

**STATEMENT OF
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USC MEDIA CONSOLIDATION FORUM
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Thank you for inviting me to participate in this important forum. The Annenberg School is once again demonstrating its leadership by convening this event, but, then again, we always expect great things from Annenberg. I know the organizers had to do some heavy lifting to make this a reality, even having to contend with the President's Day blizzard that tied up the East Coast the day on which the forum was originally to be held. So I am pleased and grateful that the School, its dean, Geoff Cowan, and Sandra Ortiz persevered and planned this alternate date. I want to extend very special gratitude, as should we all, to Sandra, who did such an excellent job in bringing this about. I also want to recognize the presence here this morning of my friend, and a great public servant, Representative Xavier Becerra who represents the 31st District of California and who has been a champion on so many issues, including media ownership and media diversity. Thank you, Congressman, for being here with us and for everything that you do. You know, I'm not a person much given to hyperbole, but I believe that, apart from the matters of war and peace that are at the forefront of our national concern right now, no meeting taking place anywhere in America today is tackling issues as important to the future of our country as you are doing here.

At the Federal Communications Commission, we are racing toward a critically important vote on whether to keep, modify, or scrap many of our media concentration protections. The rules at issue limit, among other things, a single corporation from

dominating local TV markets; from merging a community's TV stations, radio stations, and newspaper; from merging two of the major TV networks; and from controlling more than 35% of all TV households in the nation.

Some will say: "Well, OK, but what's so earth-shaking about that?" What is important about it is that there is the potential here to remake our entire communications landscape, for better or for worse, for many years to come. The stakes are enormous, there's no way around it. We are talking about fundamental values and democratic virtues – things like localism, diversity, competition and maintaining the multiplicity of voices and choices that undergird our precious marketplace of ideas and that sustain American democracy. Abstractions? I don't think so. These concepts go to the core of what kinds of entertainment and information we and our children will be watching and hearing. This is about everything we hear and see and read through the media, because at stake is how TV, radio, newspapers and even the Internet are going to look, what role they are going to be playing in each and every one of our lives, and who is going to be controlling them and for what purposes. That's pretty important stuff!

Here is my concern: we are on the verge of dramatically altering our nation's media landscape without the kind of national dialogue and debate these issues so clearly merit. Thirty-five days are all that's left, if FCC Chairman Powell continues to insist that the roll be called on June 2. So in just over a month, the FCC will have voted on this, changed the rules, reconfigured the media landscape, and told the world that, sorry, there's no opportunity or time for public comment on what has been voted into place.

Right after that, prepare to see a veritable gold rush of media company buying and selling. That's what the Wall Street Journal referenced just the other day, and it told of one merger and acquisition firm that's calling media companies saying, "We would like to be your broker." Well, maybe that's what merger and acquisition firms are supposed to do. I just wonder who is going to be America's broker in all this? Somehow I had the quaint idea that maybe the FCC was supposed to pay some attention to that.

And three-quarters of the American people haven't been told that this is even taking place – not told by the Commission, not told by the media! It's like a state secret. It's amazing. We will have a new or substantially changed system in place before most people even know it's up for grabs. And "up for grabs" is the right term, because as I travel around the country holding my own hearings and attending forums like these, I hear about deals in the making, like newspaper-broadcast cross ownership agreements, where the terms are already decided, the deal is done, and all that remains is to fill in the signature blocks after the Commission votes on June 2.

One problem with all this is that, just 35 days out, we have yet to see a draft proposal. We don't know what we'll be voting on yet. At least I don't. We don't have the details, or even the broad configuration, of what the new system will be. And when the proposal is finally put on the table, it will be "Eyes Only," not permitted to circulate outside the Commission for comment. So we will not tee it up for public comment or expert analysis before we vote. This is the way the Commission usually does business, we are told. Well, I submit this is too important to be treated on a business as usual basis.

Thirty-five days out, we still lack understanding of what the consequences – intended and unintended – of the new regime will be. So we don't know where we're going -- and we haven't studied very well where we've been. If that's not a prescription for disaster, then you tell me what is.

So, let me lay out a few principles for this proceeding over the next 35 days.

First, let's start with the premise that it's the people's property we're dealing with. We're not talking about airwaves that a broadcaster or a company owns. We're talking about public airwaves and how they should be used to advance the interests of our citizens. No one has a God-given right to use these airwaves for strictly commercial purposes. Yes, they can be run as a business, but it's a very special business because the licensees granted to right temporarily to use these airwaves are using public property for primarily public purposes in behalf of the public interest.

The Supreme Court laid out the direction for us long ago when it wrote, "(I)t is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee." If we began each debate within that context, I think we would do a much better job as a Commission.

Second, we need to address all of the broad range of issues that have been raised in this proceeding. Some say that this is just an ordinary examination of our rules that we conduct every two years and it's primarily about numbers. Let's not kid ourselves. This is the granddaddy of all reviews and it goes to the heart and soul of how the media will look for years to come. We have opened up virtually all of our rules that shape the media landscape. So when the item comes our way, I hope it will deal with these issues expansively, answer all the questions initially raised, and respond to many questions that the item itself did not ask, but which commenters have brought to us, because some of these questions are profoundly important.

So certainly we should not limit ourselves to the narrow question of whether to scrap or significantly modify existing limits. Some parties have addressed the need to require more independent programming on our airwaves so that a few conglomerates do not control all of the creative entertainment that we see. These proposals should receive the serious attention they deserve in our decision. For years, the Commission limited both horizontal (distributional) concentration *and* vertical (production) concentration. Then we loosened the vertical safeguards. Now we seem intent on loosening the horizontal. Let's look instead at an arrangement with some balance in it.

Others have suggested the need for an effective license renewal process under which the Commission would once again actually consider the manner in which a station has served the public interest when it comes time to renew its license. We used to do that. But the system has evolved, I think unfortunately, into one of basically post-card

license renewal. Unless there is a major complaint pending against a station, the license is almost automatically renewed. A real, honest-to-goodness license renewal process, predicated on advancing the public interest, might do more for broadcasting than all these other rules put together. If it is properly designed, it could avoid micro-management on a day-to-day basis in favor of a comprehensive look at how a station has discharged its public responsibilities over the term of its license. I hope that we will at least talk about it.

On a little different level, another issue I hope the item addresses is the so-called UHF Discount. In this modern TV world, with digital coming our way, is there still good reason to count an UHF station as only half a VHF station in terms of audience reach? Any audience reach cap is immediately breached when a station can reach 100,000 people but only has to count 50,000 of them. That can make something of a mockery of the cap.

My point is that this is the time to look and focus broadly and comprehensively. That's where we were told we were going. Now I want to see an item proving it. I will be disappointed if, when we see the proposals, these kinds of issues are not addressed and this decision becomes a narrow construct or litmus test that reflects only a rush to eliminate the existing constraints on excess media consolidation. If, on the other hand, we take a balanced, measured approach, engage in fact-finding and open-minded discussion, I believe the Commission could reach something resembling a consensus. How much better it would be to have a 5-0 vote on such a great question rather than a 3-2 vote that

encourages litigation and confusion more than it brings clarity and direction. That is a result that would be good for the Commission and, more importantly, good for the country. When the issues go to the very heart of our American democracy, the American people deserve no less.

Third, if we change our rules, we should do so in a manner that affords us the opportunity to analyze the impact of increasing consolidation before the genie is completely out of the bottle. Radical reform of the current system could produce negative consequences that would be difficult to fix. I've already mentioned the feeding frenzy of consolidation that will follow significant relaxation of the rules. Suppose for a moment that the Commission votes to remove or significantly modify the ownership limits on June 2. And suppose, just suppose, that it turns out to be a mistake. How would we ever put that genie back in the bottle? The answer is that we could not.

Before we plunge ahead to remake the media landscape, we need to better understand the current media landscape and the implications of eliminating concentration protections. We do have some experience to learn from – and that is what happened to radio after Congress and the Commission changed the rules of the game seven years ago. Many believe that the loosening of ownership caps and limits that took place then created real problems in radio. Arguably, consolidation also created some economies and efficiencies that allowed broadcast media companies to operate more profitably and may even have kept some stations from going dark and depriving communities of service. But

the consolidation went far beyond what anyone expected. Conglomerates now own dozens, even hundreds – and, in one case, more than a thousand – stations all across the country. More and more of their programming seems to originate hundreds of miles removed from listeners and their communities. And we know there are one-third fewer radio station owners in 2003 than there were before these protections were eliminated. The majority of radio markets are at best oligopolies.

It raises serious questions. Some media watchers like the Media Access Project, Consumers Union, and Professor Robert McChesney argue that this concentration has led to less coverage of news and public interest programming. The Future of Music Coalition in its multi-year study finds an homogenization of music that gets air play and that radio serves now more to advertise the products of vertically integrated conglomerates than to entertain Americans with the best and most original programming.

So, should we eliminate, or substantially change, the protections that remain for television, cable, and newspapers? And should we provide additional stimulus for even more radio consolidation? These questions raise profound questions of public policy. How far should such combinations be allowed to go? What is their impact on localism, diversity and the availability of choices to consumers? Does consolidation serve the public interest? How do we judge these things?

There are so many answers that we just don't have. Indeed, we haven't even teed up all the questions that should be asked before we speed down the road. What are the

likely effects of further consolidation going forward? What are the effects on small businesses and on advertisers, particularly small, local advertisers? What are the possible effects on our children? Some have suggested that perhaps there is a correlation between the rising tide of indecent and violent programming and the rising tide of media consolidation. I don't know the answer to that question, but it needs to be asked and at least *some* record compiled before we vote. What effects do technological changes have on the ownership debate? We are in the midst of a transition to digital television, giving stations the ability to multicast many different channels. Might not the reality of a station having six or seven channels instead of just one have *some* effects on the competitive landscape in a particular media market? Shouldn't we be looking at this? Why aren't we?

What does further consolidation mean in terms of providing Hispanic Americans and African Americans and Asian-Pacific Americans and Native Americans and other groups the kinds of programs and access and viewpoint diversity and career opportunities and even advertising information about products and services that they need? America's strength is, after all, its diversity. America will succeed in the Twenty-first century not in spite of our diversity, but *because* of our diversity. Diversity is not a problem to be overcome. It is our greatest strength. And our media need to reflect this diversity and to nourish it. It takes no rocket science to understand that changing the rules of media consolidation is likely to have far-reaching effects on different groups. Why not ask these questions *before* we change the rules instead of creating the potential for even more harm?

So we need to get this right. If we do not have an adequate record -- and we don't -- we should not hesitate to get more evidence. Why let some artificial deadline prevent us from obtaining adequate evidence to make an informed decision that will avoid unintended consequences and will allow us to withstand court scrutiny? For example, if we are going to adopt some complicated new formula for measuring diversity, we should provide the public an opportunity to comment before it is adopted. It seems to me that if we took a couple of months to circulate such ideas and get public comment, they would have a much better chance of standing up in court than some set of numbers that has never seen the light of day.

Some accuse me of delay. I reject that charge. I went into this last year believing that if the Commission really worked at it, got around the country looking at various markets, talking to people, collecting data and really reached out, we had a shot at building an adequate record for a timely vote this year. I have tried to do that. Commissioner Adelstein has tried to do that. That is why we have been traveling across the country to hold hearings and to attend forums such as this one today, from Los Angeles and Los Angeles to Burlington, Vermont, from Chicago to Durham, North Carolina. This past Saturday, Commissioner Adelstein was in San Francisco for a forum there, and I understand it was very productive.

Everywhere we have been, we have learned new facts, received new perspectives, and come to understand how important this issue is to our fellow citizens. We have seen a truly sobering outpouring of concern in all these places. People don't have any trouble understanding this issue. The principles at stake are fundamental and part of most

people's approach to democracy. So they quickly appreciate what is at stake. If more people knew this decision was imminent – if the Commission did its outreach job and told them, and if big media, particularly the networks, met their public interest responsibility and told them – this would be a truly major grassroots issue all across America. That's what it should be. Must be. Let me add that the major networks' refusal to cover this issue has been just absolutely dreadful.

I know this forum will add to our knowledge and provide us with additional perspective. But you cannot let it end here. You can't allow that. Take what you learn today, share it with others, and do your part -- and even more -- to encourage the fullest possible national discussion of these issues in the very few weeks that remain -- 35 days and counting down -- before Chairman Powell closes the discussion and forces the vote. As an FCC Commissioner, I have a duty to encourage this kind of discussion and to help build the record. But so do we all as concerned citizens.

Thank you.