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

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| In the Matter of | ) | |
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| 2010 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. 09-182** |

# COMMENTS OF BELO CORP. ON THE FCC'S MAY 25, 2010 NOTICE OF INQUIRY


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**COMMENTS OF BELO CORP.**
**ON THE FCC'S MAY 25, 2010 NOTICE OF INQUIRY**

Belo Corp. (Belo)[1] hereby submits its Comments in response to the *Notice of Inquiry* ("NOI") issued on May 25, 2010 in the above-captioned proceeding.[2] In its last media ownership review, the FCC decided to keep its existing local television ownership (or duopoly) rule in place based largely on its view that television broadcasters directly compete only with other television broadcasters. As shown herein, a comprehensive investigation of the realities of today's media marketplace will show that this view is

[1] Belo is one of the nation's largest pure-play, publicly-traded television companies. It owns and operates 20 television stations, reaching more than 14 percent of U.S. television households in 15 markets. Belo stations consistently deliver distinguished journalism for which they have received significant industry recognition including nine Alfred I. DuPont-Columbia University Silver Baton Awards; nine George Foster Peabody Awards; and 19 national Edward R. Murrow Awards, all since 2000, and in each case more than any other commercial station group in the nation. Additionally, the Company has created regional cable news channels in Texas and the Northwest increasing its impact in those regions. Belo has been in the media business for 164 years. The Company began publishing its first newspaper in 1842, entered the radio business in 1922 and received its first television license in 1950 to operate WFAA-TV in Dallas-Fort Worth, Texas. In February 2008, Belo spun off A. H. Belo and its newspapers and related websites to its shareholders. A. H. Belo separately is filing comments in this proceeding in support of eliminating or relaxing the FCC's newspaper/broadcast cross-ownership rule, which comments Belo hereby fully supports. See Comments of A. H. Belo, MB Docket No. 09-182 (filed July 12, 2010) (A. H. Belo Comments).

[2] *2010 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*, Notice of Inquiry, MB 09-182 (rel. May 25, 2010) ("*NOI*").

outdated. Further, an expanded examination of the television marketplace was called for by a reviewing court eight years ago in *Sinclair Broadcasting Group*, and in the current proceeding, the FCC finally should come to terms with this longstanding but unfulfilled judicial directive.

In addition, based on its experience as the owner of several existing television duopolies, Belo demonstrates herein that such combinations promote localism, free resources that can be devoted to costly local journalism, and bolster the ability of broadcasters to remain competitive in today's highly challenging marketplace. These benefits cannot be achieved through multicasting capabilities alone. Particularly in light of the financial challenges now facing the broadcasters, Belo submits that timely FCC action to relax the duopoly rule would serve the FCC's public interest objectives.

## I. IN RECONSIDERING THE LOCAL TELEVISION OWNERSHIP RULE, THE FCC SHOULD UPDATE ITS VIEW OF THE COMPETITIVE MARKETPLACE IN WHICH TELEVISION BROADCASTERS OPERATE.

TV broadcasters today face intense and increasing competition for both audience share and advertising revenue from many competitors, including other traditional media, cable and satellite television operators, and a rapidly expanding array of online outlets. Belo welcomes the FCC's acknowledgement in the *NOI* that there have been "profound" changes in the media industry in recent years.[3] In this regard, Belo encourages the FCC to update its conclusions from past media ownership proceedings that television stations should be viewed as competing solely with other television stations.[4] In the current

[3] *NOI* at ¶ 3.

[4] *2006 Quadrennial Regulatory Review – Review of the Comm'ns Broad. Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecomns. Act of 1996*, Report and Order and Order on

marketplace, it is no longer accurate for the FCC to assume that the local television advertising market is the only relevant consideration in evaluating the competitive effect of the duopoly rule.

Since the FCC last considered its local television ownership rule, the public's options for local news and information have continued to expand exponentially, and consumers increasingly turn to these options as an alternative to local TV newscasts. One recent study by the Pew Project for Excellence in Journalism found that six out of ten Americans now get their news from online sources daily.[5] The competition in the Seattle market, home to Belo's duopoly of KING-TV and KONG-TV, illustrates the highly competitive news and informational marketplace in which television broadcasters now operate. In Seattle, the multitude of local news providers include five full-power, commercial television stations, four major daily newspapers, three all-news radio stations, two weekly newspapers, a 24-hour regional cable news channel, four local government channels (including a multicast channel KING-TV has dedicated to local government broadcasts), and dozens of news oriented websites and blogs.[6] Belo submits

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Reconsideration, 23 FCC Rcd 2010, 2065-66 (¶ 100) (2008) (*"2008 Order"*) ("For purposes of the local television ownership rule, we include only full-power television stations in counting voices because our primary goal in preserving the rule is to foster competition among local television stations.").

[5] Pew Project for Excellence in Journalism, *The State of the News Media* (2010) ("PEJ 2010 State of the News Media Report"), Executive Summary at 10, http://www.stateofthemedia.org/2010/chapter%20pdfs/2010_execsummary.pdf (last visited June 16, 2010).

[6] Full-power stations licensed to the Seattle-Tacoma DMA that provide local newscasts include: (1) KING(TV), (2) KONG(TV), (3) KOMO-TV, (4) KIRO-TV, and (5) KCPQ(TV). Daily newspapers serving Seattle and its environs include: (1) *Seattle Times*, (2) *Everett Harold*, (3) *Tacoma News Tribune*, and (4) *The Olympian*. All-news format radio stations serving Seattle-Tacoma include: (1) KIRO-FM, (2) KOMO-AM, and (3) KPLU-FM. Weekly newspapers include *The Stranger* and *Seattle Weekly*. NorthWest Cable News ("NWCN"), also owned by Belo, offers 24-7 regional cable news. Local government channels include: (1) Seattle City channel, (2) KING County channel, (3) Tacoma channel, and (4) Pierce County channel. Local news and information blogs include, among numerous others: (1)

that it competes with each of these local news providers for viewers and an even wider variety of local outlets for advertising dollars.[7] This environment has contributed to a substantial drop in broadcast television advertising revenues since the FCC last considered its local television ownership rule,[8] an economic trend confirming that TV stations are operating in an increasingly competitive arena.

Further, Belo submits that the FCC has not yet adequately responded to the instructions from the D.C. Circuit, issued eight years ago in *Sinclair Broadcasting Group v. FCC*, to justify the decision to consider only full-power TV stations as "voices" (and therefore to include only such stations as relevant competitors) for purposes of the local television ownership rule.[9] In *Sinclair*, the court admonished the FCC for "not provid[ing] any justification for counting fewer types of 'voices' in the local [TV] ownership rule than it count[s] in its rule on cross-ownership of radio and television stations."[10] On that basis, the D.C. Circuit held that the FCC had acted arbitrarily and

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http://www.seattlepi.com/ (local Seattle news, sports, and entertainment), (2) http://www.nextdoormedia.com/ (Seattle's most-visited network of neighborhood news blogs), (3) http://www.centraldistrictnews.com/ (an Indie news source for Seattle's Central District), (4) http://www.myballard.com/ (covering daily news, events, restaurants and shopping in Ballard and Crown Hill neighborhoods), (5) http://www.queenanneview.com/ (a daily news blog published by a neighborhood journalist), (6) http://www.fremontuniverse.com/ (a news blog for the Fremont neighborhood), (7) http://www.phinneywood.com/ (a blog about Phinney Ridge and Greenwood news, events, restaurants, and shopping), and (8) http://westseattleblog.com/ (the voice of West Seattle).

[7] *See* A. H. Belo Comments at Section III.B.

[8] *See id.* at III.C.

[9] *Sinclair Broadcasting Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002).

[10] *Id*. at 162; *see also id.* at 164 ("Having found for purposes of cross-ownership that counting other media voices 'more accurately reflects the actual level of diversity and competition in the market,' . . . the FCC never explains why such diversity and competition should not also be reflected in its definition of 'voices' for the local ownership rule.").

remanded the rule.[11] Notwithstanding this directive, the FCC reinstated the exact same local television ownership rule the court had struck down, with the same voices standard, in its most recent media ownership decision (the "*2008 Order*").[12] Through this action, the FCC affirmatively chose to maintain the disparity between the local television rule and the more liberal radio/TV cross-ownership rule.

The FCC's most recent decision seems even more questionable in light of its own intervening determination in the 2002 Biennial ("Omnibus") Review to eliminate the voices test from the rule entirely.[13] In so doing, the FCC found in 2003 that the pre-existing eight voices test did not "account for the contributions of other media," and that retaining the restriction would "not promote, and may even hinder, program diversity and localism."[14] The FCC further concluded that the then-existing (and now reinstated) rule did not promote competition because it "prohibits mergers that would increase efficiency in small and mid-sized markets—mergers that would thereby promote competition."[15]

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[11] *Id*. at 165, 169.

[12] 23 FCC Rcd at 2060-69 (¶¶ 87-109).

[13] *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, Cross-Ownership of Broadcast Stations and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets, Definition of Radio Markets for Areas Not Located in an Arbitron Survey Area,* 18 FCC Rcd 13620, 13688 (¶ 134) (2003) ("*2003 Order*").

[14] *Id.* (¶ 133).

[15] *Id*. at 13671 (¶ 140). These general conclusions were not questioned, moreover, on review by the U.S. Court of Appeals for the Third Circuit. While the Third Circuit remanded the local television rule for further consideration, it did so based on narrowly focused questions regarding whether certain assumptions made by the FCC in its market share analysis were appropriate and whether the lines drawn by the FCC in order to preserve competition among local television operators were drawn properly based on evidence in the record concerning market concentration. In particular, the court faulted the FCC's decision to base its revised rules on the assumption that stations within a local market have equal market shares and concluded that the revised rule would allow levels of concentration that could exceed the FCC's stated benchmarks,

The FCC provided very little explanation for its decision to reverse course from these well-reasoned findings in its next media ownership review in 2008. While the FCC attempted to justify the discrepancies between its rules by labeling the local TV ownership rule as "necessary to protect competition" and the radio/TV cross-ownership rule as "necessary to protect diversity," this cursory explanation does not adequately address the competitive realities of the marketplace and does not satisfy the court's criticisms. Even if the FCC were to continue to view the marketplace in this narrow manner, it has not shown that there is any logical correlation between an "eight-voices" limitation and preserving competition. Belo submits, therefore, that the analytical flaws and outdated facts that form the basis for the current local television rule must be reconsidered and updated in this proceeding.

## II. LOCAL TELEVISION DUOPOLIES PRODUCE PUBLIC INTEREST BENEFITS THAT SHOULD BE TAKEN INTO ACCOUNT IN THIS PROCEEDING.

Belo's experience as an owner of several existing television duopolies and, more generally, as a television group owner demonstrates that consumers would benefit from relaxation of the current local TV ownership rule. Belo currently owns and operates television duopolies in five television markets: (1) Seattle-Tacoma, Washington; (2) Phoenix, Arizona; (3) Tucson, Arizona; (4) New Orleans, Louisiana; and (5) Spokane, Washington. When Belo acquired its duopoly stations in each of these markets, none provided local news to its community. Under Belo ownership, however, two of the stations are now providing daily newscasts. These local programming enhancements

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based on the Herfindahl-Hirschman Index, for market concentration. *See Prometheus Radio Project v. FCC*, 373 F.3d 372, 418-20 (3d Cir. 2004), *cert. denied*, 545 U.S. 1123 (2005).

have been possible because the efficiencies inherent in joint ownership permit the "parent" stations in each market to devote additional resources to the production of high quality, in-depth news coverage and public affairs programming. Running a second in-market station results in substantial savings in overhead and management costs. Belo has passed these efficiencies through to viewers in the form of expanded and improved news and other programming of local interest as well as enhanced local website offerings.

In addition, KMSB(TV), the older of Belo's duopoly stations in the Tucson market, plans to launch a four-hour local morning news program this coming fall. Unlike the morning shows offered by other network stations in the market, all of which provide network programming beginning at 7 a.m. each weekday, KMSB's programming will be focused on local news and information for the entirety of the four hours.[16] This ambitious expansion of KMSB's news offering will involve a substantial investment by the station and a 20 percent increase in its news staff and is made possible in part by the economies of common ownership with sister station KTTU(TV).

In addition to bringing new programming to the community, duopoly ownership has given Belo flexibility to expand the times at which it airs newscasts, making news programming more easily accessible to local viewers. This benefit can be especially useful to consumers during special news events. For example, sister stations KING-TV and KONG-TV in the Seattle-Tacoma market coordinate newscasts to provide viewers a choice between local and national news during important political events, such as a Presidential address or election coverage. During the broadcast of a national political

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[16] *See* David Hatfield, *Fox 11 'now hiring' for new 4-hour morning show*, AZ Biz.com (June 18, 2010), http://www.azbiz.com/articles/2010/06/18/media_technology/inside_media/doc4c1bab1a39cd5235767565.txt (last visited June 29, 2010).

event, most stations must choose between airing a local newscast or a national network feed. However, because of the KING/KONG duopoly, Seattle-Tacoma viewers have a choice between network programming on KONG-TV or the regularly scheduled local news program on KING-TV. The same is true with respect to coverage of election night results. While other stations must alternate between coverage of local races and network coverage of the national returns, the KING/KONG duopoly offers Belo the opportunity to air national network coverage on one channel and extended local election coverage on the other.

On top of expanded election coverage, the efficiencies and cost-savings inherent in duopolies enable Belo stations to produce original local political and public affairs programming. For example, when Belo owned only one station in the Seattle-Tacoma market, it was unable to devote the resources—or allocate the airtime—to offer local public affairs programming. However, since it acquired a second station in 2000, KING-TV has been airing a weekly half-hour public affairs program, hosted by Robert Mak, three-time recipient of the Annenberg Center's Cronkite Award. KING-TV also complements the Sunday morning network political shows with its own local afternoon political program. Similarly, duopoly ownership in Tucson has made airtime available for "Nogales Profiles," a series of reports featuring community leaders from the Arizona town of Nogales and Santa Cruz County.

The additional capacity and resources that have been freed by Belo's duopolies also have been used to provide other genres of local and regional programs. In Seattle-Tacoma, Belo now has the capacity to produce and air a nightly 30-minute local sports program called "Northwest Sports Tonight." This program focuses on the coverage of local high school athletes whose accomplishments go virtually unrecognized at typical large-market television stations.[17]

As demonstrated by these examples, Belo stations provide more and higher quality news and information than they would on a standalone basis and unquestionably further the FCC's localism objectives. Finally, as Belo has pointed out previously, its duopoly ownership experience is not unique. Strong economic incentives—particularly competition for local audience share and advertising revenues—compel many duopoly operators to add news and other community-oriented programming to their second stations. The highly competitive nature of the media marketplace, particularly among local newscasts, will give television stations strong incentives to dedicate additional resources garnered from joint ownership to the production of more and higher quality news and other programming of local interest.

## III. MULTICASTING IS NOT AN ADEQUATE SUBSTITUTE FOR RELIEF FROM DUOPOLY RESTRICTIONS.

With the DTV transition just over a year behind them, broadcasters are actively exploring innovative uses of their digital spectrum that will better serve their communities. Belo and many other broadcasters are using digital technology to provide multicast services, mobile DTV programming, and other enhanced offerings. Although some opponents of regulatory relief have claimed that multicasting is an easy substitute

[17] In addition, multiple ownership at the local level helps Belo spread its fixed costs and operating capital over a larger number of operating units, thereby permitting the development and production of innovative news products that benefit both its duopoly markets and other regional television markets. Belo operates two 24 hour regional cable news networks. The Texas Cable Network ("TXCN") gathers news from Belo's Texas news outlets, while Northwest Cable News ("NWCN") combines the resources of Belo's television stations in the Northwest. The vast majority of stand-alone stations, Belo submits, simply would not have the resources to create such extensive regional and local news offerings.

for a duopoly, and therefore that the current local television ownership restrictions should remain in place or even be tightened, this argument is flawed for a number of reasons.

Significantly, Congress and the FCC have failed so far to grant broadcasters must-carry rights for multicast channels. Because the vast majority of Americans now receive broadcast programming via a subscription television service, stations have no guarantee that the programming aired on multicast streams will reach a substantial part of their viewing audiences. Advertisers naturally are reluctant to purchase airtime under these circumstances. Accordingly, without the assurance of must-carry rights, Belo and other broadcasters face significant obstacles in their efforts to expand their multicast program offerings.

In addition, while the launch of mobile DTV platforms will enable broadcasters to bring news, information, and entertainment to viewers in exciting new ways, it necessarily limits broadcasters' ability to multicast. Belo and many other broadcasters are committed to using their digital spectrum to develop mobile television service as a new and robust means to deliver news and information. Belo is actively involved in the Open Mobile Video Coalition (OMVC), an alliance of U.S. commercial and public broadcasters formed to accelerate the development and rollout of mobile DTV products and services. Belo station WCNC-TV, Charlotte, North Carolina, is a mobile DTV test station. KONG-TV and KVUE(TV), Austin, Texas, are serving as OMVC primary model stations. In this capacity, these stations are providing consumer electronics manufacturers an opportunity to test receivers and consumer devices with a real world over-the-air signal.

Similarly, Belo was one of a dozen major broadcast companies that recently formed Pearl Mobile DTV Company LLC, a joint venture designed to develop a new national mobile video content service.[18] This service will use existing broadcast spectrum provided by members of the joint venture and will have the capacity to reach approximately 150 million U.S. residents. The mobile content provided by Pearl will include local and national news, sports, and entertainment programming, as well as both live and on-demand video.

Belo also is using its multicast spectrum to provide hyper-local and niche programming to underserved audiences that would not be feasible in a single-channel environment. For example, Belo stations now provide the Spanish-language programming of the Estrella TV network on multicast channels in four markets, including its duopoly station in the Tucson market.[19] Like many other broadcasters, Belo provides expanded coverage of community events, political content, and local and regional sports

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[18] In addition to Belo, the members of the Pearl venture are Cox, Fox, Gannett, Hearst, ION Media Networks, Media General, Meredith, NBC, Post-Newsweek, Raycom Media, and Scripps. *See*, *e.g.*, Mark Hefflinger, *Broadcasters' Joint Venture to Create Mobile TV Network,* digitalmediawire (April 13, 2010), http://dmwmedia.com/news/2010/04/13/broadcasters039-joint-venture-create-mobile-tv-network (last visited July 7, 2010).

[19] The U.S. Government Accountability Office has concluded that a disproportionately large proportion of Spanish language speakers residing in the U.S. rely exclusively on over-the-air television for video service. *See Digital Broadcast Television Transition Estimated Cost of Supporting Set-Top Boxes to Help Advance the DTV Transition*, GAO-05-258T, at 4 (Feb. 17, 2005) ("Additionally, non-white and Hispanic households are more likely to rely on over-the-air television than are white and non-Hispanic households."), http://www.gao.gov/new.items/d05258t.pdf (last visited July 7, 2010). This is the case in several of Belo's markets. For example, Nielsen Company estimates that, while 17.9% of total households in the Houston Designated Market Area (where Belo owns and operates station KHOU) rely on over-the-air television, 37.8% of the Hispanic households in the Houston DMA are dependent on over-the-air service. Accordingly, use of DTV multicast channels to serve Spanish-speaking audiences by Belo and other broadcasters is an important mechanism for providing news and information content to members of the community that otherwise would be unserved.

programming on its multicast streams.[20] Finally, Belo stations routinely use multicast capacity to provide emergency weather reports and other emergency information to viewers, including Amber Alerts, school closings, and information about time-sensitive environmental or health situations.[21]

More generally, Belo submits that, particularly in the current economic and regulatory environment, the ability to combine operations with another in-market station leads to more definitive public interest benefits than multicasting capabilities. In comparison to digital multicasting, joint ownership of two TV stations at the local level offers a more secure vehicle for broadcasters to diversify their program offerings. An additional station will have must-carry rights for its primary program stream, and presumably will have an established programming line-up and a stable of advertising clients. By combining two established broadcast vehicles with the efficiencies inherent in duopoly ownership, stations can more readily devote additional resources to local news and other programming efforts.

## IV. ALLOWING BROADCASTERS TO OPERATE MORE EFFICIENTLY IS ESPECIALLY IMPORTANT IN THE CURRENT ECONOMIC ENVIRONMENT.

Since the release of the *2008 Order*, the broadcast industry has experienced significant declines in revenue and audience share. As one recent study observed, local television ad revenue experienced a "free fall" in 2009, dropping 24% (triple the decline

[20] *See, e.g.*, Comments of Belo Corp., GN Docket Nos. 09-47, 09-137, 09-51, NBP Public Notice 26 (Dec. 21, 2009) (Belo NBP Comments); Comments of Belo Corp., GN Docket No. 10-25 (May 7, 2010).

[21] *See generally* Belo NBP Comments.

of the year prior).[22] In early July, moreover, it was reported that that the four major broadcast networks had the smallest number of prime-time viewers in two decades of record-keeping.[23]

Given these financial and competitive challenges, Belo submits that it is critically important for the FCC to update its local broadcast ownership rules to enable broadcasters to play on a more level playing field with their competitors, to foster their local service missions, and to continue producing costly local and investigative journalism. With respect to the last of these objectives, Belo notes that local journalism is expensive. Belo annually invests more than $100 million in the news departments of its 15 markets, which accounts for a significant portion of its overall total station expenses each year. That Belo and other TV broadcasters have continued to increase local news offerings during the recent recession, and in some of the most difficult years the industry ever has witnessed, demonstrates that broadcasters have both business and journalistic incentives to provide local and community oriented services. Relaxing the long outdated local TV ownership restrictions would assist Belo and other broadcasters in their efforts to remain at the forefront in the production of local programming and unquestionably would advance the FCC's localism objectives.

[22] PEJ 2010 State of the News Media Report, Executive Summary at 1, 3, http://www.stateofthemedia.org/2010/chapter%20pdfs/2010_execsummary.pdf (last visited June 16, 2010).

[23] See David Bauder, *Broadcast Viewership Hits Record Low*, WASH. TIMES, July 8, 2010, available at http://www.washingtontimes.com/news/2010/jul/08/americans-arent-watching-tv/print/ (last visited July 9, 2010).

## V. CONCLUSION

For all of the above reasons, Belo respectfully submits that the FCC should substantially relax the current local television ownership rule in this proceeding.

Respectfully submitted,


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