



# PUBLIC NOTICE

Federal Communications Commission  
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**DA 04-320**  
**February 19, 2004**

**MB Docket No. 02-277**

**MEDIA BUREAU SEEKS ADDITIONAL  
COMMENT ON UHF DISCOUNT IN LIGHT OF RECENT LEGISLATION  
AFFECTING NATIONAL TELEVISION OWNERSHIP CAP**

**Comment Date: 21 days from date of publication in the Federal Register**

**Reply Comment Date: 31 days from date of publication in the Federal Register**

On June 2, 2003, the Commission adopted the 2002 Biennial Regulatory Review *Report and Order* in this proceeding.<sup>1</sup> Among other things, the *Report and Order* raised the Commission's national television multiple ownership limit<sup>2</sup> from 35 percent to 45 percent.<sup>3</sup> The *Report and Order* also retained the Commission's 50% UHF discount.<sup>4</sup>

On January 22, 2004, President Bush signed into law the Consolidated Appropriations Act, 2004, H.R. 2673.<sup>5</sup> Section 629(1) of the Appropriations Act amends Section 202(c) of the Telecommunications Act of 1996 ("Telecom Act"), and directs the Commission to modify the national television ownership limit to 39 percent. Pending petitions for reconsideration ask the

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<sup>1</sup> *In the Matter of 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, and Definition of Radio Markets for Areas Not Located in An Arbitron Survey Area ("Report and Order")*, 18 FCC Rcd 13620 (2003), appeal pending *sub nom.*, *Prometheus Radio Project, et al. v. FCC*, Nos. 03-3388, *et al.* (3d Cir.). The rule changes adopted in the *Report and Order* were stayed by the U.S. Court of Appeals for the Third Circuit and did not go into effect.

<sup>2</sup> 47 C.F.R. § 73.3555(e).

<sup>3</sup> *Report and Order*, 18 FCC Rcd at 13814-47.

<sup>4</sup> *Id.* at 13845-47.

<sup>5</sup> Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3 (2004) ("Appropriations Act").

Commission to reconsider its decision to retain the UHF discount, urging its immediate elimination.<sup>6</sup> We are opening a limited comment period in order to afford petitioners and commenters an opportunity to update the record as to the effect, if any, of the Appropriations Act on our authority and decision in this area. We invite comment as to whether the enactment of the 39% national cap affects our authority to modify or eliminate the UHF discount. For example, does passage of the 39% cap signify congressional approval, adoption, or ratification of the 50% UHF discount?

Comments must be filed on or before [21 days after publication of the PN in the Federal Register]; and reply comments must be filed by [31 days after publication in the Federal Register]. Comments and reply comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies (an original and four copies). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998). All comments should reference MB Docket No. 02-277. We incorporate by reference the Initial Regulatory Flexibility Analysis published in the *Notice of Proposed Rulemaking* in this proceeding.<sup>7</sup>

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail,

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<sup>6</sup> See petitions for reconsideration filed by the Amherst Alliance and Virginia Center for the Public Press; Capitol Broadcasting Company, Inc.; and Office of Communication of the United Church of Christ, Inc., Black Citizens for a Fair Media, Philadelphia Lesbian and Gay Task Force, and Women's Institute for Freedom of the Press (UCC *et al.*) The full text of the petitions for reconsideration, the oppositions, and the replies, is available electronically at <http://www.fcc.gov/cgb/ecfs> under MB Docket No. 02-277, or from the Commission's duplicating contractor, Qualex International, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C., 20554, (202) 863-2893.

<sup>7</sup> 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*, 17 FCC Rcd 18503 (2002), Appendix A.

Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

*Availability of Documents.* Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. These documents also will be available electronically from the Commission's Electronic Comment Filing System. Documents are available electronically in ASCII text, Word 97, and Adobe Acrobat. Copies of filings in this proceeding may be obtained from Qualex International, Portals II, 445 12<sup>th</sup> Street, S.W., Room, CY-B402, Washington, D.C., 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (TTY).

For further information contact Debra Sabourin or Patrick Webre, Media Bureau at (202) 418-2330.

By the Chief, Media Bureau

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