

MAXINE WATERS

MEMBER OF CONGRESS
35TH DISTRICT, CALIFORNIA

CHIEF DEPUTY WHIP

COMMITTEES:
FINANCIAL SERVICES

SUBCOMMITTEE ON CAPITAL MARKETS AND
GOVERNMENT SPONSORED ENTERPRISES
RANKING MEMBER

JUDICIARY

SUBCOMMITTEE ON INTELLECTUAL PROPERTY,
COMPETITION, AND THE INTERNET

SUBCOMMITTEE ON IMMIGRATION POLICY
AND ENFORCEMENT

Congress of the United States
House of Representatives
Washington, DC 20515-0535

PLEASE REPLY TO:

WASHINGTON, DC OFFICE

☐ 2344 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-0535

PHONE: (202) 225-2201

FAX: (202) 225-7854

DISTRICT OFFICE:

LOS ANGELES OFFICE

☐ 10124 SOUTH BROADWAY

SUITE 1

LOS ANGELES, CA 90003

PHONE: (323) 757-8900

FAX: (323) 757-9506

April 17, 2012

0488

Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

As a Member of the U.S. House of Representatives Committee on the Judiciary, I write to express my growing concerns with the extent to which the Commission monitors and holds investment banks and private equity firms accountable to public interest and disclosure obligations governing FCC license holders once a media company is liquidated in bankruptcy and media properties are transferred to creditor-firms. I write to further request that the Commission assess and report on the above and whether it generally serves the public interest to allow non-banking financial institutions to seamlessly acquire FCC licenses – and cross ownership waivers – through private entities they create for no other purpose than to hold the licenses until such time when the facility can be sold to another firm.

In order to monitor cross ownership, licensing, and foreign ownership laws, the Commission has rules governing media ownership and licensing disclosures. However, due to the growing number of private equity firms that have acquired ownership stakes in media companies throughout the country, it has become apparent to me that the Commission has not kept pace and adjusted regulatory practices to meet the changes in our financial and capital markets.

A recent retransmission dispute between DirecTV and the Tribune Company underscores this point. In a complaint filed with the FCC, DirecTV alleged that Tribune Company's creditors had improperly blocked what the satellite company believed was a completed agreement. During the blackout, about 5 million DirecTV customers in large markets like Los Angeles and New York lost access to Tribune's broadcast stations. Although the two companies eventually resolved the dispute, the Commission should address these very serious allegations that

investment firms overruled Tribune's management – especially since the Commission has yet to approve a transfer of the media conglomerate's FCC licenses.


Tribune has been in bankruptcy court since 2008 and its creditors include some of our nation's largest hedge funds and investment banks. As the Tribune bankruptcy nears a resolution, the Commission must thoroughly review the public interest implications before considering a transfer of both Tribune's media licenses and waivers to an unknown facility that Tribune's creditors will create to hold the licenses. When the Commission revisits Tribune's application, I strongly believe the public should also be given the opportunity to comment on both the transfer of the licenses and any waivers the investment firms' new facility will need to continue to operate both a newspaper and broadcast station in the same market – in clear violation of the FCC's current media ownership rules.

Since the U.S. Third Circuit Court of Appeals invalidated the FCC's revised ownership rules last year, the ban on newspaper and broadcast common ownership is in effect. Accordingly, under FCC rules, common ownership of broadcast stations and newspapers in the same community are to be terminated upon the sale of the broadcast properties to a new owner. In its application to transfer licenses, Tribune seeks unprecedented waivers to maintain operations of Tribune's properties across the country. The Commission must therefore thoroughly evaluate how a waiver of its cross ownership rules in this case would impact its statutory responsibility to promote media diversity, competition, and localism.

In previous proceedings when the Commission has considered an application to transfer licenses, the agency has not made it clear to the public when the transfer of licenses includes a waiver of FCC media ownership rules. This practice does not promote transparency and it robs the public of a critical opportunity to supply the Commission with information that could be useful in determining whether a waiver of its rules is in the public interest. I hope that the Commission will take this opportunity in the Tribune application to allow the public to comment on the request for waivers. It is my intent to introduce this Congress "The FCC Waiver Accountability Act of 2012" to require the Commission to continue this as a fundamental part of the administrative process in future proceedings.

I do hope you will consider the critical public interests concerns I have outlined above in conducting your review of Tribune's application and requested transfer of licenses and waivers to a new facility. And I do look forward to your analysis regarding the Commission's oversight of investment firms that acquire FCC licenses and how they are held accountable to their duties and responsibilities as license holders.

Sincerely,


Maxine Waters
Member of Congress