

ORIGINAL

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

FILED/ACCEPTED

OCT 23 2006

Federal Communications Commission  
Office of the Secretary

In the Matter of	)	
	)	
2006 Quadrennial Regulatory Review –	)	MB Docket NO. 06-121
Review of the Commission’s Broadcast	)	
Ownership Rules and Other Rules Adopted	)	
Pursuant to Section 202 of the	)	
Telecommunications Act of 1996	)	
	)	
2002 Biennial Regulatory Review – Review of	)	MB Docket No. 02-277
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	)	MM Docket No. 01-235
Newspapers	)	
	)	
Rules and Policies Concerning Multiple	)	MM Docket No. 01-317
Ownership of Radio Broadcast Stations in	)	
Local Markets	)	
	)	
Definition of Radio Markets	)	MM Docket No. 00-244

To: The Secretary, FCC  
For Delivery to the Commission

**COMMENTS OF KTBS, INC.**

KTBS, Inc. (“KTBS”) submits these comments, through counsel, in response to the Commission’s *Further Notice of Proposed Rule Making* in the above-referenced proceedings, released July 24, 2006 (the “*Further Notice*”). These KTBS comments are directed to one segment of the Commission’s multiple ownership rules, the local television multiple ownership

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rule, 47 C.F.R. 73.3555(b). With respect to that rule, and in particular the number of television stations which may be commonly owned in a DMA which has five to eight operating commercial and non-commercial television stations, KTBS supports the amendment adopted by the Commission in the 2002 Biennial Review Order,<sup>1</sup> remanded to the Commission for consideration and further justification by the U.S. Court of Appeals for the Third Circuit in *Prometheus v. FCC*.

1. In *Prometheus*, the court affirmed the Commission's continued restriction on combinations among the top four stations in a market, saying that ample evidence supported this restriction,<sup>2</sup> but did not affirm the numerical ownership limits adopted by the Commission in the 2003 Order. Although the court faulted aspects of the Commission's selection of new numerical limits in the local television multiple ownership rule, it sustained important yet other aspects of the Commission's 2003 Order: The court agreed with the Commission's conclusion that media outlets other than broadcast television media contribute to viewpoint diversity in local markets (although it called for demonstration by the Commission of the degree of substitutability), and the court found that the record supported the Commission's conclusion that consolidation brought localism benefits by eliminating redundant expenses and increasing opportunities for cross-promotion and related programming, and that these efficiencies translate into improved local news and public interest programming. 373 F.2d at 414-416.

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<sup>1</sup>18 FCC Rcd 13620 (2003) (the "2003 Order").

<sup>2</sup>373 F.2d at 418.

2. The court concluded with respect to the local television ownership rule that the specific numerical limits adopted in the *2003 Order* were insufficiently supported by the record or were inconsistent with other aspects of the rule adopted in the *2003 Order*. *Id.* at 418-420.

#### **KTBS's Position**

3. KTBS is the licensee of only one television station, KTBS-TV in Shreveport, Louisiana, an ABC network affiliate. It is engaged with KPXJ (TV), Minden, Louisiana, also in the Shreveport DMA, through a time brokerage agreement and a joint sales agreement. The Shreveport DMA has seven operating full power broadcast stations, six commercial stations and one-noncommercial station, a PBS affiliate. The Commission's *2003 Order* adopted a rule amendment which would permit KTBS to acquire a second commercial full power television station in the Shreveport DMA.

4. Its observation of the Shreveport market, in which KTBS has owned and operated KTBS-TV for over five decades, convinces KTBS that the *2003 Order's* amendment of the local television multiple ownership rule as it affects markets of Shreveport's size is well founded. For example, paralleling the Commission's conclusion, affirmed by the court, there is a distinct separation between the four highest ranked stations and the other stations in the Shreveport market. The four highest ranked stations have all-day (9 a.m. to midnight) shares in the latest (July 2006) Nielsen Station Index Report, the least of which is four or more times greater than the share of any one of the three lowest ranked stations (the PBS affiliate and, in July, the WB and UPN affiliates). It is also the case that the lowest ranked commercial stations, KPXJ and

KSHV, and the public in the Shreveport market, would benefit from combined ownership with a high ranked station, just as the Commission found in a conclusion sustained by the court.

5. KTBS knows that in Shreveport viewpoint diversity is provided by radio stations, cable television, satellite television, print media, and through yet other avenues, in addition to broadcast television. Even with maximum ownership consolidation among operating television stations (*i.e.*, if each of the lowest ranked commercial stations were combined in ownership with one of the highest ranked stations), there would remain five separate television ownership entities in Shreveport – the four commercial licensees and the non-commercial licensee. Overall, there would be no dearth of view point diversity in Shreveport, and the public would be better served by the stronger competitive position which could be achieved by the two lowest ranked commercial stations.

6. This rule making proceeding is at an early stage, notwithstanding that initial comments are now due. The Commission has announced plans for six official public hearings on the issues addressed in this proceeding, only one of which has so far occurred. It is anticipated that at these public hearings formal presentations will be made, as they were at the October 3 public hearing in Los Angeles.<sup>3</sup>

7. KTBS now envisions examining comments filed this date, presentations made at the Commission's public hearings, studies which may be completed and made available after this date, and then submitting reply comments addressing such submissions and further pursuing

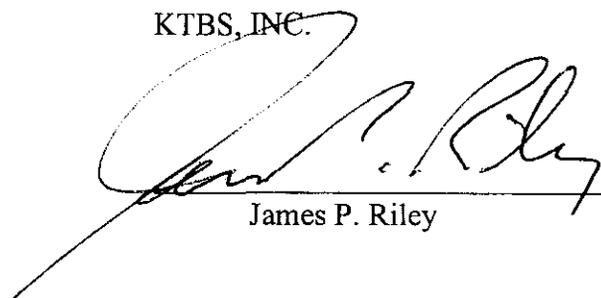
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<sup>3</sup>See, for example, prepared statement of Dr. Mark Cooper and prepared statement of Bruce M. Owen, delivered to the Commission at the October 3 hearing and subsequently submitted in this docket.

KTBS's position in support of the *2003 Order's* amendment of the local television multiple ownership rule.

Respectfully submitted,

KTBS, INC.

A handwritten signature in black ink, appearing to read "James P. Riley", is written over a horizontal line. The signature is fluid and cursive.

James P. Riley

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October 23, 2006