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

In the Matter of	)	
	)	
2010 Quadrennial Regulatory Review –	)	MB Docket 09-182
Review of the Commission's Broadcast	)	
Ownership Rules and Other Rules Adopted	)	
Pursuant to Section 202 of the	)	
Telecommunications Act of 1996	)	

To: The Commission

REPLY COMMENTS OF NEXSTAR BROADCASTING, INC.

Submitted by:

Elizabeth A. Hammond
Vice President & General Counsel
5215 North O'Conner Blvd.
Suite 1400
Irving, TX 75039

Counsel:
Howard M. Liberman
Drinker Biddle & Reath LLP
1500 K Street, NW, Suite 1100
Washington, DC 20005

July 26, 2010

TABLE OF CONTENTS

SUMMARY

Nexstar Broadcasting, Inc. ("Nexstar") and a number of other small and medium market television broadcasters are in agreement that it is well past time for the Commission to relax or repeal its local television ownership rule and provide real and necessary regulatory relief to medium and small market television broadcasters. In their opening comments, Nexstar and other small market broadcasters provide the Commission with extensive evidence regarding the state of today's hypercompetitive media marketplace, which has produced massive challenges for these broadcasters as they struggle to survive, let alone provide their local communities with news and other local programming.

Despite the surfeit of evidence in support of regulatory relief submitted by those who actually operate television stations, a number of commenters continue to object to the Commission providing medium and small market television broadcasters with such relief. They object because of a purported loss of viewpoint diversity and loss of diverse entertainment programming, the need to ensure that there are stations available for minorities and women to purchase, the Commission's failure to act in other proceedings, and complaints about imbalances in retransmission consent negotiations. However, these organizations provide no credible evidence in support of their theories and complaints. Accordingly, the Commission must dismiss these comments for the mere speculation and conjecture that they are. In addition, the Commission should ignore the call to use its broadcast ownership rules as a means to regulate in other areas.

The Commission also should continue to preserve sharing arrangements as a means for stations to compete in today's highly competitive media marketplace. These arrangements can be designed to comply with the Commission's rules and, in many instances, are fully vetted with

the Commission prior to implementation. These arrangements permit the involved stations to implement back office cost savings while dedicating the savings to improving local programming. And in the absence of much needed duopoly relief, these arrangements have helped a number of stations continue to provide costly news programming within their markets, thereby preserving diversity for local viewers.

The Commission and the courts have acknowledged the vast amount of information that is readily available to today's consumers from a wide variety of sources on a wide variety of platforms. It is time for the Commission to turn this acknowledgement into the much needed regulatory relief for medium and small market television broadcasters who own no other media interests and modify the local TV ownership rule to permit pure television broadcasters to own two stations in a market regardless of "rankings" or "voices," subject only to the antitrust laws. By implementing this change the Commission will strengthen and preserve local television in medium and small markets, thereby preserving localism for viewers.

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

In the Matter of	)	
	)	
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 09-182

To: The Commission

REPLY COMMENTS OF NEXSTAR BROADCASTING, INC.

Nexstar Broadcasting, Inc. ("Nexstar") respectfully submits these reply comments in the above-captioned proceeding to respond to certain fallacies, theories and requests for Commission consideration of matters outside the scope of this proceeding in comments submitted by other parties.

I. INTRODUCTION.

On July 12, 2010, Nexstar submitted comments demonstrating that, in today's media marketplace, the Commission's local television ownership rule (Section 73.3555(b), the "Local TV Ownership Rule") no longer supports, and is actually hindering, the Commission's policy goals of competition, localism and diversity for television viewers. Nexstar recommended that the Commission modify the Local TV Ownership Rule to permit pure television broadcasters such as Nexstar (i.e., broadcasters that own only television stations and no other local media interests) to own two stations in a market regardless of "rankings" or "voices," subject only to the antitrust laws. Nexstar encouraged the Commission to make this change in order to strengthen and preserve local television in medium and small markets, thereby preserving localism for viewers.

A number of other television broadcasters and the National Association of Broadcasters provided similar comments and recommendations.[1] These companies urge the Commission to look at today's technology-enabled media marketplace, in which television stations are just one of many options. They urge the Commission to look at the many challenges – declining revenues, overwhelming competition, high capital costs – facing local television broadcaster owners today. They urge the Commission to look forward, not backward, to develop a local TV ownership rule for today's digital era. In short, they, like Nexstar, urge the Commission to permit duopoly station ownership in medium and small markets in order to level the playing field for television broadcasters and allow smaller market television stations to sustain service to their local communities.

Notwithstanding the clear evidence that medium and small market television broadcasters require regulatory relief in order to continue providing local service to their communities, a number of organizations persist in opposing such relief.[2] These organizations object to regulatory relief for medium and small market television broadcasters who own no other in-market media interests. They put forth a variety of reasons, including a purported loss of

---

[1] *E.g.,* comments of Gray Television, Inc. ("Comments of Gray"), LIN Television Corporation ("Comments of LIN"), Grant Group, Inc. ("Comments of Grant Group"), Belo Corp. ("Comments of Belo"), Hearst Television, Inc. ("Comments of Hearst"), the Smaller Market Television Stations, Sinclair Broadcast Group, Inc., KTBS, Inc., Sainte Sepulveda, Inc. and National Association of Broadcasters (each submitted on July 12, 2010).

[2] *E.g.*, comments of The American Federation of Television and Radio Artists ("Comments of AFTRA"); Communications Workers of America, The Newspaper Guild/CWA and National Association of Broadcast Employees and Technicians/CWA ("Comments of CWA"); the Free Press ("Comments of Free Press"); Writers Guild of America, East, AFL-CIO ("Comments of Writers Guild"), Time Warner Cable Inc. ("Comments of Time Warner"); American Cable Association ("Comments of ACA"); National Association of Black Owned Broadcasters, Inc. ("Comments of NABOB"); and Office of Communication of United Church of Christ, Inc., Prometheus Radio Project, Media Alliance, National Organization for Women, National Hispanic Media Coalition, Common Cause and Benton Foundation ("Comments of UCC") (each submitted on July 12, 2010).

viewpoint diversity and loss of diverse entertainment programming, the need to ensure that there are stations available for minorities and women to purchase, the Commission's failure to act in other proceedings, and complaints about imbalances in retransmission consent negotiations.

When considering these objections, it is incumbent upon the Commission to recognize that not all broadcasters are created equal and that the Commission should not withhold necessary revisions to its Local TV Ownership Rule based on speculative or incorrect information, or matters best addressed in other proceedings. The Commission must recognize that local television broadcasters with no other in-market media interests are in dire need of regulatory relief. Accordingly, the Commission should ignore the inaccurate "sound bites" and speculative "theories" espoused by those who object to such regulatory relief. Instead, the Commission should acknowledge today's vastly competitive media marketplace and adapt its Local TV Ownership Rule for the 21st Century. Only then will medium and small market television broadcasters be able to compete effectively in today's media environment and preserve their local community service.

II. MODIFICATION OF THE LOCAL TV OWNERSHIP RULE WILL NOT HARM DIVERSITY.

A. Modification of The Local TV Ownership Rule Will Not Harm Viewpoint Diversity.

There is no doubt that today's media marketplace is vastly different from the media marketplace that existed when the Commission first implemented its Local TV Ownership Rule. As the Second Circuit recently explained:

> [In 1978,] cable television was still in its infancy. The Internet was a project run out of the Department of Defense with several hundred users. Not only did Youtube, Facebook and Twitter not exist, but their founders were either still in diapers or not yet conceived…. [Today], [c]able television is almost as pervasive as broadcast . . . and most viewers can alternate between broadcast and non-

> broadcast channels with a click of their remote control…. The internet, too, has become omnipresent, offering access to everything from viral videos to feature films and, yes, even broadcast television programs.[3]

Nor is there any doubt that the media marketplace is vastly different than it was a mere ten years ago when the Local TV Ownership Rule, in its present form, was adopted. Satellite television and telephone companies are now full-fledged competitive programming providers; the Internet has exploded with thousands of websites and blogs that provide information and commentary; there are a plethora of Internet websites that provide access to entertainment programming; and new advanced devices come on the market every day that permit consumers to access information at any time from any place.

Notwithstanding the Commission's and courts' acknowledgement of the vast amount of easily obtainable information available to consumers today, there remain organizations that object to relaxing or eliminating the Local TV Ownership Rule (indeed, many of these organizations argue the Commission should abolish duopoly ownership altogether), based on the fallacy that the public will no longer have access to diverse sources of local news and information if two stations in a market are commonly owned. For example, the Writers Guild asserts that fewer entities creating news programming means less diversity of news content, which "thwarts the public's interest in robust, well-informed discussion . . . ."[4] AFTRA claims that ownership consolidation has "allowed glaring examples of markets dominated by a single journalistic viewpoint."[5] And, CWA complains about its members' job losses and combined

---

3 *Fox Television Stations, Inc., CBS Broadcasting, Inc., WLS Television, Inc., KTRK Television, Inc., KMBC Hearst-Argyle Television, Inc., ABC, Inc. v. Federal Communications Commission*, slip opinion at pp. 15-16. (2nd Cir., decided July 13, 2010) (internal citations omitted).

4 Comments of Writers Guild at p. 1.

5 Comments of AFTRA at pp 8-11 and 15-17. AFTRA supports its claims of market domination with references to actions by Tribune, Journal Communications and Media General – all companies that have ownership interests in

news operations, stating that merged operations and slashed jobs have resulted in reductions of the quantity and quality of news.[6]

It is a fact that in today's highly competitive media marketplace employees' positions are being eliminated and employees are being asked to perform more tasks in order for companies to remain competitive. This is occurring across the traditional media industries (and in many other industries unrelated to media) and, in many instances, is independent of "media consolidation." However, none of the "evidence" provided by AFTRA and CWA with respect to the demise of local programming due to employee job loss supports the premise that diversity of local programming in medium and small markets will be harmed if the Commission permits pure television broadcasters to own two stations in a market. Indeed, neither AFTRA nor CWA provided any evidence countering Nexstar's point that it is in a broadcaster's economic interest to broadcast different local programming on commonly-owned stations in order to attract the widest possible viewing audience. Nor have AFTRA or CWA provided any evidence that contradicts the documented evidence provided by local broadcasters that merging operations and reducing duplicative staff can improve and increase the local programming broadcast on commonly-owned stations.[7]

---

more than one broadcast segment (Tribune and Journal own newspapers, television and radio stations; Media General owns newspapers and television stations). Accordingly, AFTRA's comments should not be treated as applicable to television only companies such as Nexstar.

6 Comments of CWA at pp. 15-19. AFTRA also complains of employees having to multi-task at their positions during special event programming such as the Olympics, and of employees whose positions were eliminated or their pay reduced as a result of consolidation.

7 CWA details the consolidation of stations owned by NBC, CBS and Fox in Los Angeles and New York, as well as a few other markets, with information focused predominantly on its members' job losses. But CWA provides no detailed examination of the news coverage across the merged stations for a period of time to support its assertion that these merged entities do not provide diverse news programming. Nor do these few instances of major market consolidation by very broad media companies provide any information relevant to the Commission's consideration of permitting a pure television-only broadcaster to own two stations in a medium or smaller market.

Conversely, Belo provides extensive information about how its currently permitted duopolies are providing enhanced service to their communities. Belo has been able to utilize the savings in overhead and management costs achieved via its duopoly ownership to provide better service to its communities in the form of improved local programming and enhanced website offerings.[8] LIN confirms that it too has found that operating two television stations in a market permits it to "produce and air more local programming of a higher quality at a lower marginal cost per hour," providing specific examples of its improvements in Buffalo, New York and Norfolk, Virginia.[9]

Indeed, even without the benefit of full duopoly ownership, Nexstar and the stations with which it has partnered in certain markets have been able to initiate and/or expand local newscasts for the stations involved. For example, Nexstar and Sinclair Broadcast Group have (i) started the Bloomington, Illinois market's only 9:00 p.m. news, on WYZZ; (ii) tripled the news coverage in the market from one crew to three crews; and (iii) provided up-to-the-minute election returns on WYZZ under their sharing arrangement. In Lubbock, Texas, Nexstar and Mission Broadcasting, Inc. were able to shift more resources to reporting and producing local news, thereby (i) increasing the amount of news coverage available on both stations; (ii) increasing the number of reporter/photographer teams in the field; and (iii) increasing the quality of the local news through the use of higher-end equipment not normally purchased for small market stations.

These are concrete examples of how duopoly station ownership (or at least the sharing of certain back office functions) has enhanced local service to stations' local communities.

---

[8] Comments of Belo at pp. 6-9. Belo further states that duopoly ownership has provided it with flexibility to expand its newscasts to different times, produce original local political and public affairs programming and increase its news quality.

[9] Comments of LIN.

Accordingly, the Commission should ignore the unsupported and purely hypothetical speculation of those who claim that duopolies decrease diversity of local programming.

B. It is Time for the Commission to Count the Internet as a Voice.

Several organizations dispute whether the Internet should count as an independent source for news and other information. For example, Free Press claims that Internet news is simply repackaged and repurposed content from traditional media.[10] Nexstar acknowledges that traditional media websites – those linked to newspapers and programming channels – may not provide additional viewpoints. However, television broadcasters can use their websites to provide additional coverage of a topic with a depth that may not be included in a station's over-the-air broadcasts, which adds to the diversity of viewpoint available to the local community. In addition, as Grant Group details, the numerous unaffiliated national media websites such as USAToday.com and Google News provide news, sports, weather, and entertainment. Even very small communities have local community websites and blogs that offer local news, weather, sports and entertainment from a wide variety of viewpoints.[11]

Furthermore, "new" media sites not linked to traditional media sites are playing an increasing role in consumers' information needs. For example, according to a recent study 38 percent of online information users visit websites that focus on specific topics such as health, politics and entertainment; 30 percent obtain information from organizations or individuals other than traditional journalists and news organizations; 17 percent use sites that provide a mix of news and commentary such as the Drudge Report or Huffington Post; and six percent receive

---

[10] Comments of Free Press at pp. 4-5. *See also* Comments of CWA at pp. 26-28.

[11] Comments of Grant Group at 5-10. Just recently a group of former anchors and reports in Salt Lake City are launching a news oriented website which covers a wide variety of news and information topics relevant to Salt Lake City residents. *See* http://salttvnet.com/(last visited 7-26-2010).

news updates from Twitter.[12] According to the study, the stories and issues that draw the most attention in blogs and on Twitter differ substantially from the mainstream press. Blogs and the mainstream press shared the top story just 13 times over 47 weeks.[13] Moreover, even though websites linked to traditional media receive approximately two-thirds of all traffic, no website keeps users for very long.[14] Accordingly, the Internet is a growing voice which must be considered in the Commission's ownership analysis.

C. Retaining The Local TV Ownership Rule Will Not Increase Minority and Female Station Ownership.

A number of organizations suggest that the Commission must not relax its ownership rules because such relaxation adversely affects ownership diversity. Nexstar does not disagree that promoting minority and female ownership is a compelling interest for the Commission. However, as CWA acknowledges, even though the number of available stations has increased, there has been no improvement in the level of minority and women ownership.[15] NABOB claims that relaxation of the rules will increase the lack of minority ownership, citing to a plethora of passages from the *Notice of Inquiry* identifying the dire straits facing the broadcast

---

[12] *State of the News Media: An Annual Report on American Journalism* (2010), Pew Project For Excellence in Journalism, http://www.stateofthemedia.org/2010/online_audience.php (last visited July 20, 2010) (hereinafter the "State of the News Media").

[13] *State of the News Media,* http://www.stateofthemedia.org/2010/online_summary_essay.php.

[14] *State of the News Media*, http://www.stateofthemedia.org/2010/online_nielsen.php.

[15] Comments of CWA at p. 36. AFTRA and Hispanic Information and Telecommunications Network, Inc. attempt to correlate a decline in minority ownership with the adoption of the Telecommunications Act of 1996 and the ownership rules promulgated thereunder. Both claim minority ownership would be higher today but for sales of stations by minority owners to the stations' current owners. Both apparently assume that these selling station owners would not have sold their stations in the more than ten years since the adoption of the current ownership rules – that is, that the stations would still be owned by the same owners today. Or perhaps they assume that, without the current ownership rules, had the stations been sold the only possible buyers for the stations would have been minority or female controlled groups. Whatever the case, this premise is unsupported and, quite likely, untrue.

industry as whole.[16] Nonetheless, NABOB does not provide any evidence that retaining the current ownership rules will increase or even preserve the number of minority owned broadcast stations.

The Commission's ownership rules are not the fundamental underlying cause affecting the historically low levels of minority and female owned stations. Rather, the fundamental issue surrounding female and minority ownership seems to be a question of access to capital. Nexstar cannot find a link between the Commission's ownership rules and providing better access to capital for small business entities. Therefore, Nexstar contends that withholding necessary modifications of the Local TV Ownership Rule will not help women and minorities participate in broadcast ownership, but will damage current broadcasters.

III. THE COMMISSION'S OWNERSHIP RULES (AND THIS PROCEEDING) SHOULD NOT BE USED TO ADDRESS NON-OWNERSHIP MATTERS.

As in prior ownership inquiry proceedings, several parties seek to advance rule changes unrelated to the ownership rules themselves. For example, UCC raises the issue of broadcasters' public interest obligations and asserts that the Commission must conclude its public interest and localism proceedings before acting in this proceeding, to ensure that broadcasters are serving the public interest.[17] AFTRA seemingly targets network and syndicated programming costs as threats to stations' willingness to serve their local communities.[18] The Caucus for Producers, Writers and Directors argues for reinstatement of the long-abandoned financial/syndication rules.

---

16 Comments of NABOB at pp. 2-6.

17 Comments of UCC at pp 3-5. Nexstar notes that serving the public interest is not related to how many stations one television broadcaster can own in a market. Separate ownership of every station would not guarantee that each and every owner serves its local community's needs and interests.

18 Comments of AFTRA at p. 13.

Azteca International Corporation seeks to modify the statutorily mandated foreign ownership limits. And the American Cable Association and Time Warner Cable Inc. continue their quest to revamp the retransmission consent process because of broadcasters' demands for compensation in return for carriage of their signals.[19]

These comments are as misplaced in this proceeding and as they were in past proceedings. Therefore, the Commission should decline the "invitation" of these organizations to drag unrelated questions into this proceeding, and focus its inquiry only on whether its structural ownership rules should be modified to permit local television broadcasters to compete effectively in today's robust media marketplace.

IV. SHARING ARRANGEMENTS ASSIST TELEVISION BROADCASTERS IN SERVING THE PUBLIC INTEREST.

Nexstar continues to believe that it is imperative for the Commission to permit pure television broadcasters to own two television stations in a market. However, Nexstar also believes that it is equally imperative that, if the Commission does not permit duopoly ownership in medium and small markets, the Commission must preserve sharing arrangements as a means for stations to compete in today's hypercompetitive marketplace. These types of arrangements permit broadcasters to operate more efficiently to better serve the public interest. Notwithstanding the various protests to the contrary, these agreements do not violate the Commission's ownership rules. To the extent that Nexstar has entered into such agreements, they are carefully drafted to ensure that the parties are in complete compliance with the

---

[19] In other proceedings, ACA and Time Warner claim that broadcasters have too much leverage because they can deny carriage rights. Here, they claim that duopoly ownership is the source of broadcaster leverage over cable companies. However, the fundamental argument of both entities is their desire to pay less (or no) fees for their carriage of broadcast signals. Their desire to modify the mechanics of retransmission consent negotiations is outside the scope of the present proceeding.

Commission's rules. Under Nexstar's shared operating agreements, each licensee retains complete control over its station's programming, finances and personnel. Further, the majority of these agreements are fully vetted by the Commission prior to their implementation.[20]

As Nexstar has shown herein (and in other proceedings), Nexstar's shared services agreements, joint sales agreements and outsourcing agreements provide substantial benefits to the public. In many of the markets where Nexstar has such arrangements in place, the quantity of local news has expanded via additional newscasts on stations that already broadcast local news or the addition of local news to stations that did not then have local newscasts or both. The quality of such newscasts has also improved as Nexstar has been able to invest in state-of-the-art equipment for its staff and purchase Doppler radar for stations that operate in dangerous weather areas. The stations involved in such sharing arrangements are also able to engage in community activities on a more involved level.[21]

Notwithstanding the abundant proof that Nexstar and others have proffered demonstrating that sharing agreements provide significant public interest benefits, Free Press ignores reality and objects to sharing arrangements, arguing that local news competition is being reduced as stations provide virtually the same coverage.[22] As stated above, in the Lubbock and

[20] Although these agreements are not required to be filed with the Commission, many sharing arrangements are entered into in connection with assignment of license or transfer of control applications and the applications therefore include draft sharing agreements. This means both the Commission and the public have a full opportunity to review the agreements and suggest any necessary modifications needed to ensure the agreements fully comply with the Commission's rules and policies. (The application proceedings that have included these types of agreements for vetting prior to implementation are too numerous to list.)

[21] Further detail regarding some of the benefits of Nexstar's early sharing arrangements can be found in Appendix A to Nexstar's comments in the Commission's *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 et al.*, Comments of Nexstar Broadcasting Group, L.L.C. and Quorum Broadcast Holdings, LLC submitted January 2, 2003, Appendix A. *See also Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets*, MB Docket No. 04-256, Comments of Nexstar Broadcasting, Inc., submitted October 27, 2004.

[22] Comments of Free Press at p. 10.

Peoria markets, Nexstar's sharing arrangements have resulted in increased news coverage. In its Terre Haute, Indiana, Rockford, Illinois, Monroe, Louisiana-El Dorado, Arkansas, and Springfield, Missouri markets, Nexstar was able to launch 9:00 p.m. newscasts on Fox affiliates that previously had not broadcast local news. And despite claims to the contrary, these newscasts are different than the newscasts broadcast on the ABC, CBS or NBC stations in those markets in which Nexstar also produces news. In Joplin, Missouri, Nexstar was able to construct brand new state-of-the-art studio facilities for its station (KSNF) and Mission's station (KODE-TV) that provide a different look and feel to each station's newscasts.[23] Consequently, should Free Press and its ivory tower academics ever actually watch a number of newscasts in the medium and small markets which are produced through sharing arrangements, it might learn that broadcasting news produced by another party does not mean that a station is broadcasting the same news as the other party.

CWA's primary complaint about sharing agreements appears to be that these types of arrangements are costing its members jobs and that its remaining members cannot seem to produce high quality news.[24] Under Nexstar's sharing arrangements, it and its partner stations have primarily consolidated back office staff that have no input or bearing on the stations' news production and, therefore, have no bearing on the quality or quantity of local news. Furthermore, laying off duplicative news staff does not equate to stations broadcasting the same stories, using fewer resources or producing low quality news. In fact, reducing unnecessary duplicative staff frequently permits Nexstar to expand the resources available for producing quality news and other local programming.

---

23 Except in a few instances, Nexstar has entirely different sets and uses entirely different anchors, meteorologists and sports anchors for each station for which it produces news.

24 Comments of CWA at pp. 7, 19.

Time Warner and the ACA take issue with station sharing arrangements and put forth yet more of their angst-ridden rhetoric about the harm to consumers arising from broadcast retransmission consent fees – this time as a result of the "undue coordination" of broadcasters' negotiating tactics under shared services and local marketing arrangements.[25] As always, these multi-channel video programming distributors (or MVPDs) are complaining about the fees MVPDs are paying broadcasters for carriage of the stations' signals.

In this instance, they complain that broadcasters are able to more easily obtain fair market prices for carriage of their signals through joint negotiations. Indeed, as Time Warner so clearly objects, broadcast television content is not free to MVPDs.[26] Time Warner complains that its expert studies show that consumers are being harmed with increased MVPD fees as a result of MVPDs actually having to pay fair market value for broadcast signals (notwithstanding the fact that other studies have established that broadcast fees are a negligible portion of all MVPD programming fees and even a smaller portion of MVPD revenues).[27]

Time Warner also makes the novel argument that having to pay broadcasters retransmission consent fees harms the diversity of voices that the MPVD can provide to its subscribers because these fees "threaten to deprive consumers of access to the programming options they desire."[28] To say this claim is absurd is an understatement. Local broadcast stations provide a significant majority of the most highly-viewed programming available to consumers. However, MVPDs are free to make the same economic value choices about whether to carry a

---

[25] ACA goes so far as to ask that the Commission ban such joint negotiations even when the affiliations are held by one broadcaster pursuant to a permitted duopoly arrangement.

[26] Comments of Time Warner at p. 9.

[27] *Id*. at pp. 9-10.

[28] *Id*. at p. 13.

broadcast station that averages a 10 or even 4 share rating or carry a channel that averages a 0.01 share rating. The statement is equally absurd because MVPDs routinely deprive consumers of programming options they desire as MVPDs make unilateral tier changes for programming.[29] Moreover, as Nexstar has stated in other proceedings, if MVPDs are serious about offering consumers access to the programming they desire, the MVPDs will implement a la carte options that permit consumers to actually choose which programming they want access to rather than forcing consumers to pay outrageous bills for programming they will never watch. But, as Nexstar has noted above, the Commission should ignore these complaints about retransmission consent as outside the scope of this proceeding.

As the Commission has long accepted, shared services agreements and joint sales agreements serve the public interest. There is no reason for the Commission to reverse this determination when there is an ever greater need today for stations to operate more efficiently to provide their core local service to their communities.

V. UPDATING THE LOCAL TV OWNERSHIP RULE TO REFLECT TODAY'S ECONOMIC AND MARKETPLACE REALITIES IS IN THE PUBLIC INTEREST.

UCC asserts that "it is not the Commission's responsibility to prop up the broadcast industry."[30] Free Press states that it is not the Commission's job to protect industry profit margins.[31] Nexstar is not asking the Commission to prop it up or to protect its profits with its request that the Commission modify its Local TV Ownership Rule to permit a television-only

---

[29] For example, Time Warner made the unilateral decision to deprive Dallas-Fort Worth expanded basic viewers of ABC Family, truTV, CMT and Oxygen when it removed those channels from that tier in early 2010.

[30] Comments of UCC at p. 6.

[31] Comments of Free Press at p. 9.

broadcaster to own two stations in a market. Rather, Nexstar is merely asking the Commission to bring its rules into the 21st Century so that Nexstar and other similarly situated television-only broadcasters can compete more effectively with the wide number of other media entities available in the marketplace.

As Nexstar and others have proven, the objections of the public interest organizations to local TV ownership relief are founded on myth.

Myth #1:

Duopoly ownership does not permit local television stations to operate more efficiently and television duopolies do not increase the amount of local news and/or they reduce the quality of such news.[32]

- Nexstar's operations as detailed herein (and in other Commission proceedings) clearly show that it and its shared services partners are able to operate more efficiently through combined back office staff, which has resulted in increased news on its and its partner stations.
- Belo provides equally detailed information about how duopoly ownership has resulted in substantial savings in overhead and management costs, which in turn has led to increased news programming on its duopoly stations.[33]
- Hearst provides evidence that common ownership has strengthened the local programming for its duopoly stations KCRA and KQCA.[34]
- LIN has used its local combinations to leverage scale and infrastructure to add 1500 hours of local content across its stations.[35]
- A decade ago, the Commission expressly found that "there are significant efficiencies inherent in joint ownership and operation of television stations in the same market, including efficiencies related to the co-location and sharing of studio and office facilities, the sharing of administrative and technical staff, and efficiencies in advertising and news gathering. These efficiencies can contribute to programming and other benefits such as increased news and public affairs programming . . . ."[36]

---

32 Comments of Free Press at p. 5-6.

33 Comments of Belo at pp. 6-9.

34 Comments of Hearst at p. 5.

35 Comments of LIN at p. 3.

36 *Review of the Commission's Regulations Governing Television Broadcasting*, Report and Order, 14 FCC Rcd 12903, 12930 (1999), (subsequent history omitted).

Myth #2:

There is little economic incentive for stations to produce local news and local programming is expensive and generates less revenues.[37]

- In today's media marketplace, any station that does not invest in high quality local programming is not going to be successful. Local programming is what differentiates local broadcasters from every other programming source in the marketplace. Nationally-distributed MVPD networks and Internet services such as Google, Yahoo, CNN.com and Youtube do not provide content geared toward local communities and their needs. Nor do they engage in any level of community support and involvement the way local stations do. Further, it is local programming that generates the highest return value for broadcasters. As the comments of Nexstar, Hearst, Belo, LIN, and others establish, producing local programming is the key to local television station survival in the burgeoning media marketplace and there is a strong incentive for stations to provide such programming.

Myth #3:

Viewers have limited choice in accessing news and information.

- Viewers can access information from local TV stations, local radio stations, in-market newspapers, MVPD programming channels (a number of which are locally focused channels), Internet news sites such as CNN.com, MSNBC.com, Internet sites such as Facebook, Twitter and Youtube, and blogs, among others.
- Any outlet regardless of ratings or share provides viewers with choice.

Myth #4:

Local television broadcasters do not need regulatory relief.

- TV broadcasters today face competition from many sources for audience share and advertising revenues. In today's highly competitive media marketplace, revenues are eroding making it increasingly difficult for local stations to bear the high costs of producing local news, weather, and public affairs programming. Therefore, it is imperative that the Commission adopt a local TV ownership rule that acknowledges that local TV stations are no longer competing just with other local TV stations.
- Television broadcasters today are being squeezed by the high costs of acquired programming (i.e., their payments to networks and syndicators), the high costs of producing quality local news and public affairs programming, and declining revenues.

[37] Comments of Free Press at p. 6.

In analyzing its ownership rules the Commission must be guided by marketplace realities, not ivory tower studies that propound theories without support and ignore real world examples that do not fit with their views. The Commission must acknowledge that no one media segment dominates the news and entertainment market today. And, most importantly, the Commission must finally deliver to all local TV broadcasters the benefits it recognized more than a decade ago with respect joint operation and ownership of television stations in the same market.

WHEREFORE, for the foregoing reasons, Nexstar respectfully urges the Commission to modify the Local TV Multiple Ownership Rule to allow television broadcasters with no other in-market media interests to own two commercial TV stations in any market.

Respectfully submitted,

Nexstar Broadcasting, Inc.

By: /s/ Elizabeth A. Hammond
Elizabeth A. Hammond
Vice President & General Counsel
5215 North O'Conner Blvd.
Suite 1400
Irving, TX 75039

Counsel:
Howard M. Liberman
Drinker Biddle & Reath LLP
1500 K Street, NW, Suite 1100
Washington, DC 20005

July 26, 2010