

**Statement of Chairman Michael Powell
Public Hearing on Broadcast Ownership
Richmond Convention Center
Richmond, Virginia**

February 27, 2003

Good morning and welcome to this FCC field hearing on broadcast ownership. Let me get right to the question on all of our minds this morning: What is it with FCC field hearings and snowstorms?

Actually this snow only heightens my gratitude for the sacrifices our panelists have made to be here today. It is commendable that they agreed to take time out of their busy schedules to prepare for and participate in today's hearing. Given the weather conditions, their efforts are deeply appreciated.

I would also thank Dane Snowden and his tireless team for making this broadcast ownership hearing happen. Until you've actually tried to set up a field hearing like this, you may not appreciate how much work is truly involved. They did a fabulous job and I appreciate their work.

I am enormously pleased so many people have expressed an interest in the Commission's review of broadcast ownership regulations. The number of comments we have received is staggering—15,000 from the general public alone. It is gratifying to witness first hand the unparalleled opportunities technology now provides the American public to participate in the democratic process. This record combined with the forum we are holding today, will create one of the most exhaustive records in recent FCC history.

I am particularly pleased to see that the staff arranged for the leadoff presentation to address "legal issues." There are issues in media policy far sexier than the legal framework, but none is more critical if you want to understand how we will make ownership policy decisions.

For better or worse, the FCC has hundreds of rules and regulations currently on its books. Each day, when my colleagues and I come to work in the morning, we have plenty to do. Thankfully, one thing we don't have to do is re-justify every rule in the book. Each existing rule is presumed to be as valid today as it was yesterday.

The broadcast ownership rules are fundamentally different. Every two years, the Commission is required by statute to review the broadcast ownership rules. And when it does, it is legally required to presume each rule is no longer needed unless we find otherwise. Unless we can re-justify each broadcast ownership rule under current market conditions, the rule goes away.

Under this new standard of review, courts have become far more skeptical of FCC rationales for imposing limits on broadcast ownership. Five times in the past two years we have defended our ownership rules in court. Five times we have lost. To put it in terms that hard core baseball fans can appreciate, 0 for 5 puts the Commission below even the “Mendoza line.”

The common theme of the courts’ criticism is that we have failed to justify our rules in light of today’s media environment. What the courts have told us, in no uncertain terms, is that the biennial standard is a rigorous test. Either we produce evidence that a rule is still necessary, or we must eliminate it.

If the Commission does the same half-hearted effort it did in the last Biennial Review, I guarantee you that every one of the broadcast ownership rules will be swept away by the courts. Let’s see if we can put that genie back in the bottle.

Yet we all agree that some broadcast ownership limits are critical if we are to maintain a robust marketplace of ideas. The public interest is all about promoting diversity, localism, and competition. We can achieve these goals – and the courts will agree with us -- if we do it the right way.

The right way is building rules that reflect today’s media market. We do that by gathering evidence on the critical questions: How do Americans use the media? Where do they get news from? What industry structure best promotes diverse and innovative media content?

The FCC staff kicked off that effort by conducting a dozen studies on the workings of the media. Whatever those studies suggest for ownership policy, they make an important procedural point – that this rulemaking will be driven by evidence, not intuition or personal preference. This agency tried personal preference in the last biennial and got hammered in court for it.

That’s why we have proceeded methodically this time around. The court cases gave us clear guidance on how to do the biennial review correctly. We took that guidance to heart, we conducted a large number of media studies, and then we began the biennial. We had a long comment period so interested parties could formulate their own views and provide us with them. And several public hearings, including today’s, are being held around the country.

I hope today’s hearing will build on the enormous record already before us. We have specifically set aside time for members of the public to air their views and I very much look forward to hearing them.

Finally, let me once again thank the panelists for agreeing to join us today to share their views. The speakers with us today are an enormously talented and accomplished group, and I very much look forward to their statements and the subsequent dialogue.

