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

In the Matter of	)	
	)	
The Commission's Cable Horizontal and Vertical Ownership Limits	)	MM Docket No. 92-264
	)	
Implementation of Section 11 of the Cable Television Consumer Protection and Competition Act of 1992	)	CS Docket No. 98-82
	)	
Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests	)	MM Docket No. 94-150

COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS

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EXECUTIVE SUMMARY

The National Association of Broadcasters ("NAB") submits these comments in response to the Commission's *Further Notice of Proposed Rulemaking* in the above-captioned proceeding. In the *Further Notice*, the Commission tentatively concludes that the record in this proceeding supports reinstating the single majority shareholder exemption. NAB supports this conclusion and urges the Commission to permanently reinstate the exemption.

The single majority shareholder rule provides a narrow exemption to the Commission's attribution rules by not attributing the interests of minority shareholders where there is a single holder of more than 50% of the voting stock of a corporate broadcast licensee. The Commission originally adopted the exemption on grounds that minority shareholders would not be able to exert sufficient influence over a corporation controlled by a single majority shareholder such that their interests should be attributed.

There have been no legal changes or industry developments that would necessitate any changes to this longstanding Commission attribution policy, and there is no evidence of any abuse of the exemption. Retaining the exemption will facilitate investment in the broadcasting industry at a time when capital markets are competitive and many broadcasters are making capital-intensive upgrades and equipment overhauls. Indeed, the Commission expressly recognized the adverse impact on investment of overly restrictive attribution rules when it recently relaxed the equity/debt plus attribution rule. Because the public interest and the Commission's policy goals are well-served by the exemption, the Commission should expeditiously and permanently reinstate it.

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COMMENTS OF THE
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The National Association of Broadcasters ("NAB")[1] submits these comments in response to the Commission's *Further Notice of Proposed Rulemaking* in the above-captioned proceeding.[2] In the *Further Notice*, the Commission tentatively concludes that the record in this proceeding supports reinstating the single majority shareholder exemption, requests comment on that conclusion, and seeks to update the record. NAB supports the Commission's tentative conclusion to retain the exemption. There have been no legal changes or industry developments that would necessitate any changes to this longstanding Commission attribution policy, and there is no evidence of any abuse

[1] The National Association of Broadcasters is a trade association that advocates on behalf of more than 8,300 free, local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and the Courts.

[2] *See Implementation of Section 11 of the Cable Television and Consumer Protection Act of 1992,* Fourth Report and Order and Further Notice of Proposed Rulemaking, FCC 07-219 (rel. Feb. 11, 2008) ("*Further Notice*").

of the exemption. The public interest and the Commission's policy goals are best served by retaining the exemption.

I. BACKGROUND

Under the Commission's rules, the holder of a 5% or greater voting stock interest in a corporate broadcasting licensee, cable television system or daily newspaper is deemed attributable for purposes of the broadcast ownership limits.[3] The single majority shareholder exemption is an exception to this general rule. Under the exemption, the ownership interests of minority shareholders are not cognizable when there is a single holder of more than 50% of the outstanding voting stock of a corporation.[4] The Commission adopted this exemption in 1984, after determining that it was "neither necessary nor appropriate" to attribute minority shareholder interests in a corporation with a single majority voting stockholder because "the minority interest holders, even acting collaboratively, would be unable to direct the affairs or activities of the licensee on the basis of their shareholdings."[5]

In 1995, the Commission launched a comprehensive review of its broadcast attribution rules, including the specific question whether to restrict or eliminate the single majority shareholder exemption.[6] Following an exhaustive, four-year long examination, the Commission decided to retain the exemption, but made modifications to its

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[3] *See* 47 C.F.R. § 73.3555, Note 2(a).

[4] *See* 47 C.F.R. § 73.3555, Note 2(b)(2000).

[5] *See Corporate Ownership Reporting and Disclosure by Broadcast Licensees,* Report and Order, 97 FCC 2nd 997, 1008-09 (1984) ("*1984 Broadcast Attribution Order*").

[6] *See Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests,* Notice of Proposed Rulemaking, 10 FCC Rcd 3606, 3631-3632 ("*1995 Attribution Notice*"); *see also Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests,* Further Notice of Proposed Rulemaking, 11 FCC Rcd 19895 ("*1996 Attribution Further Notice*").

attribution rules to address its concerns about the potential influence of certain minority shareholders. Under the "equity/debt plus" ("EDP") attribution rule adopted in that proceeding, a shareholder's minority interest is attributable if it exceeds 33% of the corporation's total asset value, and the shareholder either (1) holds an attributable interest in another media outlet operating in the same market or (2) supplies over 15% of the licensee's weekly broadcast schedule.[7]

In a cable system ownership order adopted just a few months later, the Commission took a different course and eliminated the single majority shareholder exemption from its cable attribution rules.[8] In a very brief discussion, and despite opposition by several commenters,[9] the Commission relied on a "lack of a record" favoring retention of the exemption and concerns that it may be possible for "a minority shareholder . . . to exert influence over a company even where a single majority shareholder exists."[10] The Commission did not identify any actual instances of minority shareholder influence over a corporation's operations. On reconsideration of the *1999 Broadcast Attribution Order*, the Commission reversed itself, eliminating the single majority shareholder exemption for purposes of the broadcast ownership limits on

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[7] *See Regulations Governing Attribution of Broadcast and Cable/MDS Interests,* Report and Order, 14 FCC Rcd 12559, 12579-12591 (1999) ("*1999 Broadcast Attribution Order*"); 47 C.F.R. § 73.3555, Note 2(i).

[8] *See Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, Report and Order, 14 FCC Rcd 19014, 19046 (1999) ("*1999 Cable Attribution Order*").

[9] *See, e.g.*, Comments of the National Cable Television Association, CS Docket No. 98-82 (filed Aug. 14, 1998) at pp. 16-17; Comments of Tele-Communications, Inc., CS Docket No. 98-82 (filed Aug. 14, 1998), at pp. 25-28.

[10] *See 1999 Cable Attribution Order*, 14 FCC Rcd at 19046. The Commission also applied an EDP rule to cable, based largely on the broadcast EDP rule. *Id.* at 19046-19051.

grounds that there was "no rational basis to distinguish between cable and broadcasting" that would justify elimination of the exemption for only one of the services.[11]

Only six weeks later, however, the Court of Appeals for the District of Columbia Circuit reversed and remanded the Commission's elimination of the single majority shareholder exemption in the *1999 Cable Attribution Order*, on which the Commission based its deletion of the exemption for the broadcasting industry. The court held that the Commission failed to provide sufficient justification for striking the exemption:

> Removal of the exemption is a tightening of the regulatory screws, if perhaps a minor one. It requires some affirmative justification . . . yet the Commission effectively offers none. Its "concern" about the possibility of influence would be a basis, if supported by some finding grounded in experience or reason, but the Commission made no finding at all.[12]

In response to the *Time Warner* decision, the Commission in 2001 sought comment on whether it should reinstate the exemption.[13] The Commission also

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[11] *See Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Memorandum Opinion and Order, 16 FCC Rcd 1097, 1115-1117 (2001) ("*2001 Broadcast Attribution Recon Order*"). The petition for reconsideration granted by this order offered only bald assertions and no examples of actual abuse of the exemption. Petition for Reconsideration of the Office of Communications, Inc. of United Church of Christ *et al.*, MM Docket No. 94-150 *et al.* (filed Oct. 18, 1999) at pp. 11-13.

[12] *Time Warner Entertainment Co. v. FCC*, 240 F.3d 1126, 1143 (D.C. Cir. 2001) ("*Time Warner*").

[13] *See Implementation of Section 11 of the Cable Television Consumer Protection and Competition Act of 1992*, Further Notice of Proposed Rulemaking, 16 FCC Rcd 17312 (2001) ("*2001 Further Notice*"). On December 14, 2001, the Commission suspended the elimination of the single majority shareholder exemption for purposes of the broadcast and cable/MDS attribution rules pending the outcome of this proceeding. *See Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Order, 16 FCC Rcd 22310 (2001).

suspended the elimination of the single majority shareholder exemption for purposes of the broadcast and cable/MDS attribution rules pending the outcome of the proceeding.[14]

The record developed in response to the *2001 Further Notice* overwhelmingly supports retention of the exemption.[15] On the basis of this record, which is discussed in further detail below, the Commission has tentatively concluded that it should retain the single majority shareholder exemption.[16] The Commission seeks comment on this tentative conclusion and wishes to refresh the record.

II. THE EXEMPTION ACHIEVES THE COMMISSION'S STATED GOALS OF "BALANCE" AND "PRECISION" IN IDENTIFYING SOURCES OF INFLUENCE ON BROADCAST LICENSEES

In establishing attribution rules, the Commission seeks to capture those positional and ownership interests that "convey the potential to exert significant influence such that they should be counted in applying the ownership rules" while at the same time avoiding undue restriction on capital investment and providing regulatory certainty.[17] For example, in adopting the EDP rule while retaining the single majority shareholder exemption, the Commission stated that this approach "reflects our current

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[14] *See Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Order, 16 FCC Rcd 22310 (2001).

[15] *See, e.g.*, Comments of Viacom, Inc. in CS Docket No. 98-82 *et al.* (filed Jan. 4, 2002) at 11-19 ("Viacom Comments"); Comments and Petition for Rulemaking of National Cable & Telecommunications Association in CS Docket No. 98-82 *et al.* (filed Jan. 4, 2002) at 5-6 ("NCTA Comments); Comments of AT&T Corp. in CS Docket No. 98-82 *et al.* (filed Jan. 4, 2002) at 77-81 ("AT&T Comments"); Comments of Paxson Communications Corporation in CS Docket No. 98-82 *et al.* (filed Jan. 4, 2002) ("Paxson Comments").

[16] *See Further Notice* at ¶109.

[17] *See, e.g., Further Notice* at ¶ 109. *See also, Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-217 at ¶ 18 (rel. Mar. 5, 2008) ("*Diversity Order & FNPRM*")*; 1984 Broadcast Attribution Order*, 97 FCC 2d at, 999, 1005; *1999 Attribution Report and Order*, 14 FCC Rcd at 12612 ¶ 121.

judgment as to the appropriate *balance* between our goal of maximizing the *precision* of our attribution rules by attributing all interests that are of concern . . . and our equally significant goals of not unduly disrupting capital flow . . . to regulatees in planning their transactions."[18]

The EDP rule was intended to operate in conjunction with, and certainly not in the place of, the single majority shareholder exemption. According to the Commission, the EDP rule captures those minority shareholders with the potential to influence the activities of a corporation, while the single majority shareholder exemption excused those minority interests without such potential. Elimination of the exemption would upset the balance that was established by adopting the EDP rule while retaining the single majority shareholder rule and would diminish the precision of the attribution rules in contravention of the Commission's goals. Permanent reinstatement of the exemption will maintain balance and precision and will better effectuate the Commission's goals, including its public interest goals, for several of the same reasons the Commission recognized when it recently relaxed the EDP rule.[19]

III. A MINORITY SHAREHOLDER CANNOT INFLUENCE A COROPORATION THAT HAS A SINGLE MAJORITY SHAREHOLDER

Based on the record in response to the *2001 Further Notice*, the Commission has reached several tentative conclusions about corporate control where there is a single

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[18] *1999 Attribution Report and Order*, 14 FCC Rcd at 12581 (emphasis added).

[19] *See infra* Section IV. NAB and other parties have consistently urged the Commission to repeal or narrow the EDP rule on grounds that it "limits existing broadcasters from providing an important source of capital for current and prospective minority broadcasters." *See, e.g.,* Comments of NAB in MB Docket Nos. 06-121, 02-277, 01-235, 01-317, 00-244, 04-228 (filed Oct. 1, 2007). *See also* Comments of NAB in MB Docket No. 04-288 (filed Oct. 12, 2004). Recognizing these concerns, the Commission revised the EDP thresholds for the benefit of eligible entities. *See Diversity Order & FNPRM* at ¶¶ 17-34.

majority shareholder. The Commission's tentative conclusions are correct, and the outcome of this proceeding should reflect the robust record that has developed in favor of retaining the single majority shareholder exemption.

The Commission states that the record "supports the conclusion that the existence of a single majority shareholder sufficiently attenuates the voting power of minority shareholders such that it should not be a basis for attribution."[20] In particular, the Commission correctly notes that the record shows that "[a] single majority shareholder has the right to manage and control a corporation,"[21] that corporate management cannot be expected to be significantly influenced by a minority shareholder where there is a single majority shareholder,[22] and that generally, a single majority shareholder would be able to outvote minority shareholders on any issue.[23]

NAB agrees. As commenters observed in responding to the *2001 Further Notice,* because a single majority shareholder controls the election of all members of the board of directors, minority shareholders have no ability to influence the directors or management of a corporation.[24] Then and today, corporate law provides that the day-to-day operations of a corporation are controlled by its board of directors.[25] Thus, all decisions made by a corporate broadcast licensee, including decisions about the key indicia that the Commission considers in evaluating licensee control (*i.e.,* programming,

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[20] *Further Notice* at ¶ 110.

[21] *Id.* (citing AT&T comments at 77-78).

[22] *Id.*

[23] *Id.* (citing Viacom Comments at 8).

[24] Viacom Comments at 8-10; AT&T Comments at 77-81.

[25] *See* Viacom Comments at 8 (citing Del. Code Ann. Tit. 8 §141(a) ("The business and affairs of every corporation organized under this chapter shall be managed by or under the direction of a board of directors…")).

personnel, and finances), are ultimately under the control of the single majority shareholder.[26]

NAB is not aware of any means by which a minority shareholder's wishes could override the control of a single majority shareholder. The Commission posits that this could occur where a minority shareholder threatens to sell shares to depress the share price, or because of a minority shareholder's access to confidential records.[27] It is not clear exactly how access to confidential material could result in minority shareholder influence. First and foremost, minority shareholders do not routinely have access to such information.[28] A minority shareholder also would not have the ability to disclose confidential information to others without violating his/her obligations to the corporation, and, in some instances, statutes or regulations. As Viacom explained at an earlier stage of this proceeding, a threat to trade stock based on confidential information would be illegal.[29] NAB also questions whether—and if so, why—a minority shareholder would threaten to sell shares to depress the share price when this would necessarily run counter to the shareholder's own economic interests.

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[26] *See, e.g.,* AT&T Comments at 77-78 ("It is black letter law that majority shareholders have the right to manage and control the corporation.") (citing William M. Fletcher, 12B *Fletcher Cyclopedia of the Law of Private Corporations* § 5783 (1990)).

[27] *See Further Notice* at ¶ 111.

[28] Although some state statutes grant shareholders a right to inspect a corporation's books and records, such inspection must be for a purpose that is "reasonably related to such person's interest as a stockholder," and the scope of the right is limited to inspection of those books and records that are necessary and essential to the satisfaction of the stated purpose. *See* Del. Code Ann. Tit. 8 §220; *see also Highland Select Equity Fund, L.P. v. Motient Corp.*, 906 A.2d 156,164 (2006). The right is narrowly construed by courts. *Thomas & Betts Corp. v. Leviton Mfg. Co., Inc.*, 685 A.2d 702, 714 (1995); *Willard v. Harrworth Corp.,* Del.Ch., 258 A.2d 914, 915 (1969).

[29] *See Further Notice* at ¶ 111 (citing Viacom Comments at 16-17 and 17 C.F.R. § 243.100).

The Commission also asks whether certain contractual rights could confer upon minority shareholders voting power notwithstanding the general voting control of the single majority shareholder. It remains unclear to NAB how such an agreement would be structured or why a single majority shareholder would agree to it, but we note that, if such an agreement were entered into, the Commission would be aware of it because such agreements are required to be disclosed.[30]

Most importantly, there is no record evidence showing that minority shareholders have (or even can) override the wishes of a single majority shareholder or otherwise influence the long-term management or day-to-day operations of a corporate broadcast licensee. Speculative, theoretical reservations are not sufficient to form the basis for elimination of the exemption.[31] Absent record evidence, the exemption should be retained.

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[30] *See* 47 C.F.R. § 73.3613(b)(3) (mandating that broadcast licensees file, within 30 days of execution, all "[c]ontracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control" including,"[a]ny agreement, document or instrument providing for the assignment of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock…").

[31] *See, e.g., ALLTEL Corp. v. FCC*, 838 F.2d 551, 560 (D.C. Cir. 1988) (FCC's modification of cost accounting rules for local exchange carriers was found arbitrary and capricious, as the FCC did not show that its elimination of the "possibility of some unknown amount of suspected abuse" under the old rule "outweighs the other disadvantages" of the FCC's new rule); *Cincinnati Bell Telephone Co. v. FCC*, 69 F.3d 752, 764 (6th Cir. 1995) (rules restricting eligibility of certain cellular entities to bid on new wireless licenses were found arbitrary because FCC failed to show "documentary support for its asserted fears" that the market for new wireless services would be detrimentally affected if these cellular providers became wireless licensees); *Bechtel v. FCC,* 10 F.3d 875, 880 (D.C. Cir. 1993) (integration preference policy for broadcast licensing was found arbitrary and capricious because Commission had "accumulated no evidence" in support of the policy and relied only upon "unverified predictions").

IV. RETAINING THE EXEMPTION YIELDS PUBLIC INTEREST BENEFITS

The Commission asks several questions concerning the public interest impact of its single majority shareholder exemption. The record is replete with evidence that the exemption is in the public interest, further supporting retention of the exemption. Conversely, elimination of the exemption is very likely to result in harm to competition, diversity, and localism in broadcasting.

In its earlier comments, NAB explained that the exemption "empowers a broadcaster's management by expanding opportunities for them to attract capital from 'silent' investors."[32] We noted that many broadcasters have found that prospective investors in broadcasting entities view non-attribution of their interests as an attractive feature, and that these investors "seek to invest for the very opportunity to rely on management's judgment for a monetary return, and have no interest in influencing management."[33] NAB identified a number of investment vehicles commonly used by corporations to attract investment that are designed for the expressed purpose of *not imparting* influence or control, including preferred stock and convertible debt. Such vehicles, we noted, are used widely in all industries, and are quite separate and distinct from any corporate influence.[34]

The desire of broadcast entities to attract investment and of investors to rely on expert management has not changed, as evidenced by comments in other proceedings before the Commission. For example, in its recent *Diversity Order & FNPRM,* the

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[32] NAB Comments at 6.

[33] *Id.*

[34] NAB Comments at 6-7 (citing Comments of Tribune Broadcasting Company, MM Docket No. 94-150 *et al.* (filed May 17, 1995) at p. 17).

Commission cited the concerns of numerous commenters that the EDP rule was deterring investment in new entrants, small businesses and those owned by women and minorities.[35] Based on the record there, the Commission relaxed the EDP rule as it applies to investment in licensees that qualify as "eligible entities" (*i.e.*, businesses that meet Small Business Administration standards defining small businesses).[36]

As was the case at the last time the Commission examined this issue, our nation faces particularly difficult economic times.[37] At the same time, television broadcasters are on the cusp of completing the final steps in their transition to all-digital broadcasting, including upgrades to their facilities to produce high-definition content, and radio broadcasters are making progress towards their own digital transition. While these steps are critical to the ability of broadcasters to compete and thrive in the modern media marketplace, the necessary upgrades are capital-intensive, and broadcasters must compete for access to capital with an ever-increasing number of media and communications firms that are subject to little or no regulation. Eliminating investment vehicles that contribute to the flow of dollars into broadcasting firms will undoubtedly harm broadcasters' ability to invest in upgrades that will expand and enhance service to their local communities, including costly programming such as local news.

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[35] *See Diversity Order & NPRM* at ¶¶ 22-28 (citing the concerns of a wide range of interested parties, including: American Women and Radio and Television; ION Media Networks; Nexstar Broadcasting, Inc.; NAB; Minority Media and Telecommunications Council; a coalition of financial services companies including Alta Communications, Inc., Dover Capital Partners, LLC, Media Venture Partners, LLC, Pacesetter Capital Group, Pacific Media Capital, LLC, Quetzal/JP Morgan Partners, Wells Fargo Foothill, and D.B. Zwirn & Co.; as well as the Diversity and Competition Supporters, a coalition consisting of numerous civil rights and other organizations).

[36] *See id.* at ¶¶ 30-34.

[37] NAB Comments at 7 (noting that the U.S. economy bordered on recession and that broadcast advertising revenues were on the decline).

Overly restrictive attribution rules moreover have a disproportionate impact on those broadcasters that face the greatest challenges in securing investment—existing owners and new entrants that are small businesses and businesses owned by women or minorities. Any Commission step that impedes investment in the broadcasting industry as a whole will even more acutely affect these broadcasters because they typically have less collateral to offer potential lenders and have less of a track record to attract other investments. The Commission very recently took a number of steps to foster ownership of broadcast outlets by small businesses, minorities, and women.[38] These steps should be given a chance to work, and should not be undercut by unnecessary limitations on investment in the broadcast services, such as elimination of the single majority shareholder exemption.

The Commission also has noted that its attribution rules provide bright-line tests in order to offer regulated entities predictability and regulatory certainty. NAB strongly agrees that predictable, consistent application of attribution rules is critical to broadcasters' ability to attract investment and structure transactions in a manner that complies with Commission rules and policies. The single majority shareholder exemption is clearly such a bright-line test. Further, there appears little risk that application of this exemption would cause the Commission to "miss some interests that could conceivably convey significant voting power or significant influence given special contractual rights or other factors."[39] The Commission's panoply of rules identify and

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[38] *See Diversity Order & FNPRM.*

[39] *Further Notice* at ¶ 112.

attribute shareholders and others that meet various specified thresholds.[40] As the Commission has moreover noted, it retains the discretion to review individual cases that present unusual issues "on a case-by-case basis where it would serve the public interest to conduct such a review."[41] Finally, there are no instances of abuse of the single majority shareholder rule in the record in this or any prior attribution proceeding.

V. CONCLUSION

As the Commission has observed, "the majority of commenters support retaining the single majority shareholder exemption."[42] The Commission also correctly notes that "[t]he record lacks empirical or theoretical evidence that would support eliminating the exemption, and contains no evidence of abuse or harm from the exemption."[43] In view of the overwhelming support for the single majority shareholder exemption, the public

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[40] *See, e.g.,* 47 C.F.R. § 73.3555, Note 2(a) (attribution of partnership, direct ownership and 5% or greater voting stock interests); 47 C.F.R. § 73.3555, Note 2(b) (attribution of the interests of investment companies, insurance companies, and banks); 47 C.F.R. § 73.3555, Note 2(d) (attribution of interests held in trust); 47 C.F.R. § 73.3555, Note 2(f) (attribution of limited partnership interests unless insulated); 47 C.F.R. § 73.3555, Note 2(g) (attribution of officers and directors); 47 C.F.R. § 73.3555, Note 2(h) (attribution of passive investments above a 20% threshold); 47 C.F.R. § 73.3555, Note 2(i) (EDP attribution); 47 C.F.R. § 73.3555, Note 2(j) (attribution based on time brokerage agreements between broadcast stations); 47 C.F.R. § 73.3555, Note 2(k) (attribution based on joint sales agreements between radio stations).

[41] *Further Notice* at ¶112 (citing *1999 Attribution Report and Order*, 14 FCC Rcd at 12581 ¶ 44).

[42] *Further Notice* at ¶ 110 (citing AT&T Comments at 77-81; Comments of Media General in CS Docket No. 98-82 *et al.*, filed January 4, 2002 at 3; Paxson Comments at 3; Time Warner Comments in CS Docket No. 98-82 *et al.*, filed January 4, 2002 at 38-40; Viacom Comments at 5-21; NAB Comments at 5-10; Cablevision Comments in CS Docket No. 98-82 *et al.*, filed January 4, 2002 at 12-14; Comcast Comments in CS Docket No. 98-82 *et al.*, filed January 4, 2002 at 41-42; and Fox et. al. Reply Comments in CS Docket No. 98-82 *et al.*, filed February 19, 2002 at 3).

[43] *Further Notice* at ¶ 110 (citing AT&T Reply Comments at 29; Comcast Reply Comments at 41-42; Paxson Comments at 3; Viacom Comments at 10; NAB Reply Comments at 2; and Media General Comments at 2, 5).

interest benefits that the exemption fosters, and, conversely, the public interest harms that would likely result from eliminating the exemption, the Commission should expeditiously and permanently reinstate it.

Respectfully submitted,

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