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

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

To: The Commission

NEW EMPIRICAL ANALYSIS SUBMITTED BY CHELSEY BROADCASTING COMPANY, LLC, LIN TELEVISION CORPORATION, MONTCLAIR COMMUNICATIONS, INC., RAYCOM MEDIA, INC., AND WATERMAN BROADCASTING CORPORATION

The Commission staff has apparently proposed a new duopoly rule that would prohibit two of the top-four stations in a market from combining, and may or may not require that there be six or more voices in the market. By ignoring marketplace realities, this proposal will undercut the very objectives that the duopoly rule is intended to serve. The practical effect will be to deprive smaller and mid-sized communities of existing voices, because it will preclude licensees from taking steps to counteract ongoing economic trends that are depressing their ability to provide local news and other local services, and will also preclude opportunities for enhanced localized service. The reality is that television stations in these markets, many among the top-four rated and many where there are fewer than six stations, cannot survive or cannot survive as effective local service providers without strengthening their economic base through the efficiencies gained through duopolies. Every business, large or small, must increase efficiency to survive and grow. Small markets are no exception, yet staff's proposed rule recognizes the need for efficiency only in large markets, leaving small markets with no relief, and leaving the public with a decline in service in the very large number of markets where strengthening is most needed.

The new analysis referred to in the caption documents this point to a certainty. *In 1997, the average pre-tax profit of the fourth rated station affiliated with a big four network in markets 51-175 was $2,428,803; in 2001 these stations averaged a pre-tax <u>loss</u> of $2,820,270.*[1] Stations in markets 175-210 have suffered even more severely. Moreover, these statistics exclude the capital costs of constructing digital facilities, which are of similar magnitude to the cost in larger markets. This rapid and desperate economic weakening of stations in small and mid-sized markets has occurred because of the reduction in network compensation (it declined 25% for affiliated stations in markets 51-175 between 1997 and 2001) and because of the rapid escalation of competing cable and DBS services while news costs increased 15%.[2]

The future will be worse. Network compensation will essentially disappear by 2006 (and reverse compensation from stations to the networks will increase), cable has launched an aggressive initiative to capture local advertising support from broadcasters, and the very

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1 The numbers used in this analysis were derived from Appendix C of the January 3, 2003 Comments of the National Association of Broadcasters in these proceedings. The NAB study examined the financial status of markets between 51 and 175 and then provided averages for each group of 25 markets (e.g., markets 51-75, 76-100), but only included those markets in its analysis in which both the highest rated and lowest rated affiliated responded to its survey. The overall averages and percentages used in this pleading are not weighted to take into account that some groups of 25 markets had slightly more responses than other groups in the NAB study.

2 *See id.*

substantial costs of converting all of the rest of a station's facilities to digital have yet to be incurred.[3] In many small and medium markets, stations will either not survive or will cut back on local news[4] and other community-based services. In order to survive in some cases and in order to provide good service in others, these stations must have the regulatory relief that would permit them to leverage the efficiencies of a duopoly. A failing station exception may provide some relief, though the exception currently on the books is unmoored from market and financial realities and would have to be drastically revamped,[5] but it will do nothing to solve the problem of stations which, without the availability of duopoly relief, will cut local news and other community service.

Accordingly, on the one hand it is clear that relief is most necessary in small and medium sized markets, and on the other it is clear that the proposal would block that relief in these very same markets. For example, the proposed rule allows duopolies only where there are six "voices" in the market, 76 of the markets from 51-210 would be ineligible for duopolies. In markets smaller than the 125th, only 18 of 85 could have a duopoly.[6] Added to this very considerable constraint would be the prohibition against two stations among the top-four rated

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3 See attached article.

4 The loss of local news has been a serious problem over the last several years. According to Media General's initial comments in these proceedings, 40 local broadcast stations have made cutbacks in their local news coverage in the four year period from November 1998 to October 2001.

5 *See Comments of Coalition Broadcasters*, MB 02-277, MM 01-235, MM 01-317, MM 00-244 (Jan. 2, 2003).

6 These numbers are derived from the Broadcasting & Cable Yearbook 2002-2003. The calculations are based on the assumption that there must be six voices in the market prior to the duopoly, inclusive of public broadcast stations and counting current duopolies and LMAs as separate voices.

stations combining. As a consequence few stations in the smaller markets would have the benefit of duopoly combinations and local service would be decimated.

The goal of preserving a certain number of separate owners for the sake of having more "voices" does not benefit the public if the voices lack the strength to provide meaningful local service. If costs continue their inevitable and ever-steeper increase, and revenues drop from the loss of network compensation and diversion of viewers to other video outlets, smaller market stations must be able to increase efficiency if they are to preserve, let alone expand, local service. The small and medium sized market need is at least as great, if not greater, than that of stations in large markets where more dollars flow; and small market viewers are equally entitled to the services that can be provided only if their stations can earn enough above the minimum threshold needed to provide those services.

Respectfully submitted,

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As Comcast absorbs AT&T's systems, Thurston looks to provide one-stop shopping for national and local advertisers

BYLINE: By John M. Higgins

BODY:

Charlie Thurston controls a lot of local ad inventory. As Comcast Cable's president of advertising sales, he has local avails from 20 to 50 networks on systems serving 22 million subscribers. He likes to brag how Comcast's recent takeover of AT&T's cable operations give him presence in 22 of the largest 25 markets. He hopes that's a formidable enough footprint for national advertisers to regard Comcast as they would a big TV-station group and be interested in buying all the markets at once. Even excluding smaller markets, though, it's a footprint that gives Thurston more than 65,000 spots to fill. Per day. (That's more than 23 million per year.)

But he's ready for the challenge. Before arriving at Comcast last year, Thurston was CEO of Adlink, the highly regarded interconnect that sells on all the systems in the Los Angeles market. He spoke to Broadcasting & Cable Deputy Editor John M. Higgins about the state of the local cable ad market and how well Comcast is digesting the AT&T ad-sales operation. An edited transcript follows:

Right now, national spot is poor for TV stations, national radio is poor, local radio is weak. National network cable is great. Where is spot cable?

In general, it has been fairly soft due to the economy and certainly the war. We had a fair amount of cancellations the last 10 days of March. Regional/national certainly was also affected, but that's the strongest business because we've been building new interconnects in major markets. Building interconnects creates easy one-stop shopping. Our local retail business was up 4% year-to-year, and our combined regional/national spot was up 28% year-to-year. If you look at just the AT&T markets, first-quarter growth was 11% year-to-year, and the Comcast growth was 19% year-to-year. Those two averaged together equal 14%.

So growth in the old Comcast systems was better? Now that you're trying to turn around the AT&T systems, I assume they would be growing faster for a while.

Here's the reason. Over the last couple of years, we built out our top 15 markets with interconnects, starting with No. 4 Philadelphia, No. 8 Washington and No. 10 Detroit, all the way through Charleston and the Carolinas. So we have upgraded our top 15 Comcast markets with one-stop-shopping interconnects. We are in the process of taking those same standards and best practices and applying them to all of the new AT&T markets that we have inherited. We're also now building interconnects in some of these smaller Comcast markets.

What we'd like to see develop over the next couple of years is a station-group type of buy. You come to Comcast to buy Miami, Philadelphia, Detroit, San Francisco, Dallas, Chicago, Denver. We want you to have the same experience—using research, the turnaround time in buying advertising, getting invoices back electronically.

We're looking to create a very uniform and simplified approach for local, regional and national spot advertisers.

That's the Holy Grail for you: for advertisers to regard Comcast as having a national footprint.

We're right on the cusp. We're already out in the agencies, demonstrating the markets that we have brought to interconnect status in a very short period of time. Our footprint, when we're done with all these affiliate deals, is going to be roughly 30 million subscribers across 72 markets, including 22 of the top 25 markets. That's a pretty compelling lineup of advertising opportunities.

We are in 72 DMAs out of the 210 across the U.S. In 54 of those 72, we are going to be the leading provider of cable advertising. So we're actually going to be building and managing the cable interconnect in those 54 markets.

In the other 18 markets, where we're the little guy, we are usually already part of an interconnect, like Adlink in Los Angeles. Or we are going to be working with the large MSO in that particular market to create an interconnect. We have done that in West Palm Beach with Adelphia, and we are doing that with Time Warner and Adelphia in Cleveland.

Explain how you segment the market differently than TV stations.

Really, when we look at local cable, we divide it into three categories. There's the local retail business that's been the traditional ad-sales component for cable MSOs over the last 20 years, where we sell to a one-store franchise or dealer location. They can target part of a market without having to buy the whole market as they must on a television station. Then there's the regional component, which really is market-wide business, where we compete directly with an ABC, CBS or Fox station in the marketplace. And then there's the national-spot component, which is simply buying the whole DMA in 10, 15, 20 markets across the U.S.

So we're in the business of trying to upgrade and augment our capabilities for advertisers in all three of those categories. What we're trying to do is make it as easy and as streamlined as buying traditional television stations.

It seems a little crazy in this day and age that cable operators haven't interconnected some major markets. New York is split. Cleveland. AT&T never interconnected in a market the size of Seattle? To me, that's a giant indication of how cable can still be primitive and how it treats ad sales.

Not really. If you look at the history of the cable industry, you had multiple owners within these markets.

You would need an interconnect if you didn't have multiple owners?

To a degree, but even when you have one large MSO in the marketplace, you're going to have other geographies in the marketplace that are owned by other cable companies. So really, if you look at the AT&T and Comcast deal, it was the tipping point.

But Seattle is just turning on an interconnect today. That wasn't done 10 years ago, even though AT&T or TCI has owned 60%-70% of the Seattle market for more than seven years.

Correct, but you still had a number of other MSOs in that marketplace. So what we are simply doing is aggressively doing affiliate deals with the remaining cable providers in the marketplace so that we can work towards getting anywhere from 98% to 100% of the local cable insertion under one roof. That's what we are moving at very rapid pace in doing. Quite frankly, the success rate we're having is better than we'd hoped for.

How much of the local cable business is still like local radio, selling 50 spots for $2,000? It's a more of a basic sell by the spot vs. by the ratings point?

The traditional local retail aspect of it—where we're typically competing with radio, newspaper, direct mail, or even billboard—is less ratings driven because you're selling just a portion of the marketplace.

But we've got a lot of sophisticated research showing product usage for the particular categories we are trying to sell. We also use automotive data from Polk, and that'll show us car sales by ZIP code from the previous year. So we can build a pretty compelling story in trying to bring a single dealer on by being able to map out where their prior-year sales were by car model by ZIP code. We're able to roll up those ZIP codes by cable system so, if there are 15 ZIP codes that make up a cable system, we can cluster that information together and then provide a pretty good menu as to which of their models they should be advertising in which geographies.

It's a pretty sophisticated sale now. The Nielsen research I referred to we used constantly for both our regional marketwide advertisers and our national spot advertisers. And that's where we've had one arm tied behind our back because of all the flaws in the Nielsen meter/diary handshake.

When you got your hands on the AT&T systems, how did you find their ad-sales operations run?

There were some terrific markets, and there were some okay markets. I would say, going down a list of some of the best AT&T markets, San Francisco, Atlanta, Boston. Chicago had made quite a bit of improvement over the last couple of years. And Dallas has worked very aggressively, both in the last year and in the last six months in upgrading technology, commercial insertion, and doing affiliate deals. We are circling back on a lot of the other markets and going through the criteria of what we expect an interconnect to live up to. They have to meet a whole laundry list of criteria from technology to traffic software to billing practices to offering advertisers one invoice, one tape, one distribution system, etc., before we give them the interconnect stamp.

Keep in mind, AT&T was really a combination of TCI and Media One, which had swallowed 10 or 15 separate MSOs before. So there was a lot of fragmentation in the advertising industry simply because there were so many owners. It's not as if one MSO was doing it right and everybody else was doing it wrong. Each MSO did it slightly differently. Los Angeles is a perfect example: You had 80 different cable systems with as many as 25 owners just a few years ago. So certainly trying to get standards and best practices throughout 25 different organizations and 80 different systems was asking a lot. You're inserting on anywhere from 25 to 50 cable networks within each one of those geographies.

Right, but Adlink was the best-run interconnect, period. So, even with all that fragmentation, it succeeded. There are markets where operators—AT&T, Comcast and others—have for several years owned 60% to 70% or more where ad sales haven't run as well.

I'm really into looking forward and not into the rearview mirror. The opportunity we have here is, we've put a team of executives together and it's a combination of cable advertising veterans, broadcasters that we've brought over from some of the top stations and station groups, and then a whole host of radio, agency or new-media executives. So we feel like we're creating a new-media company that is going to take the best from the 15 Comcast markets. The buildout of the plant, so that we can actually have a common distribution system to get commercials to all of our cable headends within an interconnect, is happening. The buildout of upgrading networks from 24 or 32 to 40-plus in markets is happening with lightning speed. And I think the other key to the equation is getting better research that will validate all of the new gross ratings points that we're accumulating between the new geographies we are adding to interconnects and the new networks that we're adding.

Research is the last missing piece. The good news is that Nielsen has announced that they're going to roll out the Local People Meters, which we've been testing in Boston with them for a couple of years, starting with New York and Los Angeles this fall and rolling that out through the top 10 markets.

From your perspective, what are the big problems?

The biggest problem is Nielsen, the "zero cell" phenomenon. You show viewership in the household from the meter, but you can't marry information to it from the diary because the meter/diary methodology was set up for the 1950s, when I Love Lucy was doing a 33 share of viewing and it was easy to remember when you filled out your diary. Now you've got 200-plus networks, especially when you're in the digital cable household, and it's an antiquated technology. It's like using a grandfather clock to time a race.

Zero cell: When they can't match it up, they put in a zero for that period?

Yes. So what happens to us is, if you look at households, all the ad-supported cable networks combined will do as much as a 45 or 50 share in an individual marketplace. But, when you look at the demographic ratings and the demographic share for those same networks, it falls apart because you're trying to get someone at the end of the week to reconstruct the viewing that went on in their household and a diary based on three kids, on four TV sets, watching as many as 200 networks. The technology certainly can't keep up with how viewership has splintered and proliferated.

So the beauty of the Local People Meter is that it is the same technology as the national people meter, which is able to much more closely match the meter, saying the TV's on with the actual person that's viewing that set. And advertisers buy not by household ratings but by demographic ratings.

The beauty of our business is we're able to target demographic groups much more precisely. If you're looking for men, it's sports on ESPN, and it's the History Channel. So, when the Local People Meter numbers start rolling out in the top 10 markets, it's going to be a sea change of capabilities for the way agencies and advertisers can target cable.

When do you expect that to become effective?

I would imagine once it's rolled out in New York and Los Angeles. New York, Madison Avenue, is certainly the heartbeat of the advertising industry, and Los Angeles and then Chicago are the other key media centers in the U.S. So, when you get the Local People Meters in those markets and you get the media community used to using that methodology every day, I think it's going to change pretty quickly. From that, you'll see other markets—a Philadelphia, Atlanta, Detroit, Washington.

What length of time?

According to Nielsen, it's going to take several years to roll that out.

Comcast Cable Ad Sales

	2001	2002	2003	2004
Value (million)	$948.0	$1,025.5	$1,097.2	$1,250.3
Annual growth	—	8.0%	7.0%	14.0%
Total cable revenues (million)	$14,645.3	$16,252.5	$17,585.7	$19,220.4
As % of total cable revenues	6.5%	6.3%	6.2%	6.5%

Charles W. Thurston

The job: President of advertising sales, Comcast Cable Communications, responsible for the cable operator's local, regional and national advertising sales operations, since 2002

Career highlights: President and CEO, Adlink, the cable interconnect serving the Los Angeles market; 1992-2002; general sales manager, Adlink, 1989-1992; general manager, advertising sales, Continental Cablevision, 1986-19891; sales, Cablevision Systems, 1980-1986

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LOAD-DATE: May 21, 2003 COMCAST CABLE COMMUNICATIONS INC (96%); AT&T CORP (93%); T (NYSE) (93%); SIC7372 SOFTWARE PUBLISHERS; CHARLIE THURSTON (67%);