

## **Opening Statement of Commissioner Jonathan Adelstein**

### **FCC Field Hearing on Media Ownership Duke Law School, Durham, NC March 31, 2003**

First I'd like to thank Commissioner Copps, for calling on the FCC Commissioners to get out of D.C., so that we can hear from folks beyond the Beltway on these issues that are so important to all Americans. Commissioner Copps and his staff have worked incredibly hard putting today's panels together, and I thank them for that. Thank you too to Congressman Burr and Congressman Price for participating. Your presence indicates the critical importance of this undertaking.

We've now attended several hearings across the country. They've really shown me the value of hearing from people outside the normal run of lobbyists that visit us in Washington. We've heard some lively debate from the panelists we invited and citizens who gave us their direct input.

I'm delighted to continue that discussion here in North Carolina. The hearings have been a great way for me, the newest Commissioner at the FCC, to grapple with these issues.

As Commissioner Copps has underscored, the media ownership decisions that the FCC is about to make are enormous. The media market is not like other consumer product markets. The structure of the media market dictates not just the price you'll pay for a particular consumer good – like the price of breakfast cereal or a candy bar -- but rather the vitality of what the Supreme Court has referred to as the “uninhibited marketplace of ideas,” the diverse range of media voices that are the very core of our Democracy.

I'd like to read a bit from that seminal First Amendment decision, Red Lion. In that case, the Supreme Court held that (quote): “It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC.”

That Supreme Court case is every bit as pertinent to our discussion of the ownership rules as the D.C. Circuit opinions that have asked the Commission to justify our current ownership rules. Thus, while we work to build a solid evidentiary record to support our rules, we must bear in mind the Supreme Court mandate and make the decisions that best promote the public interest.

Historically, the FCC has interpreted the public interest to mean three core goals: diversity, localism, and competition.

I do not believe these decisions can rest *entirely* upon empirical evidence. To be sure, we must examine quantitative data. I commend the Chairman's leadership in conducting the FCC-sponsored ownership studies. Those studies and the critiques of them offered by interested parties are a key part of the current record. But these questions don't lend themselves to purely

quantitative answers. We need to hear about your experiences as participants in the media marketplace.

Government rulemaking inherently involves predictive judgments, as does traditional antitrust analysis. Those predictive judgments must be rooted in a solid evidentiary record, but our decisions are not science. The questions before us do not lend themselves to mathematical proofs.

We must not allow the structure of the industries that distribute ideas and creative products to limit the voices that can be heard in this country and in each of our communities. We need to structure our ownership rules so they best promote competition, localism, and diversity. Our task is daunting. It's made even more so given the short time frame in which we must make these decisions – the Chairman recently stated he wants this proceeding wrapped up by June 2.

The FCC must proceed with enormous caution as we reconsider our existing rules. One need only look to the experience in the radio industry to see how quickly a change in rules can affect the face of an industry.

The 1996 Telecommunications Act loosened radio ownership rules, prompting an unprecedented wave of consolidation in the radio industry. The Act entirely eliminated a cap on the number of radio stations a single company can own nationwide. It also relaxed local ownership limits, allowing a single owner to control up to eight stations in the nations' largest markets. What was the result?

In the first year after the Act passed, more than 2100 of the approximately 11,000 radio stations in the U.S. changed hands. And most of these stations were sold to companies that already owned radio stations – many of them former competitors in exactly the same markets. In the six years since the adoption of the 1996 Act, the number of radio owners in the United States declined by 34 percent as existing owners merged, even though the number of commercial radio stations increased by 5.4 percent. In 1996, the two largest radio group owners consisted of fewer than 65 radio stations. Six years later, the largest radio group owns about 1,200 radio stations.

I've compared the experience of the radio industry to the canary in the coal mine. Miners would send a canary down first to see if it survived before they dared to enter. We better examine the health of this canary very carefully before we take any steps that might lead to consolidation in other media outlets.

Consolidation can have good effects. In radio, as in other sectors, economies of scale can lead to services that would not otherwise be possible. But consolidation also carries risks. One risk of consolidation to the public interest is the loss of localism, the degree to which news and information is relevant to, and programming is appropriate for, a particular community. Programming that serves the unique needs of local communities by definition varies from community to community. Consolidation, on the other hand, often leads to the homogenization of programming. Another risk of consolidation is the loss of a diverse array of voices and

viewpoints over our airwaves. Diverse views fuel our public debate and strengthen our democracy.

One rule I'd like to speak briefly about is the newspaper-broadcast cross-ownership rule, which essentially prohibits one company from owning both a newspaper and television station (or radio station) in the same metropolitan area. As with the radio market, we've had a preview of things to come should that ownership rule be relaxed. There are twenty-six markets across the country where cross-ownership already exists. Many of these combinations date back to a time before the FCC adopted its cross-ownership prohibition in 1975 and were allowed to continue under the Commission's "grandfather clause."

Proponents of eliminating the newspaper-broadcast rule have argued that cross-ownership encourages quality. They recognize that a town's newspaper plays a central role in distributing local news and information. The news departments of local newspapers generally have the greatest resources, largest number of reporters, and strongest expertise of any news operation in town and cite the benefits of combining those strengths with broadcast newsrooms.

A recent study by the Project for Excellence in Journalism, a research institute affiliated with the Columbia University School of Journalism, examined this argument and found some evidence to support it in existing cross-ownership situations in six cities, in terms of the quality of newscasts produced by stations co-owned with local newspapers.

I read the study with great interest and continue to explore these issues. What are the implications of this study for our examination of the rule? Do the purported benefits of allowing cross-ownership vary with the size of the market? With the number of local newspapers? How do any benefits weigh against the potential loss of a unique and strong community voice?

Nielson research shows that most people receive their local news and information from newspapers and television. What, if any, are the effects of cross-ownership on the views expressed in newspapers and on television news?

The Project for Excellence in Journalism made other findings concerning the relationship between the ownership structure of the media market and the characteristics of newscasts, ratings, and quality. The study concluded that "the question of media ownership is more complex than some advocates on both sides of the deregulatory debate imagine." Given the complexity of these issues, we can't hear enough debate.

I view this forum as yet another important step in our record-building efforts. It's been noted that we have over 15,000 comments on the record in this proceeding, a huge number by FCC standards. But there are 250 million people in this country, and all of them are affected by this. Today is part of an effort, and we need to make a lot more like it, to reach out and get more input into the decisions we face.

Your participation is a critical part of FCC decision-making. The process depends on it, and, more importantly, the outcome depends on it. There is no way that the Commission can

fully understand the impact that our decisions will have on different constituencies without hearing from them. If we are to craft media ownership rules that best serve the public interest, we must hear from the public, and that's why I'm here to listen to you.

Thanks for joining us, and let's get to it!