

Remarks by Commissioner Jonathan S. Adelstein
Northern California Hearing on FCC Media Ownership Rules
San Francisco City Hall
April 26, 2003

*“Citizen Kane for the 21st Century?”
The Defining Moment for Media Ownership”*

Thank you for that warm welcome. It’s a real breath of fresh air to get outside Washington, especially back to the Bay Area, to hear your views about media consolidation. This hearing gives your voices the opportunity to join the emerging national dialogue on an issue that impacts everyone who lives here.

I’m especially thankful to the Media Alliance for the legwork in setting this up, and for the leadership – and cosponsorship – of a number of the Bay Area’s leading institutions of higher learning – the USF Media Studies Department; the UC Berkeley Graduate School of Journalism; the Hastings Law School’s Communication and Entertainment Law Journal; and the Stanford University Communication Department – my alma mater, I might add.

The FCC is about to make historic changes to our media ownership rules that will affect each of us as media listeners and viewers. The current rules are designed to prevent individual companies from gaining too much control over what we see, hear, and read.

The public – that’s all of you – own the airwaves. We at the FCC are responsible for overseeing the airwaves in your interest – not in the interests of the corporations that profit by using them. That’s not just the moral thing to do – it’s the law. I’m afraid that we are about to forget that.

If we make the tragic mistake of allowing too much further media concentration, we won’t be able to undo it. Once companies merge, the FCC never asks them to undo it. You can’t put the toothpaste back in the tube. The FCC could unalterably change the face of the American media for generations to come. This proceeding is so big, it feels like we’re going to straight to the Superbowl without having even begun the regular season.

The current FCC media ownership rules are grounded in the three basic public policy goals that form the foundation of American broadcasting – competition, diversity, and localism. They now make it difficult for one company to own both a newspaper and a television station serving the same community. They also cap the number of television or radio stations that one owner can control in a single area, as well as the number of

television stations that one company can own nationwide. Another rule bars the four major TV broadcast networks from merging with one another.

All these rules are now up for grabs. The decisions we will soon make will have profound implications for our culture and our society. They will affect the diversity of voices that are heard across this country and in each of our communities every day.

Regretfully, many Americans have heard nothing at all about the potential rule changes. I hope we can change that, and that's why I'm here.

But it's almost too late.

FCC Chairman Michael Powell has vowed that nothing will stop the agency from overhauling these rules by June 2. He even dismissed recent Congressional requests for more information and more time. Earlier this month, a bipartisan group of fifteen Senators, including your own Senator Barbara Boxer, asked the Chairman to hold off on any changes until the FCC discloses more detail about its proposed rules so that Congress and the public can have an opportunity to respond.

A similar letter followed from the Congressional Hispanic Caucus, which is concerned about protecting and promoting minority ownership in media, as well as the impact of media consolidation on the Latino community.

The Chairman cast aside these Congressional requests, announcing he will go forward full steam ahead despite these mounting concerns. So June 2d will become the defining moment for American media ownership rules.

This issue is as important as any other the country faces, apart from war and peace, but the network media aren't covering it. It's critical for us to hear from the public before then. But to comment on the vital issues at stake, the American public and its representatives in Congress need more information. Many rumors are swirling around the Capital about the use of a so-called "diversity index" and other approaches the FCC could take to overhaul these rules. Given that June 2 is now only 37 days away, many people are understandably bewildered about what framework they will face on June 3rd.

Since we are charged with serving the public interest, the FCC should never be afraid of public comment. It only strengthens the ultimate product. It could help us avert unintended consequences. Perhaps most importantly, public comment on a new plan is required by law, as the Office of Advocacy of the US Small Business Administration recently alerted Chairman Powell.

Chairman Powell has stated that the public had every opportunity to comment on a notice the FCC sent out last year. The problem is, now that we are crafting a new proposal, the public has never had opportunity to comment on the specifics. On an issue of this magnitude, the FCC has a legal and moral obligation to provide the public with more specific information before sealing it into federal regulations.

That's why, as a backstop, I recently asked the Chairman to alert the public to at least the broad outlines of the plan in an open forum. I even suggested we could hold a public briefing soon to accommodate his June 2d timeframe, despite my concern about a rush to judgment. Even something like this – which would fall short of the Administrative Procedure Act's full notice and comment procedures – would go a long way toward helping the public understand what is happening within the confined walls of the FCC. He rejected my proposal, along with the others.

The stakes of this proceeding couldn't be higher. The mass media shapes our thoughts, decisions, and values more than we might imagine. Since our media ownership rules were established, Americans have more forms of media than ever. But does the availability of a greater number of channels necessarily translate into a greater number of diverse voices for accessing local news and information? I'm not so sure.

I think our local communities are better served by hearing many voices discussing the issues of the day on various outlets -- rather than a handful of giant voices booming loudly across a range of media outlets they own. Diverse views fuel our public debate and strengthen our democracy. We need more voices in the nation's media, but not from one ventriloquist.

A big issue before us is allowing a single company to own a variety of different forms of media outlets, which is currently addressed by our cross-ownership rules. If the FCC jettisons these rules, what would it put in their place? I happen to believe that a properly-crafted framework for assessing viewership across media in a particular local market could serve as a proxy for cross-ownership rules. But any gauge of diversity the FCC employs must recognize the singular importance of the media in civic discourse, and protect against too much concentration.

Because the media isn't like other consumer goods. Unlike cereal or ketchup, mass media has viewpoints attached to it. Control of the media affects the vibrancy of what the Supreme Court has called the "uninhibited marketplace of ideas." It affects the very health of our democracy. The Supreme Court has said that the FCC may not abridge the right of Americans to have access to ideas and to creativity.

Critics say that loosening the media ownership rules will unleash media giants to intensify their grip on the news business, drive local voices off the air, and block a variety of political viewpoints from reaching the airwaves.

While consolidation can have positive effects, such as economies of scale, our job is to protect the public, not corporations that naturally seek efficiencies. And consolidation carries tremendous risks, like the loss of localism. Television and radio stations in the U.S. are licensed to serve individual communities, both as outlets for local expression and local artists and as sources of local news and information. The public deserves – and the laws require – programming that serves the unique needs of local

communities. Consolidation, on the other hand, often leads to the homogenization of programming.

Evidence shows that television and newspapers are by far the most important sources of local news and public affairs information. Newspaper magnate William Randolph Hearst understood the key power of local news outlets. You here in the Bay area know a bit about Mr. Hearst and the power of local media. When asked why he preferred concentrating on newspapers with their limited, regional appeal, rather than spending more energy on motion pictures and their worldwide audience, he pithily replied, “I thought of it, but I decided against it. Because you can crush a man with journalism, and you can’t with motion pictures.”

We may be on the verge of creating a 21st Century Citizen Kane, or maybe a handful of them.

I’ve heard the arguments made by those seeking to abolish the newspaper-television cross ownership rule that common ownership is needed for newspaper companies to stay afloat, or to produce better quality news. But we need to question if mergers are the only way to accomplish this. If efficiencies are gained by merging a newspaper with a TV station, then wouldn’t the same benefits come from a joint news-gathering agreement between the two entities? That arrangement could at least preserve separate ownership and separate editorial and managerial control – which would help to ensure diverse viewpoints. We should decide if some of the claimed efficiencies can be gained short of an outright merger.

Even assuming newspapers are cash-strapped, as some claim, what does this tell us? To me, it means there is slim hope that any new newspapers will get created. That means we better tread very carefully with ownership of the precious few daily newspapers that still exist.

If you don’t think changes in these rules can affect you, tune into today’s radio. In 1996, Congress, not the FCC, relaxed the rules governing who can own radio stations, prompting an unprecedented wave of consolidation. In the first year after the Act passed, more than 2100 of the approximately 11,000 commercial radio stations in the U.S. changed hands. And most of these stations were sold to companies that already own stations, many of them former competitors in the same markets. Radio conglomerates now centralize broadcasting from remote headquarters and pump homogenized playlists to stations across the country. The largest radio station group owns 1,240 stations, up from 40 before the rule change.

A town in North Dakota called Minot felt the effects recently. When a train carrying ammonia derailed and released a noxious cloud of gas, police sought to alert the community to steer clear. So the police called the local radio stations, all six of which are owned by Clear Channel Communications. But the company had pared down its local operations and nobody was there to pick up the phone. Three hundred people were

hospitalized. For that community, the loss of localism and diversity in the media affected every resident in a very tangible and devastating way.

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 enter. We'd better examine the health of this canary carefully before we take any steps that might lead to consolidation in other media outlets like TV, cable and newspapers.

What's the rush to make major changes now? The FCC should focus on putting in place a workable structure, one that survives scrutiny by the courts, and then over time adjust the levels to allow for greater consolidation after it's proven that the initial levels didn't hurt the public. The law provides a structure for the FCC to review these media rules periodically. Why not focus now on implementing a workable structure, and then work towards greater loosening in the years to come, as we learn more about the implications of greater consolidation on localism and diversity.

The FCC should proceed with enormous caution. Our rules are intended to prevent a Citizen Kane-like figure from amassing too much control of the media and dominating civic discourse. But caution and speed tend not to mix well in any context, and particularly not when the safeguards of our democracy are concerned.

As we proceed at lightning speed now towards June 2d, I hope that Chairman Powell will provide the public with an inkling of what's to come, so that we can debate the effect of any concrete proposal he discloses – that's what a public rulemaking proceeding should be all about.

Each of you here today should be a part of that dialogue. I can't emphasize enough the importance of your participation. 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.

So let's get to it and begin our discussion.