Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In the Matter of


COMMENTS OF THE CBS TELEVISION NETWORK AFFILIATES ASSOCIATION

The CBS Television Network Affiliates Association (the “CBS Affiliates”) is comprised of television stations across the country that are affiliated with the CBS Television Network. The CBS Affiliates here comment on one aspect of the Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceeding. Specifically, the CBS Affiliates support the Commission’s proposal to retain the dual network rule, which prohibits ownership of two or more of the “big four” networks (ABC, CBS, NBC, FOX).

The dual network rule supports the Commission’s localism goal because it helps maintain a balance between national networks and local affiliates. The networks make available high-quality national programming that is an essential component of the public’s broadcast service. Elimination of the dual network rule would lead to a less competitive marketplace and could, for example, discourage networks from bidding and investing to bring more regional and national sports programming to free, over-the-air broadcasting. Another essential component of this service is programming that responds to the needs of local communities. To that end, local affiliates exercise influence formally and informally on network programming, both through the exercise of their rights under their affiliation agreements and through the Commission’s “right to
reject" rule, to ensure that this programming is appropriate for and responds to the needs of their respective local communities. The local affiliates also complement the networks’ national programming with locally-produced and locally-selected programming. Within their communities, local broadcasters produce and distribute highly valued local investigative journalism, news, weather, sports, and public affairs programming. Indeed, “local TV remains a top news source for Americans, with almost three out of four U.S. adults (71%) watching local television news.”\(^1\)

The Commission correctly observes that the dual network rule is necessary to preserve the balance of bargaining power between networks and affiliates. The public greatly benefits from the local/national mix of programming made possible by a healthy network/affiliate system, which is a hallmark of the American broadcast system and contributes greatly to our national discussion of vital issues. However, the input and contribution of local affiliates is often in tension with the network’s desire to clear all national network programming. Allowing any of the big four networks to combine would exacerbate the power the networks already have over their affiliates to the detriment of localism. The Commission finds in its FNPRM that “a top-four network merger would reduce the ability of a network affiliate to use the availability of other top, independently owned networks as a bargaining tool to influence programming decisions of its network, including the affiliate’s ability to engage in a dialogue with its network over the suitability for local audiences of either the content or scheduling of network programming.”\(^2\) In that scenario, affiliates will have fewer program options and fewer

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alternative choices of program providers if the number of network owners decreases. If, for example, NBC and CBS were permitted to merge, a terminated CBS affiliate would no longer be able to turn to NBC for affiliation. Consequently, relaxation of the dual network rule would increase the networks’ leverage over affiliates.

Even with the rule in place, top-four networks have become increasingly more aggressive with regards to affiliation agreements, both with respect to financial and non-financial terms. For example, networks have increasingly pushed affiliates for more strict clearance obligations and higher affiliation payments. In this environment, the dual network rule serves as an important “check” on the power and importance of the top-four networks and preserves the existing system whereby viewers are able to receive quality programming that appeals to both a mass, nationwide audience and the interests of a specific local community.

For the foregoing reasons, the CBS Affiliates support the Commission’s proposal to maintain the dual network rule without modification.

Respectfully submitted,

THE CBS TELEVISION NETWORK AFFILIATES ASSOCIATION

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