



from the Office of Commissioner Anna M. Gomez

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GOMEZ ON UNLAWFUL PLAN TO ELIMINATE NATIONAL TV OWNERSHIP CAP

FCC Announces It Will Defy Cap Congress Wrote Into Federal Law

WASHINGTON — FCC Commissioner Anna M. Gomez issued the following statement after the FCC announced it will vote at its August Open Meeting on an item that will unlawfully eliminate the national television ownership cap:

“This unlawful effort to hand control of the public airwaves to billionaire buddies of this administration will destroy local newsrooms, silence community reporting, and drive-up costs for the American families who depend on local stations for news and emergency alerts. A free and diverse media landscape depends on real limits on how much of the public airwaves any one company can control, and this FCC is now poised to allow local broadcasters to sell those airwaves off to the highest bidder. Congress set the 39 percent national ownership cap in federal law, and only Congress has the authority to raise or eliminate it. The Commission cannot waive away that limit simply because these corporate behemoths want to get out from under it.”

The 39 percent cap is not an FCC rule that the Commission can change on its own. Congress wrote that specific number into federal law in 2004, and it did so on purpose. When it acted, Congress also removed the cap from the routine review process it had previously established for the FCC to update its other media ownership rules, so the FCC is prohibited from revisiting the number the way it revisits rules it established independent of a congressional directive. Congress went further and told the FCC it could not simply decline to enforce the cap. It also required any company that goes over the limit to sell off stations within two years. Taken together, these provisions mean the 39 percent cap can only be changed by Congress, not by an FCC vote.

This is not the first time the FCC has tried to move on this issue. In 2003, the Commission raised the cap to 45 percent under its own authority. Congress stepped in within months, rewrote the law to set the cap at 39 percent, and made clear the FCC did not have the authority to change it. An FCC vote to raise the cap now would be unlawful, as it would mean doing the exact thing Congress has already said the Commission cannot do.

For more background on the legal history of the national ownership cap, read Commissioner Gomez's Nexstar-TEGNA waiver dissent [here](#).

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).