

**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 No. 09-182
)	
Promoting Diversification of Ownership In the Broadcasting Services)	MB Docket No. 07-294
)	

**Reply Comments of
Communications Workers of America
The Newspaper Guild-CWA
National Association of Broadcast Employees and Technicians-CWA**

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SUMMARY

During this and past reviews of broadcast ownership rules by the Commission, the Communications Workers of America (CWA)¹ has been consistently clear that the Commission 1) address ownership issues with respect to diversity; 2) should not relax the newspaper/broadcaster ownership rules (NBCO) and keep the rules in place to prevent more broadcast duopolies; and 3) establish firm rules against shared services agreements (SSAs) that harm communities by limiting viewpoint diversity, local news and information and make a mockery of the duopoly rules.

The Commissioners received many comments about what the rules for broadcasters should be. These rules must enable the Commission to uphold its public interest goals of competition, localism and diversity. In the May 25, 2010, Notice of Inquiry, the Commission identified the “new marketplace” as the challenge for studying and issuing new rules for broadcasters.²

In these reply comments, the CWA would like to address how the media organizations for the owners use the excuse of the “new marketplace” to push the same positions they have always taken on ownership rules, old or new marketplace, notwithstanding. Adopting rules from the Newspaper Association of America (NAA) and the National Association of Broadcasters (NAB) comments would result in fewer voices for diversity of news and information for communities and would make efforts for more diversity of ownership less likely. And the NAA and NAB arguments rely on studies that do not directly address their contentions or are flawed and they use

¹ The CWA is the largest telecommunications union in the world. CWA members work both the public and private sector in broadcasting, cable TV, journalism, publishing, manufacturing, telecommunications, airlines, customer service, government service, health care, education and other fields.

² *2010 Quadrennial 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 Dkt No. 09-182 (May 25, 2010) (“2011 NOI”). “Our challenge is to adapt our rules to ensure that they promote these values in the new marketplace and into the future.”

anecdotal examples instead of fact-based and rigorous studies that likely would disprove claims made by broadcast and newspaper owners.

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I. Introduction

The CWA has long been a participant in the broadcast ownership proceedings because the rules issued by the Commission impact our members and their families in many ways. Like other citizens, our members and their families rely on local media for news and information about their communities. At the same time, many of our members work for broadcasters and newspapers that produce and deliver the content communities rely on to become informed about important matters to communities.

In the broadcast industry, the CWA lost many members as a result of the Great Recession due to job losses in the industry. Many of the job losses were due to increases in the use of SSAs, as has previously been demonstrated in comments we filed alone or with others. Allowing local broadcasters to circumvent the duopoly rules not only means fewer jobs but harms local diversity of voices and it especially erects barriers to entry for women, minorities for local ownership.

In the newspaper industry, the Recession accelerated a long, downward trend for profitability. Unlike local broadcasting which has recovered even more quickly than the rest of the economy, newspaper companies stepped back from the abyss but continue to search for ways to replace severe advertising dollar losses and circulation losses for the still profitable print product. Job losses in the industry have not just affected TNG-CWA-covered publications but have been widespread throughout the industry.

The question of how the new marketplace should affect ownership rules for broadcasters continues to be answered by findings that television and newspapers continue to dominate the local news and information landscape. While it may be the case that revenue is negatively affected, and greatly affected for the newspaper industry, the Commission cannot ignore that most news is generated by newspapers and television and to relax the NBCO rules would reduce

diversity of voice for local communities. In addition, and more important, it would harm opportunities for women and minorities to enter the local media markets. Fixing this problem should be the first task of the Commission before considering relaxing other rules. This is too important to leave for another day.

II. Without Proper Ownership Diversity Analysis, the Commission Must Not Relax Ownership Rules

A. See CWA coalition and Free Press comments

The CWA has consistently called on the Commission to address ownership diversity issues that exist.³ The Commission should not relax the newspaper/broadcaster ownership rules (NBCO) plus it should keep the rules in place to prevent more duopolies.⁴ The Commission should also establish firm and hard rules against shared services agreements (SSAs) that harm communities by limiting viewpoint diversity, local news and information and make a mockery of the duopoly rules.⁵ The CWA believes the Free Press comments address these points in ways the Commission should not ignore.⁶

B. NAA Comments Reflects the Lack of Diversity By Those Who Produce the Content

The Commission should take note that the NAA comments do not address the issue of ownership diversity for women and people of color. While the Commission does not regulate the

³ *Leadership Conference on Civil and Rights Comments* MB Dkt No. 09-182, 07-294. <http://apps.fcc.gov/ecfs/document/view?id=7021898213>

⁴ *NABET-CWA, TNG-CWA Comments* MB Dkt No. 09-182, 07-294. <http://apps.fcc.gov/ecfs/document/view?id=7021898309>

⁵ *UCC Media Alliance et al Comments* MB Dkt No. 09-182, 07-294. <http://apps.fcc.gov/ecfs/document/view?id=7021898383>

⁶ *Free Press Comments* MB Dkt No. 09-182, 07-294. <http://apps.fcc.gov/ecfs/document/view?id=7021898388>. “The Commission Should Not Conclude The 2010 Review Until It Has Addressed the Diversity Issues On Remand” 12. “The Relaxed Newspaper-Broadcast Cross Ownership Rule Proposed By The Commission Is Not Supported By The Facts Or Research In This Proceeding” 27. “The FCC Should Retain The Local Television Ownership Rule And Address The Problem Of “Covert Consolidation” By Local Television Stations” 44.

newspaper industry, relaxing the NBCO rule could only reduce viewpoint diversity and limit opportunities for women and people of color. The American Society of Newspaper Editors (ASNE), an organization made up of newsroom management, has been tracking minority representation in newsrooms since 1978.⁷ Its laudable goal is to have newsrooms be more diverse so as to be more effective in covering the news in communities.⁸ While it can be considered that great strides have been made since the first survey found 1700 minorities or only 3.95% of the work force, having only 12.32% of newsroom workers who are people of color only shows how little progress has been made to achieve true diversity.⁹ Any relaxing of the NBCO rule is sure to have a negative impact for content producers in new broadcast/newspaper combinations by giving fewer opportunities for women and people of color in broadcasting.

III. NAB and NAA No Longer Dispute that Broadcasters and Newspapers Are Still the Dominant Sources for Local News and Information

Since the Telecommunications Act of 1996 the media landscape has seemingly exploded with ways to find local news and information. The Commission wants to take in account the “new marketplace” in considering its rules. The NAA and the NAB declined to enter this debate in their comments.

The CWA and others have already demonstrated broadcasters and newspapers still generate most of the news and receive most of the eyeballs, whether it is consumed on television screens, computers or mobile devices. The latest evidence of this comes from a study from the Pew Internet & American Life Project of how citizens follow local news.¹⁰

⁷ See http://asne.org/Article_View/ArticleId/326/ASNEs-Mission-Statement.aspx.

⁸ See http://asne.org/Key_Initiativess/Diversity.aspx. “ASNE believes that diverse newsrooms better cover America’s communities.”

⁹ See http://asne.org/Key_Initiativess/Diversity/Newsroom_Census/Table_A.aspx

¹⁰ See <http://www.pewinternet.org/Reports/2012/Local-news-enthusiasts.aspx>

This survey, once again, shows broadcast and newspapers still dominate. Of those surveyed, 57% **never** use a web site source other than broadcast or newspaper to get local news and information.¹¹ The Commission must conclude these other sources are not significant and should not be used as a basis for relaxing broadcast and NBCO rules at this time.

In its 2010 comments, the NAB said “It is beyond dispute that the Internet has fundamentally changed how Americans consume media – including news, political information, video entertainment and music – and that the Internet now substantially competes with traditional media for consumers’ attention and time.¹²” This time, the issue is not addressed.

The NAA made a similar argument in 2010 which disappeared as an argument for relaxing the NBCO rules.¹³

IV. Ownership Rules Must Be Designed to Promote Diversity, Competition And Localism

A. The Commission Should Retain The Newspaper/Broadcast Cross-Ownership Rule

The NAA does not present compelling evidence that relaxing the NBCO rule will result in better journalism. Newsrooms continue to lose jobs even as many companies have seen their financials stabilize, whether through bankruptcy¹⁴ or refinancing of debt.¹⁵ The CWA understands full well the financial state of the newspaper industry. Profit margins may never return to the 30% enjoyed by many papers. But, the extraordinary debt taken on by media companies to buy up newspapers or newspaper companies should be considered a precursor to

¹¹ See <http://www.pewinternet.org/Static-Pages/Data-Tools/Explore-Survey-Questions/Roper-Center.aspx?item={03D133CC-A26D-4589-979E-E140DB8E65E8}>.

¹² *NAB Comments at 16 MB Dkt 09-182 July 12, 2010* <http://apps.fcc.gov/ecfs/document/view?id=7020522077>.

¹³ *NAA Comments at 18 MB Dkt 09-182 07-294*. “In addition to considering the economic challenges facing the newspaper and broadcast industries, the Commission must take into account the game-changing impact that the Internet has had, and certainly will continue to have, on the media marketplace.” <http://apps.fcc.gov/ecfs/document/view?id=7020522235>.

¹⁴ *Reflections of a Newsosaur March 23, 2010* http://2.bp.blogspot.com/_EkL0PCrR0fc/S6jTutwJuwI/AAAAAAAAA5w/3_nfV7qHTk0/s1600-h/Xk9Gqg.jpeg.

¹⁵ *McClatchy Completes Debt Refinancing May 10, 2010* <http://www.prnewswire.com/news-releases/mcclatchy-completes-debt-refinancing-73929922.html>.

what would happen if the Commission relaxed the NBCO rule -- more debt, more job losses, less local news and information produced.

B. Barriers to Entry Would Be Harmed By Relaxing Broadcast Ownership Rules

The NAB claims that relaxing the local television duopoly rule “will result in substantial benefits to all parties.”¹⁶ The NAB comment cannot stand a true test of the substantial harm to diversity of voice for local news and information for consumers that would occur should the Commission agree to the NAB proposal. For local news, economies of scale work if a newly formed duopoly repeats coverage of local news on both stations. That must result in less diversity of voice for a DMA, especially the smaller DMAs. In a situation where one of the stations had no local news, there are no regulations requiring duopoly stations to carry separate news teams and newscasts. The likely result is what happened in Los Angeles with duopolies for CBS and Fox, as NABET-CWA President Jim Joyce testified at an FCC hearing:

CBS duopoly was running the KCAL/KCBS news operations in unison. So much so, that I presented a video of the wrong station logos appearing on each other’s broadcasts. In the case of KCOP and KTTV, FOX has now combined once separate newsrooms into one, with only one set of reporters and editorial staff for both stations and the newscast on KCOP is indistinguishable from the newscast on KTTV, in Los Angeles, the nation’s second largest TV market. This makes a mockery of the FCC’s longstanding media goals to promote diversity, competition, and localism in exchange for a broadcaster’s right to use the public’s airwaves.¹⁷

More evidence of what harm to local diversity can be expected if the Commission relaxed its duopoly rule can be found in the filing by CWA and others on SSAs. While economies of

¹⁶ *NAB Comments at 4 MB Dkt No. 09-182, 07-294* <http://apps.fcc.gov/ecfs/document/view?id=7021898283>.

¹⁷ *Remarks of James Joyce, NABET-CWA President, FCC Media Ownership Workshop, Stanford, CA: The Impact of New Media on Broadcast Stations* (video) <http://transition.fcc.gov/ownership/workshop-052110.html>

scope and scale could allow for “more output at a lower average cost,”¹⁸ there is nothing to prevent a newly formed duopoly from reducing the output of two formerly-produced newscasts to one and sharing the information on two stations, as happened in Los Angeles. After all, running the same newscasts on multiple stations by one owner would be an excellent example of economies of scope, i.e. one reporter to gather information to be reported on two stations in the broadcast market or a story delivered by an anchor on more than one station in a market.¹⁹ This process works well for consumer goods but not for diversity of voices for local news and information. So, on the contrary, absent any regulation for duopolies to deliver independent news and information, by, for example, retaining separate newsrooms, any relaxation of the duopoly rule will harm consumers if owners are trying to maximize profits.

V. Conclusion

Ownership rules matter and the Commission must consider the impact of the rules on promoting diversity, competition and localism. Broadcasters have a great influence on what the public sees and hears through TV, the internet and mobile platforms like tablets and smartphones. Allowing more consolidation of news, whether through relaxed NBCO rules or SSAs, could not come at a worse time for local news and information. Since the Commission has not adequately studied women and people of color ownership issues, this alone is reason enough not to relax any rules and to undo and prohibit SSAs that allow one owner to control the newsgathering of non-owned stations. However, the Commission should also not relax the NBCO rules just because newspapers are having trouble coming up with a successful business

¹⁸ *NAB Comments at 4 MB Dkt No. 09-182, 07-294* <http://apps.fcc.gov/ecfs/document/view?id=7021898283>.

¹⁹ *The Effects of Regulation on Economies of Scale and Scope in TV Broadcasting* by Jeffrey A. Eisenach and Kevin W. Cave, *NAB Comments Attachment A MB Dkt No. 10-71*, June 2011. “Economies of scope arise from the potential to use productive assets to create multiple products (e.g., a single transmitter and antenna tower can broadcast multiple digital video streams over a single six MHz television channel; a single reporter can be assigned

model. The fact is TV and newspapers still generate and get the eyeballs of the vast majority of citizens who seek local news and information.

The CWA urges the Commission to respect the importance of citizens to get news and information of diverse points of view and competition from Broadcasters and reject calls to relax duopoly rules and not weaken the NBCO rules.

to cover a story for both the nightly news and the TV station's web page)."