

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

In the Matter of	)	
	)	
2006 Quadrennial 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. 06-121
	)	
	)	
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	)	MB Docket No. 01-235
	)	
	)	
Rules and Policies Concerning Multiple Ownership of Radio Stations in Local Markets	)	MM Docket No. 01-317
	)	
	)	
Definition of Radio Markets	)	MM Docket No. 00-244

**COMMENTS OF BELO CORP. ON CHAIRMAN KEVIN J. MARTIN’S PROPOSED REVISIONS TO THE MEDIA OWNERSHIP RULES**

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**COMMENTS OF BELO CORP. ON CHAIRMAN KEVIN J. MARTIN’S PROPOSED REVISIONS TO THE MEDIA OWNERSHIP RULES**

**I. INTRODUCTION AND SUMMARY**

Belo Corp. (“Belo”) hereby submits its comments in response to the News Release issued by the Commission on November 13, 2007 concerning Chairman Kevin J. Martin’s proposed changes to the media ownership rules under review in the above-captioned proceedings.<sup>1</sup> Belo is a strong proponent of eliminating the long-outdated ban on newspaper/broadcast cross-ownership and relaxing the current restrictions on local television ownership.<sup>2</sup> As Belo now has

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<sup>1</sup> See *Chairman Kevin J. Martin Proposes Revision to the Newspaper/Broadcast Cross-Ownership Rule*, News Release (Nov. 13, 2007), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-278113A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-278113A1.pdf) (“*Chairman’s Proposal*”).

<sup>2</sup> See, e.g., *Comments of Belo Corp.*, MB Docket Nos. 06-121, *et al.* (filed Oct. 22, 2007) (“*Belo Ownership Studies Comments*”); *Reply Comments of Belo Corp.*, MB Docket Nos. 06-121, *et al.* (filed January 16, 2007) (“*Belo Reply Comments*”); *Comments of Belo Corp.*, MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) (“*Belo Comments*”).

explained many times throughout the Commission's protracted media ownership reviews, the comprehensive record in both this and a long series of prior proceedings unequivocally demonstrates that elimination or substantial relaxation of those limits would serve the public interest significantly by enhancing the Commission's localism objectives without harming either viewpoint diversity or competition.

Though the Chairman's proposal to modify the newspaper/broadcast ban takes a step in the right direction, Belo believes that greater regulatory relief is called for in this proceeding. In order to place the nation's newspaper publishers and broadcasters on a regulatory par with their competitors and provide them with the resources to enhance—or even to maintain—their local news operations, more significant changes should be made to the blanket cross-ownership ban. Belo is equally concerned about the Chairman's unexplained proposal to leave the existing restriction on television duopolies in place. Retention of the existing duopoly rule would fail to recognize the substantial record evidence documenting the monumental changes in the media marketplace and the showings that relaxation would advance the agency's public interest objectives.

**II. THE PROPOSED MODIFICATION TO THE NEWSPAPER/BROADCAST CROSS-OWNERSHIP BAN WOULD NOT PROVIDE SUFFICIENT RELIEF TO NEWSPAPER PUBLISHERS, BROADCASTERS, OR LOCAL COMMUNITIES.**

Chairman Martin's recent proposal to revise the flat ban on newspaper/broadcast cross-ownership properly acknowledges that action on this issue is long overdue and puts the Commission on a path toward providing much-needed regulatory relief to newspaper publishers and broadcasters. As such, Belo supports the Chairman's initiative as a step in the right direction. Over a series of rulemaking proceedings and inquiries spanning the last decade, the FCC has amassed an enormous record demonstrating the potential public interest benefits and the lack of public interest harms that would result from repealing the decades-old absolute

prohibition.<sup>3</sup> Accordingly, the agency now has—and indeed long has had—more than enough evidence to eliminate the restriction on newspaper/broadcast cross-ownership in its entirety.

Nonetheless, Belo believes that the limited rule changes that the Chairman has suggested are too modest in scope and should be modified to provide greater assurance of opportunities for additional cross-ownership. In reality, the modest relief proposed would make little progress toward placing newspaper publishers and broadcasters on a level playing field with their competitors and enabling these traditional media to devote more resources to news and other locally-oriented services. Thus, if action on the antiquated and counterproductive ban is limited to that set forth in the Chairman’s proposal, Belo submits that consumers ultimately would be short-changed.

In particular, the proposed newspaper/broadcast cross-ownership rule would be considerably more limited than the current prohibition on local television ownership, which in and of itself is unduly restrictive.<sup>4</sup> The existing television duopoly rule permits co-ownership of two full-power commercial television stations in any market so long as eight independent television “voices” will remain post-transaction and one station is not ranked among the top four in its market based on audience share.<sup>5</sup> Although appearing to track many aspects of the local television rule, the modified version of the newspaper rule that has been put forth by the Chairman presumptively would permit cross-ownership only in the top 20 television DMAs. As a result of this large market cut-off, the proposed rule change could limit unnecessarily the prospects for regulatory relief in numerous other markets where the criteria for a “presumption in favor of cross-ownership” otherwise could be met.

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<sup>3</sup> See, e.g., Belo Reply Comments at 2, 12-17; Belo Comments at 5-18.

<sup>4</sup> See 47 C.F.R. § 73.3555(b); see also Section III, *infra*.

<sup>5</sup> See 47 C.F.R. § 73.3555(b).

In addition, employing a positive “presumption” instead of a black letter standard in the proposed newspaper rule would create a further significant and troubling disparity between newspaper/broadcast cross-ownership and *all* other types of local broadcast combinations. If this approach is retained in a final rule, opponents would have an opportunity to challenge any proposed newspaper/broadcast combination—even one that meets all of the Commission’s stringent criteria.<sup>6</sup> Thus, any party with an interest in creating or transferring a newspaper/broadcast combination inevitably would incur substantial legal fees to defend cross-ownership that clearly poses no public interest danger. Given the regulatory uncertainty inherent in this presumption, it also could create a needless deterrent to cross-ownership. In contrast, all of the other broadcast ownership restrictions incorporate affirmative rules rather than presumptions.<sup>7</sup> Accordingly, Belo believes that any remaining restrictions on cross-ownership adopted by the FCC in this proceeding should create greater regulatory certainty than is reflected in the current proposal by definitively permitting newspaper/broadcast combinations in specified circumstances.

Similarly, although the newspaper/broadcast proposal includes a waiver standard for combinations that do not meet all of the criteria for a favorable presumption,<sup>8</sup> the “negative presumption” built into the waiver criteria likely would create an unduly high and unpredictable hurdle to regulatory relief. Inclusion of such a presumption in the waiver standard would create substantial and unnecessary obstacles to cross-ownership in the great majority of media markets. If a party does not meet the strict criteria to fall within the scope of a new rule or a positive presumption and must apply for a waiver, Belo submits, the waiver showing should be viewed neutrally by the Commission and should not be presumed to be contrary to the public interest.

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<sup>6</sup> See *Chairman’s Proposal*.

<sup>7</sup> See 47 C.F.R. § 73.3555.

<sup>8</sup> See *Chairman’s Proposal*.

More broadly, Belo respectfully submits that Chairman Martin's proposed revisions to the newspaper/broadcast ban do not fully account for the public interest benefits that cross-ownership brings to the table. It has been well established in the agency's serial media ownership proceedings that, because local daily newspaper publishers in many cases have the most extensive newsgathering resources of any local media and have longstanding traditions of serving their local communities, newspapers are the most promising candidates to increase the quantity and enhance the quality of local news provided by the nation's broadcast outlets.<sup>9</sup> This has been demonstrated time and again in this proceeding by the newspaper/broadcast combination that Belo has operated in the Dallas market for more than 50 years,<sup>10</sup> by many other existing combinations,<sup>11</sup> and by a consistent line of empirical evidence.<sup>12</sup>

The record also demonstrates beyond question the vast changes that have occurred in the media marketplace and the corresponding financial and economic challenges that the newspaper publishing industry, in particular, is increasingly facing. While this proceeding languishes at the Commission, these trends only are becoming more pronounced. In the past six months alone, U.S. daily newspaper circulation declined 2.6 percent.<sup>13</sup> Not surprisingly, advertising revenue—which accounts for 75 to 80 percent of average newspaper earnings—also has decreased

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<sup>9</sup> See, e.g., 2002 Biennial Regulatory Review—Review of the Comm'n's Broad. Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecomms. Act of 1996, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13754-57 (¶¶ 344-48) (2003), *rev'd and remanded*, *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004) (“2003 Order”).

<sup>10</sup> See, e.g., Belo Ownership Studies Comments at 3; Belo Comments at 13-17; Comments of Belo Corp., MB Docket No. 01-235, at 6-7 (filed Dec. 3, 2001).

<sup>11</sup> See, e.g., Belo Reply Comments at 15-17. Belo's joint ownership of The Dallas Morning News and WFAA-TV was grandfathered when the newspaper cross-ownership ban originally was adopted in 1975. Belo understands that the Chairman's proposal would not effect the grandfathered status of this combination.

<sup>12</sup> Most recently, several of the empirical studies commissioned by the agency and released in July 2007 confirmed that newspaper/broadcast cross-ownership enhances the Commission's localism objectives, resulting in higher quantity and quality of local and national news. See Belo Ownership Studies Comments at 3-8.

<sup>13</sup> See Sarah Ellison, *Newspapers Try New Math on Circulation: As Numbers Fall, Dailies Trumpet Their Online Draw*, Wall St. J., Nov. 6, 2007, at B10.

substantially.<sup>14</sup> For example, the industry’s advertising revenue decreased by more than nine percent between May 2006 and May 2007, a drop that investment firm Goldman Sachs recently described as “extraordinary in terms of the scale of the decline and the scope of the challenges it represents.”<sup>15</sup> These economic challenges, of course, have made it more and more difficult for newspapers to remain efficient, vital, and competitive in today’s media marketplace and thus to continue informing and serving their local communities to the best of their abilities. As is well-documented in this proceeding, meaningful cross-ownership relief could represent an important antidote to these problems.<sup>16</sup>

In order to satisfy its duty under Section 202(h) of the Telecom Act of 1996 to “repeal or modify any regulation that it determines to be no longer in the public interest,”<sup>17</sup> the Commission must make, at a minimum, very substantial changes to the long outdated ban on newspaper/broadcast cross-ownership. Based on the overwhelming record evidence compiled throughout these proceedings, Belo submits that the ban should be repealed altogether. Short of such action, the above-noted aspects of the current proposal—each of which would continue to place daily newspapers at a disadvantage vis-à-vis any other media—should be modified in any cross-ownership rule adopted by the Commission.

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<sup>14</sup> See Comments of the Newspaper Association of America, MB Docket Nos. 06-121, *et al.*, at 42 (filed Oct. 23, 2006) (“NAA Comments”).

<sup>15</sup> The Goldman Sachs Group, Inc., *Rethinking the Newspaper Stocks* 4 (July 2, 2007).

<sup>16</sup> See, e.g., NAA Comments at 65-79.

<sup>17</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 202(h) (1996).

### **III. THE PROPOSAL TO LEAVE THE LOCAL TELEVISION OWNERSHIP RULE INTACT IS UNWARRANTED AND CONTRARY TO THE PUBLIC INTEREST.**

Belo and numerous other parties also have built a substantial and convincing evidentiary record in this proceeding demonstrating that modification of the local television ownership rule is necessary and fully justified.<sup>18</sup> Still, the Chairman's proposal states without detailed explanation that no changes should be made to the existing rule.<sup>19</sup> Given the Third Circuit's express recognition in its review of the Commission's 2003 media ownership decision that television duopolies enhance the agency's localism goals,<sup>20</sup> Belo believes that relaxation of the current restriction is fully warranted.

The evidence before the FCC clearly shows that the ability to own more than one television station at the local level enhances local news and information.<sup>21</sup> As the owner of several existing television duopolies, Belo has witnessed first-hand how common ownership results in operational efficiencies, facilitates the creation of community-oriented programming, and allows stations to provide more and higher quality local news and information than they would as standalone stations.<sup>22</sup> These considerations are particularly significant in light of the growing competitive challenges and escalating costs facing the nation's broadcasters.<sup>23</sup> High quality and in-depth local news is becoming more and more expensive to produce.<sup>24</sup> At the same time, local news remains an important competitive niche for television broadcasters as their list of competitors grows. In light of this increasingly challenging environment, the need for

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<sup>18</sup> See, e.g., Belo Ownership Studies Comments at 10-11; Belo Reply Comments at 2, 15-17; Belo Comments at 18-28.

<sup>19</sup> See *Chairman's Proposal*.

<sup>20</sup> See *Prometheus*, 373 F.3d at 415-16.

<sup>21</sup> See, e.g., Belo Ownership Studies Comments at 10-11; Belo Comments at 20-27.

<sup>22</sup> See Belo Comments at 22-27.

<sup>23</sup> See, e.g., Belo Reply Comments at 10, 12-15; Belo Comments at 20.

<sup>24</sup> See, e.g., Belo Reply Comments at 14-15.

regulatory relief that would enable broadcasters to operate more efficiently and devote more resources to local news and information has become even more urgent than it was when the agency last addressed its local broadcast ownership rules in 2003.<sup>25</sup>

At a minimum, the cumulative record now before the Commission justifies restoration of the deregulatory action the agency attempted to take in 2003 by eliminating the eight voices component of the current rule. Most importantly, in order to ensure that the benefits of local co-ownership can be delivered to additional communities, any local television ownership restrictions the Commission decides to retain in the instant proceeding also should include a flexible and neutral waiver standard that would permit a broadcaster to demonstrate that, regardless of market size or the number of other local television stations, an individual combination would benefit its local community.

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<sup>25</sup> The agency concluded in 2003 that the duopoly rule “poses a potential threat to local programming, and that modification of the rule is likely to result in efficiencies that will better enable local television stations to acquire content desired by their local audiences.” *2003 Order* at 13678 (¶ 156).

#### IV. CONCLUSION

Simply stated, the mammoth record in this proceeding clearly demonstrates that newspaper/broadcast cross-ownership enhances the Commission's localism objectives and is devoid of credible evidence that cross-ownership is detrimental to the public interest. In addition, substantial and convincing evidence before the agency supports relaxation of the local television ownership rule. Belo supports the Chairman's effort to bring these proceedings to an end and to relax the long-outdated cross-ownership ban, but respectfully submits that more extensive deregulation should be incorporated into the Commission's ultimate decision.

Respectfully submitted,

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