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

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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	)	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
	)	
Ways to Further Section 257 Mandate and To Build on Earlier Studies	)	MB Docket No. 04-228
	)	
Public Interest Obligations of TV Broadcast Licensees	)	MM Docket No. 99-360

ORDER

Adopted: October 7, 2008 **Released: October 7, 2008**

Revised filing deadline: November 7, 2008

By the Chief, Media Bureau:

1. On September 30, 2008, Cox Enterprises, Inc. ("Cox"); Calvary, Inc. ("Calvary");[1] Bonneville International Corp. ("Bonneville"); Scranton Times LP ("Scranton"); and Morris Communications ("Morris") (jointly, "Media Parties") filed a request to extend the October 7, 2008 deadline for filing amendments to pending waiver requests of the newspaper/broadcast cross-ownership rule until 90 days after issuance of a final court order on pending judicial challenges to the modified rule.[2] In addition, the Media Parties request a 30-day extension of the deadline to allow the Commission

[1] Calvary, Inc. is the licensee of radio station KQV(AM), Pittsburgh, Pennsylvania. Mr. Richard M. Scaife controls a majority stock of Calvary and also wholly owns the Tribune-Review Publishing Co, the publishers of the *Pittsburgh Tribune Review* and the *Valley News Dispatch*, both located in the Pittsburgh geographic area.

[2] "Motion for Extension of Time" (Sept. 30, 2008) filed in MB Docket No. 06-121.

additional time to act on the request.[3] The Media Bureau hereby grants the Media Parties' request for a 30-day extension of the October 7, 2008 filing deadline in order to provide an opportunity for the Commission to consider their accompanying request that the deadline be delayed until after a final court order on pending judicial challenges to the Commission's modified newspaper/broadcast cross-ownership rule.

2. On February 2, 2008, the Commission released its *Report and Order and Order on Reconsideration* ("*Quadrennial Review Order*") in the 2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules proceeding.[4] The Order concluded the Commission's 2006 review of the broadcast ownership rules, as required by Section 202 of the Telecommunications Act of 1996[5] and addressed the remand of the Commission's Report and Order in its 2002 biennial review of its broadcast ownership rules by the U.S. Court of Appeals for the Third Circuit in *Prometheus Radio Project, et al v. FCC.*[6]

3. In the *Quadrennial Review Order*, the Commission modified the newspaper/broadcast cross-ownership rule. The new rule adopts a presumption that a waiver of the cross-ownership rule is not inconsistent with the public interest in the following circumstances: when a daily newspaper seeks to combine with a radio station in a top 20 designated market area ("DMA"), or when a daily newspaper seeks to combine with a television station in a top 20 DMA and (1) the television station is not ranked among the top four stations in the DMA and (2) at least eight independent "major media voices" remain in the DMA.[7] The Commission defined major media voices as full-power commercial and noncommercial television stations and major newspapers.[8] For markets below the top 20 DMAs, the Commission adopted a presumption that it is inconsistent with the public interest for an entity to own newspaper broadcast combinations and emphasized that it therefore is unlikely to approve such transactions.[9] The Commission stated it would reverse the negative presumption in two limited circumstances: when the proposed combination involves a failed/failing station or newspaper, or when the combination results in a new source of a significant amount of local news in a market.[10] The Commission stated that it will require any applicant attempting to overcome the negative presumption to demonstrate by clear and convincing evidence that the merged entity will increase the diversity of independent news outlets and increase competition among independent news sources in the relevant market.[11] No matter which presumption applies, the Commission's analysis of the following four factors will inform its review of a proposed combination: (1) the extent to which cross-ownership will serve to increase the amount of local news disseminated through the affected media outlets in the combination; (2) whether each affected media outlet in the combination will exercise its own independent news judgment; (3) the level of concentration in the DMA; and (4) the financial condition of the newspaper or broadcast

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[3] Motion at 2.

[4] *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*, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010 (2008).

[5] Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12, and Consolidated Appropriations Act of 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3 (2004) (codified at 47 C.F.R. § 303 note (2006) (requiring the Commission to review its ownership rules (except the national television ownership limit) every four years and to determine whether any of the rules are necessary in the public interest as a result of competition).

[6] 373 F.3d 372 (3d Cir. 2004).

[7] *Quadrennial Review Order*, 23 FCC Rcd at 2040 ¶ 53.

[8] *Id.* at 2042 ¶ 57.

[9] *Id.* at 2046 ¶ 63.

[10] *Id.* at 2047-48, 2049 ¶¶ 65, 67.

[11] *Id.* at 2049 ¶ 68.

station, and if the newspaper or broadcast station is in financial distress, the owner's commitment to invest significantly in newsroom operations.[12]

4. In addition, the Commission gave licensees with pending waiver requests involving an existing combination consisting of more than one newspaper and/or more than one broadcast station and entities that have been granted waivers to hold such a combination pending the completion of the Quadrennial Review proceeding, 90 days after the effective date of the *Quadrennial Review Order* to either amend their waiver/renewal requests or file requests for permanent waivers.[13] The Commission stated that because each of these combinations involves multiple newspapers and/or multiple broadcast stations, they potentially raise heightened diversity concerns, and it would be inappropriate to grant these requests or grandfather these combinations across-the-board. The Commission determined, therefore, that it would examine the pending waivers on a case-by-case basis. Specifically, the Commission stated that licensees should address in their filings the factors considered in the *Quadrennial Review Order* and the impact that the combinations have on the diversity of independent voices in the markets, particularly as they affect news and information programming.[14] The Commission stated that it would hold pending waiver requests and renewal applications in abeyance until the parties file the necessary amendments or requests for permanent waivers. With respect to current temporary waivers that have been granted pending the completion of the rulemaking proceeding, the Commission stated that it would temporarily extend the waivers pending its action on requests for permanent waivers filed within the 90-day time frame.[15]

5. The *Quadrennial Review Order* identified the following parties that were known to have existing combinations that are subject to the 90-day filing requirement: Cox (Atlanta, Georgia DMA and Dayton, Ohio DMA); Tribune-Review Publishing Co. (Pittsburgh, Pennsylvania DMA);[16] Bonneville (Salt Lake City, Utah DMA); Scranton (Wilkes Barre-Scranton, Pennsylvania DMA);[17] and Morris (Amarillo, Texas DMA and Topeka, Kansas DMA).[18]

6. The modified newspaper/broadcast cross-ownership rule (47 C.F.R. § 73.3555(d)) was published in the Federal Register on February 21, 2008[19] and became effective on July 9, 2008.[20] Therefore, the deadline for filing requests for permanent waivers or amendments to waiver requests or renewal applications is October 7, 2008.

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[12] *Id.* at 2019 ¶ 13. Twenty four appeals and/or petitions for review were filed in response to the *Quadrennial Review Order*. Many of these appeals challenge the revised newspaper/broadcast cross-ownership rule. The appeals have been consolidated in the Ninth Circuit, which will decide whether it or another court will ultimately hear all these challenges. To date, the court has not taken further action on the pending appeals.

[13] *Id.* at 2056, 2090 ¶¶ 78, 159.

[14] *Id.* at 2056 ¶ 78.

[15] *Id.* at 2057 ¶ 78.

[16] *See* note 1, *supra*.

[17] *Quadrennial Review Order*, 23 FCC Rcd at 2056 ¶ 78, n.257.

[18] *Id.* at 2056 ¶ 78, n.258.

[19] 73 Fed. Reg. 9481 (Feb. 21, 2008).

[20] The modified newspaper/broadcast cross-ownership rule contained information collection requirements subject to the Paperwork Reduction Act. The Commission stated in the *Quadrennial Review Order* that the rule change required approval of the Office of Management and Budget (OMB) and would become effective immediately upon announcement in the Federal Register of OMB approval. *Quadrennial Review Order*, 23 FCC Rcd at 2090 ¶ 155. OMB approved the information collection requirements contained in 47 C.F.R. § 73.3555(d) on June 23, 2008 (OMB Control Nos. 3060-0031 and 3060-0110). Notice of OMB's approval was published in the Federal Register on July 9, 2008. 73 Fed. Reg. 39269 (July 9, 2008).

7. The Media Parties state that the factors considered in the *Quadrennial Review Order* that they must address in the 90-day filings are highly fact-intensive, involve extensive data collection, and may require testimony from outside experts.[21] In addition, they state that the pending court appeals raise questions as to "precisely what criteria the Commission ultimately will use to conduct waiver analyses and whether it will be able to apply those factors with reasonable certainty."[22] Finally, the Media Parties state that any waiver filings or Commission decision made prior to the resolution of the court challenges may need to be substantially revised if the court modifies or overturns the cross-ownership rule or any of the factors adopted in the *Quadrennial Review Order*.[23] By granting the requested extension of time, the Media Parties state, the Commission will simply preserve the status quo.[24]

8. Pursuant to 47 C.F.R. § 1.46 and for good cause shown, we will extend the filing deadline until November 7, 2008 for the Media Parties to file amendments or revised waiver requests. We find that there is good cause to grant a 30-day extension of time in order to provide a reasonable opportunity for the Commission to consider the accompanying extension request. This Order does not constitute action on the Media Parties' request to further extend the deadline.

9. Accordingly, IT IS ORDERED that the Motion for Extension of Time filed by Cox, Calvary, Bonneville, Scranton, and Morris is GRANTED to the extent indicated above.

10. This action is taken pursuant to delegated authority under Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and Sections 0.204, 0.283, and 1.46 of the Commission's Rules, 47 C.F.R. §§ 0.204, 0.283, 1.46.

11. For additional information, please contact Mania Baghdadi or Amy Brett, Industry Analysis Division, Media Bureau, at (202) 418-2330.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai
Chief, Media Bureau

[21] Motion at 3.

[22] *Id.*, *see also* n. 12.

[23] *Id.* at 4.

[24] *Id.*