



Federal Communications Commission
Washington, D.C. 20554

DA 16-1252

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Re: Petition for Reconsideration
MB Docket No. 06-121 et al.

Ms. Campbell:

On March 24, 2008, Common Cause, the Benton Foundation, Consumer Action, Massachusetts Consumers' Coalition, NYC Wireless, James J. Elekes, and National Hispanic Media Coalition (jointly, Petitioners) filed a petition for reconsideration (Petition) of certain aspects of the *2006 Quadrennial Review Order*.¹ For the reasons discussed below, we dismiss the Petition because there are no longer any active issues for the Commission to consider.²

The Petition sought reconsideration of several of the rules adopted in the *2006 Quadrennial Review Order*; specifically, Petitioners argued that the Commission should modify the 2006 Newspaper/Broadcast Cross-Ownership (NBCO) Rule and tighten the Local Television and Local Radio Ownership Rules.³ The challenges of these media ownership rules were either addressed or rendered moot by the subsequent *Prometheus II* decision—in which the court vacated the 2006 NBCO Rule and upheld the Local Television and Local Radio Ownership Rules—and the recently adopted *Second Report and Order* concluding the 2010 and 2014 quadrennial review proceedings.⁴

¹ See *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 et al.*, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010 (2008) (*2006 Quadrennial Review Order*).

² The Media Bureau takes this action pursuant to the authority delegated to it under Section 1.429(l) of the Commission's Rules. 47 CFR § 1.429(l). That section provides that the relevant bureau may dismiss a petition for reconsideration of a Commission action if that action “plainly do[es] not warrant consideration by the Commission.” *Id.* In this case, as discussed below, the issues raised in the Petition have already been addressed and/or the relief requested cannot be granted; thus, it plainly does not warrant Commission consideration. See, e.g., *Petition for Reconsideration of 2004 Second DTV Periodic Report and Order*, Letter Order, 27 FCC Rcd 13001 (MB 2012) (dismissing various petitions for reconsideration pursuant to 47 CFR § 1.429(l)).

³ See Petition of Common Cause et al. for Reconsideration of the 2006 Quadrennial Review Order, MB Docket No. 06-121, at 1-7, 11-23 (filed Mar. 24, 2008), <http://apps.fcc.gov/ecfs/document/view?id=6519868534> (Petition).

⁴ See *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 et al.*, Second Report and Order, FCC 16-107 (Aug. 25, 2016) (declining to tighten the Local Television Ownership Rule and the Local Radio Ownership Rule and adopting a revised NBCO Rule); *Prometheus Radio Project v. FCC*, 652 F.3d 431, 445-54, 458-63 (3d Cir. 2011) (*Prometheus II*).

In addition, Petitioners challenged the Commission's grant of five permanent waivers of the NBCO Rule—one to Gannett Co., Inc. (Gannett) and four to Media General, Inc. (Media General).⁵ In each of the five markets, the waivers approved an existing combination of a single broadcast television station and a newspaper acquired after the date of the broadcast station's last renewal.⁶ The waivers involved Gannett's combination in the Phoenix, Arizona, DMA (KPNX-TV and *The Arizona Republic*) and Media General's combinations in the Myrtle Beach-Florence, South Carolina, DMA (WBTW(TV) and the *Morning News*); Columbus, Georgia, DMA (WRBL(TV) and the *Opelika-Auburn News*); Tri-Cities DMA (WJHL-TV and the *Bristol (Virginia Tennessee) Herald Courier*); and Panama City, Florida, DMA (WMBB(TV) and the *Jackson County Floridian*).

Subsequent to the filing of the Petition, all of the newspaper/television combinations challenged in the Petition were severed by the parties: (1) Media General sold WMBB(TV), eliminating the combination in the Panama City DMA;⁷ (2) Media General sold the *Morning News*, the *Opelika-Auburn News*, and the *Bristol (Virginia Tennessee) Herald Courier*, among other properties, to Berkshire Hathaway in a transaction completed on June 25, 2012, eliminating its remaining combinations;⁸ and (3) on June 29, 2015, Gannett executed a split, whereby Gannett was renamed TEGNA and its publishing and certain other assets were spun off to a newly formed, independent company that retained the Gannett name.⁹

As noted herein, the Petition's challenges of certain of the media ownership rules were already addressed by the court in *Prometheus II* and the Commission in the recently adopted *Second Report and Order*, and the combinations approved in the challenged NBCO waivers have already been severed by the

⁵ Petition at 7-11. In seeking judicial review of the *2006 Quadrennial Review Order*, certain litigants not party to the Petition (including Free Press, Media Alliance, UCC, and Prometheus Radio Project) also challenged the permanent waivers. See *Prometheus II*, 652 F.3d at 454-56. The court declined to consider that challenge because those litigants had not filed a petition for reconsideration before seeking judicial review (see 47 U.S.C. § 405(a)), noting the existence of the Petition that was under consideration by the Commission. See *Prometheus II*, 652 F.3d at 455-56.

⁶ Under the NBCO rule, as adopted in 1975, a broadcast station licensee that purchases one or more daily newspapers in the same market as its station is required to dispose of the station within one year, or by the time of its next renewal date, whichever is longer. See *Amendment of Sections 73.34, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations*, Second Report and Order, 50 FCC 2d 1046, 1076, para. 103 n.25 (1975). To avoid station divestiture, the licensee may choose to apply for a waiver of the rule. In the *2006 Quadrennial Review Order*, the Commission found that the public interest warranted waivers for Gannett and Media General in light of the following: (1) the synergies that had already been achieved by the combinations; (2) the news services provided to local communities by the combinations; (3) the harms associated with required divestitures; (4) the prolonged period of uncertainty surrounding the status of the NBCO ban; and (5) the length of time that the waiver requests had been pending. See *2006 Quadrennial Review Order*, 23 FCC Rcd at 2055-56, para. 77.

⁷ A Consummation Notice was filed for this transaction on July 16, 2008 (File No. BALCT-20080327ACW).

⁸ See Media General, News Release, *Media General Completes Sale of Newspapers to Berkshire Hathaway*, http://www.mediageneral.com/press/2012/june25_12.html (June 25, 2012) (announcing Media General's sale of 63 daily and weekly newspapers to World Media Enterprises, Inc., a subsidiary of Berkshire Hathaway, Inc.).

⁹ Gannett, News Release, *Gannett Completes Company Split to Move Forward as the Nation's Largest Local-to-National Media Company*, <http://investors.gannett.com/press-release/gannett-completes-company-split-move-forward-nations-largest-local-national-media> (June 29, 2015). TEGNA, following the spin-off, no longer has an attributable interest in the publishing assets that were subject to the NBCO waivers challenged in the Petition.

parties in the normal course of business. Accordingly, because there are no longer any active issues for Commission consideration, we **DISMISS** the Petition for Reconsideration of the *2006 Quadrennial Review Order* filed by Common Cause, the Benton Foundation, Consumer Action, Massachusetts Consumers' Coalition, NYC Wireless, James J. Elekes, and National Hispanic Media Coalition.

Sincerely,

William T. Lake
Chief, Media Bureau