greenville, NC
WCTI	12	ABC	Lamco Communications Inc.	New Bern, NC
WYDO	14	FOX	GOCOM Holdings LLC	Greenville, NC
WUNM-TV	19	ETV	University of North Carolina	Jacksonville, NC
WUND-DT	20	ETV	University of North Carolina	Columbia, NC
WUNK-TV	25	ETV	University of North Carolina	Greenville, NC
WITN-DT	32	NBC	Gray Communications Systems Inc.	Washington, NC
WPXU-TV	35	IND	Paxson Communications Corp.	Jacksonville, NC
WEPX	38	IND	Paxson Communications Corp.	Greenville, NC
WUPN-DT	29	UPN	Lamco Communications Inc.	Greensboro, NC

MULTICHANNEL MULTIPOINT DISTRIBUTION SERVICES[101]

Station	Owner	City
WMI838	Baypoint TV Inc.	Greenville, NC
WNTF601	JRZ Associates	Greenville, NC
WMH601	National TV Co.	Jacksonville, NC
WNTH835	JRZ Associates	Newport, NC

LOW POWER TELEVISION[102]

Station	Operator	City

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98 This list of media outlets is based upon information provided by the management of Gray's television station in this market, as well as the sources indicated herein.

99 *See Broadcasting & Cable Yearbook 2002-2003*, at C-3.

100 *See Broadcasting & Cable Yearbook 2002-2003*, at B-179.

101 *See Television & Cable Factbook 2002*, at E-18-19.

102 *See Broadcasting & Cable Yearbook 2002-2003*, at B-124-25.

W64AZ	Gocom Television LP	Kinston/Greenville, NC
WFTB-LP	Free Temple Ministries Inc.	Williamston, NC

CABLE OPERATORS[103]

Time Warner Cable
Red's TC Cable Inc.
Cox Communications
Belhaven Cable TV
Tri County Communications Inc.
Adelphia Cable
Mediacom
Cablevision Industries Inc.
Charter Communications

RADIO STATIONS[104]

Call Sign	Service	Owner	City of License
WRSV	FM	North Star Inc.	Rocky Mount, NC
WQSL	FM	NextMedia Group	Jacksonville, NC
WERO	FM	NextMedia Group	Washington, NC
WNBR	FM	Eastern Carolina Broadcasting	Oriental, NC
WGPM	FM	Grantsboro Tower	Farmville, NC
WRNS	FM	NextMedia Group	Kinston, NC
WRHT	FM	Eastern Carolina Broadcasting	Morehead City, NC
WZBR	FM	Eastern Carolina Broadcasting	Kinston, NC
WRUP	FM	Benfield, Ronald W.	Bayboro, NC
WCZI	FM	New East Communications Inc.	Washington, NC
WKOO	FM	NextMedia Group	Jacksonville, NC
WXNR	FM	Beasley Broadcasting Group	Grifton, NC
WLGP	FM	Barinowski Invest.	Harkers Island, NC
WANJ	FM	NextMedia Group	Belhaven, NC
WIKS	FM	Beasley Broadcasting Group	New Bern, NC
WELS	FM	Willis Broadcasting Corp.	Kinston, NC
WMGV	FM	Beasley Broadcasting Group	Newport, NC
WCBZ	FM	Eastern Carolina Broadcasting	Williamston, NC
WZXS	FM	Jacksonville-Topsail	Topsail Beach, NC
WANG	FM	NextMedia Group	Havelock, NC
WXQR	FM	NextMedia Group	Jacksonville, NC
WRDU	FM	Clear Channel	Wilson, NC
WSFL	FM	Beasley Broadcasting Group	New Bern, NC

[103] *See Warren Cable & Station Coverage Atlas 2000*, at 351-58.

[104] *See Radio Market Report 2001*, 4th ed.

Call Sign	Service	Owner	City of License
WTKF	FM	Atlantic Ridge	Atlantic, NC
WNCT	FM	Beasley Broadcasting Group	Greenville, NC
WSTK	AM	Benfield, Ronald W.	Jacksonville, NC
WDLX	AM	NextMedia Group	Washington, NC
WRNS	AM	NextMedia Group	Kinston, NC
WELS	AM	Willis Broadcasting Corp.	Kinston, NC
WNCT	AM	Beasley Broadcasting Group	Greenville, NC
WLNR	AM	Pioneer Broadcasting LLC	Kinston, NC
WJNC	AM	Benfield, Ronald W.	Jacksonville, NC
WGHB	AM	Rivercity Radio Inc.	Farmville, NC
WJCV	AM	Caleb	Jacksonville, NC
WTOW	AM	Rouse, James	Washington, NC
WANG	AM	NextMedia Group	Havelock, NC
WOOW	AM	Rouse, James	Greenville, NC
WBTB	AM	Eastern Carolina Broadcasting	Beaufort, NC
WNOS	AM	CTC Media Group	New Bern, NC
WWNB	AM	CTC Media Group	New Bern, NC
WSMO	AM	CTC Media Group	Camp Lejeune, NC

NEWSPAPERS[105]

Dailies:

Newspaper	City
The Daily Reflector	Greenville, NC
The Daily News	Jacksonville, NC
The Free Press	Kinston, NC
The Sun Journal	New Bern, NC
Washington Daily News	Washington, NC

Weeklies:

Newspaper	City
East Columbia Reminder	Columbia, NC
Farmville Enterprise	Farmville, NC
The Times-Leader	Grifton/Ayden/Winterville, NC
The Havelock News	Havelock/Cherry Point, NC
Weekly Gazette	La Grange, NC
The Enterprise	Martin County, NC
Carteret County News-Times	Morehead City/Beaufort, NC
The Roanoke Beacon	Plymouth/Roper/Creswell, NC
Richlands-Beulaville Adviser News	Richlands/Beulaville, NC
The Weekly Herald	Robersonville, NC

[105] *See Editor & Publisher International Yearbook 2002*, at I-294-309, II-236-46.

Newspaper	City
Snow Hill Standard Laconic	Snow Hill, NC
Tideland News	Swansboro/Cape Carteret/Emerald Isle/Cedar Point/Bogue/Kubert, NC
The Jones Post	Trenton, NC
Wallace Enterprise	Wallace/Rose Hill, NC
Warsaw-Faison News	Warsaw, NC
Bertie Ledger-Advance	Windsor/Bertie County

WEB SITES

http://www.witntv.com/
http://www.wnct.com/
http://www.fox8fox14.com/
http://www.reflector.com/
http://www.newbernsunjournal.com/
http://www.bob933.com/
http://www.kiss102.com/
http://www.visitgreenvillenc.com/index1.html/
http://greenvilleonline.com/
http://www.visitnewbern.com/
http://www.vergie.com/newbern.html/
http://ci.greenville.nc.us/