

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

In the Matter of)	
)	
2014 Quadrennial Regulatory Review—)	MB Docket No. 14-50
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
2010 Quadrennial Regulatory Review—)	MB Docket No. 09-182
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
Promoting Diversification of Ownership In the)	MB Docket No. 07-294
Broadcasting Services)	
)	
Rules and Policies Concerning Attribution of)	MB Docket No. 04-256
Joint Sales Agreements In Local Television)	
Markets)	

REPLY COMMENTS OF MORRIS COMMUNICATIONS COMPANY, LLC

Morris Communications Company, LLC (“Morris”) hereby submits these brief reply comments in the above-captioned proceeding.¹ After yet another round of comments in these protracted proceedings, the record before the Commission now includes additional compelling evidence that the Commission should repeal – at the very least – the ban on newspaper/radio combinations, if not the entire newspaper/broadcast cross-ownership rule (“NBCO Rule”).² The

¹ *2014 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, Further Notice of Proposed Rulemaking and Report and Order, 29 FCC Rcd. 4371 (2014) (“2014 FNPRM”).*

² Morris has long advocated complete repeal of the entire NBCO Rule, including both its television and radio components. *See, e.g.,* Comments of Morris Communications Company, LLC, MB Docket No. 14-50 (filed Aug. 6, 2014); Comments of Morris Communications Company, LLC, MB Docket No. 09-182 (filed July 12, 2010); Comments of Morris

overwhelming majority of commenters in the opening round of this proceeding support eliminating or relaxing the NBCO Rule. Further, the record contains extensive real-world evidence that cross-owned combinations promote the public interest without adversely impacting diversity, particularly given the proliferation and rapidly increasing importance of alternative sources of news and information.³

The small handful of parties who take the opposite view continue to base their arguments on generalized and unsubstantiated fears,⁴ but fail to demonstrate with specific evidence that

Communications Company, LLC, MB Docket No. 06-121 (filed Oct. 23, 2006); Comments of Morris Communications Corporation, MB Docket No. 02-277 (filed Jan. 2, 2003); Comments of Morris Communications Corporation, MM Docket No. 01-235 (filed Dec. 3, 2001). Because the newspaper/radio component of the cross-ownership ban is the most pertinent to its current business activities, Morris will focus primarily on that aspect of the rule in these comments.

³ See, e.g., Comments of Morris Communications Company, LLC, MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (filed Aug. 6, 2014); Comments of the Newspaper Association of America, MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (filed Aug. 6, 2014) (“NAA Comments”); Comments of the National Association of Broadcasters, MB Docket Nos. 14-50, 09-182, 07-294, 04-256, at 70-84 (filed Aug. 6, 2014) (“NAB Comments”); Comments of Cox Media Group, MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (filed Aug. 6, 2014); Joint Comments of Bonneville International Corporation and The Scranton Times, L.P., MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (filed Aug. 6, 2014); Comments of Delmarva Broadcasting Company, Steinman Stations, Inc., and Lancaster Newspapers, Inc., MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (filed July 30, 2014); Comments of Stephens Capital Partners LLC, MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (filed July 14, 2014); Letter from Glenn Serafin, President, National Association of Media Brokers, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 14-50 (filed May 15, 2014); see also, e.g., Reply Comments of Morris Communications Corporation, LLC, MB Docket Nos. 09-182, 07-294 (filed Apr. 17, 2012); Comments of A.H. Belo Corporation, MB Docket Nos. 09-182, 07-294, at 1-14 (filed Mar. 5, 2012); Comments of Bonneville International Corporation & The Scranton Times, L.P., MB Docket Nos. 09-182, 07-294, at 1-26 (filed Mar. 5, 2012); Comments of Cedar Rapids Television Company, MB Docket Nos. 09-182, 07-294, at 3-12 (filed Mar. 5, 2012); Comments of Cox Media Group, MB Docket No. 09-182, at 2-19 (filed Mar. 5, 2012); Comments of Fox Entertainment Group, Inc. & Fox Television Holdings, Inc., MB Docket Nos. 09-182, 07-294, at 19-31 (filed Mar. 5, 2012); Comments of the National Association of Broadcasters, MB Docket Nos. 09-182, 07-294, at 39-49 (filed Mar. 5, 2012); Comments of the Newspaper Association of America, MB Docket Nos. 09-182, 07-294, at 1-28 (filed Mar. 5, 2012); Comments of Tribune Company, Debtor-in-Possession, MB Docket Nos. 09-182, 07-294, at 1-70 (filed Mar. 5, 2012).

⁴ See, e.g., Comments of the Office of Communication, Inc. of the United Church of Christ, *et al.*, MB Docket Nos. 14-50, 09-182, 07-294, at 31-41 (filed Aug. 6, 2014) (“UCC, *et al.*”).

allowing newspaper/broadcast cross-ownership – let alone newspaper/*radio* cross-ownership – will actually harm viewpoint diversity.⁵ Although these parties claim that the NBCO Rule and its radio component are needed because people still rely to some extent on radio as a source of local news, the studies they cite do nothing to undermine the Commission’s tentative conclusion that consumers generally view radio stations and newspapers as less important sources of news and information than other media and that an end to the cross-ownership ban would encourage more and better local news and informational programming.

As Morris amply demonstrated in its opening comments, this conclusion is indisputably correct,⁶ and the very studies cited by UCC *et al.* and NHMC in fact provide further support for it. For example, Pew Research Center’s 2013 study entitled *Audio: Digital Drives Listener Experience* notes that over the past near-decade the study has been conducted it has found radio to be a decreasingly important source of local news, and that as of 2013 news has been “relegated to an [even] smaller corner of the listening landscape.”⁷ Similarly, the Knight Foundation’s study entitled *How People Learn About Their Local Community* finds that although 47% of adults get information about traffic and transportation from the radio, only 9% cite radio as a key source for breaking news and weather.⁸ Thus, radio places fourth behind television,

Comments”); Comments of the National Hispanic Media Coalition, MB Docket Nos. 14-50, 09-182, 07-294, 04-296, at 6-11 (filed Aug. 6, 2014) (“NHMC Comments”).

⁵ These parties, like the Commission, do not seriously contend that the newspaper/radio cross-ownership ban remains necessary to protect either localism or competition.

⁶ Morris Comments at 13-15; *see, e.g.*, NAB Comments at 83-84.

⁷ Pew Research Center, *Audio: Digital Drives Listening Experience* 1 (2013), <http://stateofthedia.org/2013/audio-digital-drives-listener-experience> (last visited Aug. 27, 2014) (cited in UCC *et al.* Comments at 34 n.135).

⁸ Knight Foundation, *How People Learn About Their Local Community* 35 (2011), <http://www.knightfoundation.org/publications/how-pepole-learn-about-their-local-community> (last visited Aug. 27, 2014) (“*Knight Foundation Media Usage Study*”) (cited in UCC *et al.* Comments at 34 n.139).

newspapers, and the Internet as a breaking news source.⁹ Moreover, the study finds that a mere 5% cite radio as a main source for political and arts and cultural information, 4% rely on radio for crime updates, and 3% or less rely on radio for information on a range of other topics.¹⁰ And Pew Research Center's *Hispanic Trends Project: A Growing Share of Latinos Get Their News in English* indicates that television is the most common source of news for Hispanics, while a far lower percentage say they get news from the Internet and radio and even fewer cite newspapers as a news source.¹¹ The point is not – as those advocating retention of the newspaper/radio cross-ownership prohibition would have it – whether radio contributes *at all* to the overall level of viewpoint diversity available in local media markets, but whether radio is an important enough contributor to the dialogue to justify continuing to shackle its owners with antiquated ownership restrictions. The evidence in the record clearly shows that it is not, and that the possibility of strengthening the ability of radio stations to succeed in the ever-expanding media marketplace by partnering with co-located newspapers countervails any theoretical concern.

The studies cited by proponents of retaining the ban on newspaper/radio cross-ownership also do nothing to contradict the strong evidence that Americans today rely on a diverse mix of sources to satisfy their appetites for news and information.¹² In fact, here again the studies cited by those supporting continued regulation (to the extent they touch on this issue at all) undermine

⁹ *Id.*

¹⁰ *Id.*

¹¹ Pew Research Center, *Hispanic Trends Project: A Growing Share of Latinos Get Their News in English* (2013), <http://www.pewhispanic.org/2013/07/23/a-growing-share-of-latinos-get-their-news-in-english/> (“*Hispanic Trends Project News Study*”) (last visited Aug. 27, 2014) (cited in NHMC Comments at 8 n.26). NHMC also cites an Arbitron study indicating that many Hispanic consumers listen to radio at some point in an average week. *See* NHMC Comments at 7 & n.23. That study, however, does not touch on whether such consumers rely on radio as a main source of news and information, which has been the key to the Commission’s analysis of whether the newspaper/radio cross-ownership restriction is needed to protect viewpoint diversity.

¹² *See, e.g.*, Morris Comments at 32-41; NAA Comments at 16-17; NAB Comments at 18-31.

the view that restrictions remain necessary. For example, the *Knight Foundation Media Usage Study* opens by stating that “[c]ontrary to much of the conventional understanding of how people learn about their communities, Americans turn to a wide range of platforms to get local news and information.”¹³ It goes on to document the varied nature of citizens’ media consumption habits, concluding that the data assembled in the study “explodes the notion . . . that people have a primary or single source for most of their local news and information.”¹⁴ Similarly, the *Hispanic Trends Project News Study* finds that “[m]ost Latinos use two or three news media platforms on a typical weekday.” Thus, today’s media marketplace is not only marked by tremendous abundance in terms of the vast number of sources available, but also facilitates shifting access to those many sources depending on a particular consumer’s needs, desires, interests, and individualized media consumption habits. The fact that consumers have come to rely on an assortment of media to serve their informational needs further ensures that they are exposed to a diverse range of viewpoints on any given topic, and confirms that retention of outdated restrictions on common ownership of newspapers and radio stations in the name of protecting viewpoint diversity is both wholly unnecessary and inimical to the public interest.

To the extent that some proponents of retaining the newspaper/radio cross-ownership restriction take issue with the Commission’s longstanding determination – which remains correct

¹³ *Knight Foundation Media Usage Study* at 1.

¹⁴ *Id.* at 4; *see id.* at 33 (stating that the “local news and information ecosystem involves a complex mix” of sources beyond the traditional media and the Internet). As Morris explained in its comments, these fundamental changes in the manner in which Americans access news and information suggest that the Commission’s traditional approach to analyzing viewpoint diversity – under which the agency attempts to weigh various sources based on their relative quantitative analysis – no longer makes sense. Morris Comments at 32-41. Whatever the paradigm for analysis, however, the NBCO Rule (and particularly its radio component) is ripe for repeal.

today – that the rule is unnecessary to protect competition,¹⁵ their arguments are also misplaced. The materials on which they rely to support their position show, if anything, only that newspapers and radio stations earn portions of overall local advertising revenues.¹⁶ That fact says nothing about whether newspapers and radio stations are actual economic substitutes for each other in the local advertising market, and, indeed, some of the cited materials indicate that they are not.¹⁷ The record thus contains no basis to disturb the Commission’s more than a decade-old determination, which is consistent with the analysis of antitrust officials and court decisions, that concerns about competition for local advertising dollars cannot support retention of the ban on newspaper/radio cross-ownership.¹⁸

¹⁵ See Comments of the National Association of Black Owned Broadcasters, Inc., MB Docket Nos. 14-50, 09-182, 07-294, 04-256, at 14-15 (filed Aug. 6, 2014) (“NABOB Comments”).

¹⁶ *Id.* at 14 notes 35-36. The BIA/Kelsey Press Release upon which NABOB relies contains a simple pie chart showing the percentage of overall local advertising revenues earned by various media, including newspapers and radio stations. The Radio Advertising Bureau website that NABOB cites – which provides marketing tools to radio stations rather than “evidence” upon which the Commission could reasonably rely – similarly indicates that radio stations and newspapers each earn portions of local advertising revenues, but not that they are direct substitutes.

¹⁷ Indeed, the Radio Advertising Bureau website that NABOB relies on explains various differences between radio and newspapers as advertising vehicles, and suggests that radio stations should advocate that advertisers add radio to any advertising campaign based on its unique capabilities.

¹⁸ 2014 FNPRM, ¶ 139 & note 388; 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, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13748-53, ¶¶ 331-41 (2003); 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, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, 2032, ¶ 39 n.131 (2008); see also *United States v. Jacor Communications Inc.*, 1996 WL 784589, *10 (S.D. Ohio 1996); *Community Publishers Inc. v. Donrey Corp.*, 892 F. Supp. 1146, 1155-1157 (W.D. Ark. 1995); Joel Klein, Assistant Attorney General/Antitrust Division, Address at ANA Hotel on DOJ Analysis of Radio Mergers (Feb. 19, 1997), <http://www.justice.gov/atr/public/speeches/1055.pdf> (last visited Sept. 3, 2014).

Finally, although Morris shares the concerns of the Commission and others with respect to the disproportionately low levels of minority and female ownership in the broadcast industry, there remains no actual evidence of a link between ownership diversity and newspaper/broadcast cross-ownership. While those who claim otherwise raise the theoretical concern that allowing newspaper/radio cross-ownership might have an adverse impact,¹⁹ they have yet to substantiate their claims. Indeed, the NBCO Rule has been in effect since 1975, and has done nothing to halt the diminishing levels of minority or female ownership of broadcast stations. Given this complete lack of empirical evidence, the Commission cannot justify retaining the NBCO Rule – and certainly not its radio component – based on concerns about ownership diversity.²⁰ Instead, the Commission must recognize that increased flexibility for broadcast owners would benefit all owners, including women and minority owners, and should adopt targeted solutions that directly address the disparities in ownership for women and minorities rather than clinging to outdated restrictions that harm all owners as they seek to adapt to the evolving media marketplace.²¹

* * * *

The record in this proceeding – and in the many proceedings that have come before it – conclusively establishes that the time has long since passed to eliminate the antiquated ban on newspaper/broadcast cross-ownership or, at the very least, its radio component. There is no evidence that the prohibition is needed to promote any of the Commission’s public interest goals, and its maintenance is unnecessarily shackling newspaper and broadcast owners as they struggle

¹⁹ See, e.g., UCC et al. Comments at 41-43; NHMC Comments at 12-13; NABOB Comments at 13-14.

²⁰ Morris Comments at 43-45.

²¹ See *id.*; see also *Morris Ownership Report Reply Comments* at 5–6 (filed Jan. 4, 2013) (listing six proposals that the Commission should consider to enhance the ability of minorities and women to expand their presence in the broadcast industry).

to compete in today's ever-expanding media marketplace. Despite decades of proceedings to consider revisions to the rule, proponents of continued regulation have yet to offer any actual evidence that repeal will cause demonstrable harm, but instead continue relentlessly to repeat their long-discredited mantras and doomsday predictions in favor of the restrictions. It appears that these parties will *never* be satisfied that the media marketplace of today has moved far enough away from that which existed in 1975 to warrant repeal. In order to justify retaining the rule, however, the Commission must show that it remains "necessary in the public interest,"²² which the agency cannot do. Accordingly, the Commission should move promptly to repeal the NBCO Rule or, at a minimum, its radio component.

Respectfully submitted,

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²² Telecommunications Act of 1996 ("1996 Act"), Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12, as amended.