# NEWS

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# Chairman Kevin J. Martin Proposes Revision to the Newspaper/Broadcast Cross-Ownership Rule

*Washington, DC* – Chairman Kevin J. Martin proposes that the Commission conclude its review of the broadcast ownership rules by adopting the regulatory changes set forth in Attachment A. Chairman Martin proposes the Commission amend the 32-year-old absolute ban on newspaper/broadcast cross-ownership by crafting an approach that would allow a newspaper to own one television station or one radio station but only in the very largest markets and subject to certain criteria and limitations. Chairman Martin also proposes that the Commission make no changes to the other media ownership rules currently under review.

The newspaper/broadcast cross-ownership rule currently prohibits common ownership of a broadcast station and a daily newspaper in the same market. Although the U.S. Court of Appeals for the Third Circuit (Court) remanded the specific cross-media ownership limits drawn by the Commission in 2003, it affirmed the Commission's determination that this blanket ban on newspaper/broadcast cross-ownership was no longer in the public interest. The Court agreed that "…reasoned analysis supports the Commission's determination that the blanket ban on newspaper/broadcast cross-ownership was no longer in the public interest."

The media marketplace has changed considerably since the newspaper/broadcast cross ownership was put in place more than thirty years ago. Back then, cable was a nascent service, satellite television did not exist and there was no Internet. Consumers have benefited from the explosion of new sources of news and information. But according to almost every measure newspapers are struggling. At least 300 daily papers have stopped publishing over the past thirty years. Their circulation is down, their advertising revenue is shrinking and their stock prices are falling. Permitting cross-ownership can preserve the viability of newspapers by allowing them to share their operational costs across multiple media platforms.

Chairman Martin's proposal would permit cross ownership only in the largest markets where there exists competition and numerous voices. The revised rule would balance the need to support the availability and sustainability of local news while not significantly increasing local concentration or harming diversity. Under the new approach, the Commission would presume a proposed newspaper/broadcast transaction is in the public interest if it meets the following test:

(1) the market at issue is one of the 20 largest Nielsen Designated Market Areas ("DMAs");

(2) the transaction involves the combination of a major daily newspaper and one television or radio station;
(3) if the transaction involves a television station, at least 8 independently owned and operating major media voices (defined to include major newspapers and full-power commercial TV stations) would remain in the DMA following the transaction; and
(4) if the transaction involves a television station, that station is not among the top four ranked stations in the DMA.

All other proposed newspaper/broadcast transactions would continue to be presumed not in the public interest.

Moreover, notwithstanding the presumption under the new approach, the Commission would consider the following factors in evaluating whether a particular transaction was in the public interest:

(1) the level of concentration in the DMA;
(2) a showing that the combined entity will increase the amount of local news in the market;
(3) a commitment that both the newspaper and the broadcast outlet will continue to exercise its own independent news judgment; and
(4) the financial condition of the newspaper, and if the newspaper is in financial distress, the owner's commitment to invest significantly in newsroom operations.

This proposed rule change is notably more conservative in approach than the remanded newspaper/broadcast cross-ownership rule that the Commission adopted in 2003. That rule would have allowed transactions in the top 170 markets. The rule Chairman Martin proposes today would allow only a subset of transactions in only the top 20 markets, which would still be subject to an individualized determination that the transaction is in the public interest.

With respect to the remaining broadcast ownership rules currently under review, the Chairman believes that any further relaxation in the radio or television broadcast markets should not be allowed. He therefore proposes to make no changes to the local television "duopoly" rule, the local radio ownership rule, and the local radio-television cross ownership rule currently in force.

The Chairman invites public comment on his proposals. Comments should be filed in MB Docket No. 06-121 by Dec. 11, 2007.

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## Proposed Change

**§ 73.3555 Multiple Ownership.**

(d) Daily newspaper cross-ownership rule.

(1) No license for an AM, FM or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates or controls a daily newspaper and the grant of such license will result in:

(i) The predicted or measured 2 mV/m contour of an AM station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community in which such newspaper is published; or

(ii) The predicted 1 mV/m contour for an FM station, computed in accordance with § 73.313, encompassing the entire community in which such newspaper is published; or

(iii) The Grade A contour of a TV station, computed in accordance with § 73.684, encompassing the entire community in which such newspaper is published.

(2) Paragraph (1) shall not apply in cases where the Commission makes a finding pursuant to Section 310(d) of the Communications Act that the public interest, convenience, and necessity would be served permitting an entity that owns, operates or controls a daily newspaper to own, operate or control an AM, FM, or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1).

(3) In making a finding under paragraph (2), the Commission shall consider, among other factors:

(i) whether the cross-ownership will increase the amount of local news disseminated through the affected media outlets in the combination;

(ii) whether each affected media outlet in the combination will exercise its own independent news judgment;

(iii) the level of concentration in the Nielsen Designated Market Area (DMA); and

(iv) the financial condition of the newspaper, and if the newspaper is in financial distress, the owner's commitment to invest significantly in newsroom operations.

(4) In making a finding under paragraph (2), there shall be a presumption that it is not inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper in a top 20 Nielsen DMA and one commercial AM, FM or TV broadcast station whose relevant contour encompasses the entire community in

which such newspaper is published as set forth in paragraph (1), provided that, with respect to a combination including a commercial TV station,

(i) The station is not ranked among the top four TV stations in the DMA, based on the most recent all-day (9 a.m.-midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and

(ii) At least 8 independently owned and operating major media voices would remain in the DMA in which the community of license of the TV station in question is located (for purposes of this provision major media voices include full-power commercial TV broadcast stations and major newspapers).

(5) In making a finding under paragraph (2), there shall be a presumption that it is inconsistent with the public interest, convenience, and necessity for an entity to own, operate or control a daily newspaper and an AM, FM or TV broadcast station whose relevant contour encompasses the entire community in which such newspaper is published as set forth in paragraph (1) in a DMA other than the top 20 Nielsen DMAs or in any circumstance not covered under paragraph (4).

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OP-ED CONTRIBUTOR

# The Daily Show

By KEVIN J. MARTIN

Washington

IN many towns and cities, the newspaper is an endangered species. At least 300 daily papers have stopped publishing over the past 30 years. Those newspapers that have survived are struggling financially. Newspaper circulation has declined steadily for more than 10 years. Average daily circulation is down 2.6 percent in the last six months alone.

Newspapers have also been hurt by significant cuts in advertising revenue, which accounts for at least 75 percent of their revenue. Their share of the advertising market has fallen every year for the past decade, while online advertising has increased greatly.

At the heart of all of these facts and figures is the undeniable reality that the media marketplace has changed considerably over the last three decades. In 1975, cable television served fewer than 15 percent of television households. Satellite TV did not exist. Today, by contrast, fewer than 15 percent of homes do not subscribe to cable or satellite television. And the Internet as we know it today did not even exist in 1975. Now, nearly one-third of all Americans regularly receive news through the Internet.

If we don’t act to improve the health of the newspaper industry, we will see newspapers wither and die. Without newspapers, we would be less informed about our communities and have fewer outlets for the expression of independent thinking and a diversity of viewpoints. The challenge is to restore the viability of newspapers while preserving the core values of a diversity of voices and a commitment to localism in the media marketplace.

Eighteen months ago, the Federal Communications Commission began a review, ordered by Congress and the courts, of its media ownership rules. After six public hearings, 10 economic studies and hundreds of thousands of comments, the commission should move forward. The commission should modify only one of the four rules under review — the one that bars ownership of both a newspaper and a broadcast TV or radio station in a single market. And the rule should be modified only for the largest markets.

A company that owns a newspaper in one of the 20 largest cities in the country should be permitted to purchase a broadcast TV or radio station in the same market. But a newspaper should be prohibited from buying one of the top four TV stations in its community. In addition, each part of the combined entity would need to maintain its editorial independence.

Beyond giving newspapers in large markets the chance to buy one local TV or radio station, no other ownership rule would be altered. Other companies would not be allowed to own any more radio or television stations, either in a single market or nationally, than they already do.

This relatively minor loosening of the ban on cross-ownership of newspapers and TV stations in markets where there are many voices and sufficient competition to allow for new entrants would help strike a balance between ensuring the quality of local news while guarding against too much concentration.

The cross-ownership rule is the only media ownership rule that has never been modified since its inception in the mid-1970s. For the last decade, F.C.C. chairmen — Democrats and Republicans alike — have said this rule needs to be revised.

The ban on newspapers owning a broadcast station in their local markets may end up hurting the quality of news and the commitment of news organizations to their local communities. Newspapers in financial difficulty often have little choice but to scale back news gathering to cut costs. Allowing cross-ownership may help to forestall the erosion in local news coverage by enabling companies that own both newspapers and broadcast stations to share some costs.

Since 2003, when the courts told the commission to change its media ownership rules, the news media industry has operated in a climate of uncertainty. Many newspapers and broadcast stations are operating under waivers of the ban on cross-ownership. The F.C.C. needs to address these issues in a coherent and consistent fashion rather than considering them case by case, making policy by waiver.

I confess that in my public role, I feel that the press is not on my side. But it is for this very reason that I believe this controversial step is worth taking. In their role as watchdog and informer of the citizenry, newspapers are crucial to our democracy.

A colleague on the commission, Michael Copps, for whom I have the utmost respect, has argued that our very democracy is at stake in the decisions we make regarding media ownership. I do not disagree. But if we believe that newspaper journalism plays a unique role in the functioning of our democracy, then we cannot turn a blind eye to the financial condition in which these companies find themselves.

*Kevin J. Martin is the chairman of the Federal Communications Commission.*