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FCC COMMISSIONER JONATHAN S. ADELSTEIN CALLS ON FCC TO FIX ANOMALY IN NEW MEDIA RULES BEFORE THEY TAKE EFFECT:

NEW FCC RULES COUNT MINOT AS BIGGER MEDIA MARKET THAN DETROIT

Washington – Commissioner Adelstein today called on the FCC to reconsider its new media ownership rules to fix an anomaly that allows greater concentration in small markets.

Adelstein stated: "In an apparent blunder, the FCC's new rules count Minot, North Dakota, as if it had more TV stations than Detroit, Michigan. Many small markets are now considered among the largest in the country. I'm asking my colleagues to reconsider the rule changes so we can fix this anomaly before new mergers take place that let a single owner dominate the media in many smaller towns."

The new rules count each noncommercial TV station as a separate station even if they repeat the same broadcast across a state. Many sparsely populated but geographically large TV markets like the Dakotas have statewide public broadcasting systems that repeat the same signal over several transmitters across the state. They are over-counted under the new rules, exposing more communities to media consolidation than ever intended.

Until June 2nd, the FCC's local television and cross-ownership rules required a certain number of independent voices remaining in the market. Stations with common ownership and duplicative programming, whether commercial or noncommercial, were not counted as independent voices under the old system. The new rules no longer require independent voices, but are triggered by the total number of TV stations in the Designated Market Area (DMA).

For commercial stations, the new rules rightfully exclude stations designated as "satellites" by the FCC, which have a common owner and duplicate the programming of another station. Noncommercial stations have no reason to apply for satellite status so none have that designation. Even if many are functionally equivalent to satellite stations, they are nevertheless counted as unique voices, or separate stations, under the new rules.

For example, under the new rules, Sioux Falls, South Dakota, is counted as having six separate noncommercial stations, even though five of the six are run by the state-wide South Dakota Public TV network, and each broadcasts the exact same programming. It also has five

commercial stations. So Sioux Falls, the 112th largest DMA by population, is counted as having 11 stations, or more than Detroit, Michigan, the 10th largest DMA, with only nine stations.

Minot, North Dakota, the 155th largest DMA, which has only 4 commercial TV stations, is also treated as larger than Detroit, which has twice as many commercial TV stations as Minot. This is because Minot has 6 noncommercial stations which are part of statewide public broadcasting networks. So like Sioux Falls, Minot is considered bigger than or on par with more populous areas like Baltimore, San Diego, Las Vegas and New Orleans.

Adelstein added: "Nine is a key number for FCC purposes – if a market has nine or more TV stations, then even the few cross-ownership restrictions remaining after June 2nd are entirely lifted there. By properly counting statewide public TV signals only once, Sioux Falls should only have seven TV stations, and Minot six. The real-world effect is that Sioux Falls and Minot artificially jump into the category that has no cross-ownership restrictions. The newspaper in Sioux Falls can now acquire not just one but two of the five commercial TV stations, and it can buy twice as many radio stations than it could otherwise own."

Adelstein stated: "When a large number of public television stations broadcasting exactly the same signal each count separately, it distorts the competitive realities in local media markets. Detroit has twice as many commercial viewing options as Minot, yet our rules misidentify Minot as a larger media market than Detroit. Rather than fixing the so-called 'Minot problem,' we created a whole new one."

Several TV markets are skewed by this oversight, including markets in Iowa, Ohio, Kentucky, Michigan, Nebraska, New York, and Vermont. In each of these cases, the FCC's treatment of duplicative noncommercial stations makes a community larger in a way that permits greater media concentration than would otherwise be allowed.

This oversight has a dramatic effect in a smaller community like Watertown, New York, which for FCC counting purposes has four stations, two commercial and two noncommercial. The noncommercial stations broadcast the same signal, so the market in reality should have three stations. Under the new rules, for three-station, "at-risk" markets, no newspaper/radio, newspaper/TV or radio/TV cross ownership is allowed. But by artificially raising Watertown to a four-station market, cross ownership is now permitted where it otherwise wouldn't be.

Adelstein said, "One owner can now own the newspaper and one of the two TV stations – that is two-thirds of the major local news outlets available in Watertown. These rules should be protecting people in small cities like Watertown, not exposing them to domination by a new local Citizen Kane. Clearly this wasn't what the rules intended for a small community."

Adelstein stated: "Inadvertent errors like this one are why Commissioner Copps and I fought so hard for public comment. Had the FCC sought public input on the specific changes, somebody would have alerted us to this anomaly and we could have easily rectified it before the vote. The FCC should immediately reconsider and correct this mistake before any mergers are proposed to us. I'm asking each of my colleagues to help fix this."