STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No. 17-318, Report and Order (August 6, 2026).

Today's decision to eliminate the 39 percent national audience reach cap is unlawful on its face and a profound departure from both statutory boundaries and longstanding broadcast policy. Congress set this cap in federal law, and only Congress can change it. I cannot support an action that so plainly exceeds the Commission's authority while simultaneously overlooking the real-world consequences for the public we serve.

The national cap matters and Congress, not this Commission, controls its fate. Today's action undermines our core public interest principles of localism, viewpoint diversity, and competition while failing to consider or address the interconnected rules, market realities, and economic pressures that define today's media ecosystem.

Broadcast television remains one of the nation's most vital civic institutions precisely because it is free, universally accessible, and rooted in the communities it serves. Unlike subscription-based or algorithm-driven digital platforms, broadcasting is a public-facing technology designed from the outset to deliver content that strengthens civic infrastructure and supports democratic engagement. At its best, broadcasting is a glue that holds communities together by providing local journalism, emergency information, cultural touchstones, and live events that speak to who we are and what we value.

Local journalism sits at the center of this civic mission. It is the backbone of localism, supplying coverage of public safety issues, local government, community concerns, school board decisions, and regional sports, matters that national outlets neither cover nor understand with the nuance they require. Many national stories begin at the local level, and communities rely on reporters who know their neighborhoods, understand their residents, and can contextualize national issues through a local lens. This service cannot be replicated at a national scale. That is why the law has long afforded local broadcasters special treatment: because communities depend on them.

Broadcasting is also indispensable in emergencies. Over-the-air alerts save lives, and broadcasters' ability to reach virtually every household, even when broadband is down or mobile networks are congested, is a public-safety asset unmatched by any technology company. When a hurricane is approaching, when wildfires threaten communities, when a chemical spill forces evacuations, when seconds matter, broadcasters provide immediate, authoritative information.

Culturally, broadcasting binds the country together through shared experiences. National sporting events such as the Super Bowl, the Olympics, and the World Cup are not merely entertainment, they are common, unifying moments that cross political, geographic, and demographic lines. Regional and local sports carry similar importance, reflecting the identities of states, towns, and schools. Congress recognized the civic and cultural significance of sports broadcasting when it enacted the Sports Broadcasting Act, underscoring the public value of ensuring these shared experiences remain broadly accessible.

These public-interest benefits flow from what broadcasters do uniquely well, delivering time-sensitive live content. News, emergency alerts, and sports, all core to the public interest, depend on real-time distribution, consistency, and universal reach. And while news and emergency services are public goods, sports content serves the public interest *and* helps sustain the economic model that makes those public goods possible. Recent events underscore this synergy: the World Cup's unifying impact and strong ratings, the Olympics' broad national resonance, and football's extraordinary audience reach. Ninety-two of the top one hundred broadcasts in 2025 were football games. These are not just ratings milestones, they are reminders of broadcasting's unique role in our cultural fabric.

But today, the financial model that underpins broadcast journalism and emergency communications is under strain. Global digital platforms, which include some of the largest and most powerful corporations in history, are aggressively moving into sports, siphoning away a cornerstone of broadcast revenue at a moment when advertising markets are already tightening. It is difficult to overstate the significance of this shift. As Big Tech competes for sports rights, the economic viability of the broadcast model becomes more precarious. Broadcasters are being squeezed from both sides. Digital giants compete for their most valuable programming and advertising, while consolidation pressures at the national level threaten the local reporting and public-safety functions on which communities rely.
But eliminating the cap does not free local broadcasters from that strain. It just changes who is doing the squeezing. A handful of station-group giants do not represent the wishes of local broadcasters. They are large national companies that own local stations and increasingly dictate what airs on them without much local input. Trading a squeeze from Big Tech for a squeeze from Big Media does nothing to protect the communities this cap was designed to serve.

Eliminating the national audience reach cap would accelerate these pressures precisely when communities need strong, independent local journalism and robust emergency communications the most. The cap has long served as a guardrail preserving localism, viewpoint diversity, and competition. Removing it now, without regard for the public policy consequences, risks undermining the very features of broadcasting that distinguish it from nationalized, centralized digital media systems. At a time when shared civic experiences are increasingly rare, weakening an institution that still produces them is not just unwise policy; it is a step in the wrong direction for our country.

Most fundamentally, however, the Commission does not have the authority to raise or waive the 39 percent national audience reach limitation. Simply put, the 39 percent national audience reach limitation was established by a statute and only Congress has the authority to raise or eliminate it. The Consolidated Appropriations Act of 2004 (2004 CAA) directed the Commission to set the national audience reach limitation at 39 percent, removed this limitation from the congressionally created review process, established an ongoing divesture requirement for any entity that exceeds the 39 percent limitation, and not only failed to provide the Commission with authority to modify, waive, or raise the limitation, it affirmatively stated that the Commission was prohibited from forbearing from enforcing the statutory provision.[1] These steps were deliberate, explicit, and binding.

There are few, if any, issues with more history at the Federal Communications Commission than broadcast ownership limitations. The Commission has regulated broadcast ownership since 1941 to promote localism and competition, preserve diverse viewpoints, and avoid "concentration of control."[2] At the outset, ownership was limited to one television station within a given area and three "scattered" stations. The Commission later raised the ownership limitation to five stations in 1944 and seven in 1954. In 1984, the Commission increased the limitation to twelve stations and proposed phasing it out, but *in direct response to such Commission action* Congress quickly intervened to block the phase-out.[3] And in response to Congress stepping in and directing the Commission to reconsider its action, the Commission proceeded more cautiously by maintaining the twelve-station limitation, and, for the first time, also adopted a percentage-based limitation.[4] This limitation prohibited any single entity from acquiring ownership interests in stations reaching more than 25 percent of the national audience. These actions

[1] Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, §629, 118 Stat. 3 (2004).

[2] Kannon Shanmugam and William Marks, *The FCC Lacks Statutory Authority to Revise the Telecommunications Act's 39% National Ownership Cap for Television* at 3 (2025), https://americantelevisionalliance.org/wp-content/uploads/2025/12/NationalOwnershipCapWhitePaper_12-15-25.pdf (quoting *Broadcast Services Other Than Standard Broadcast*, 6 Fed. Reg. 2282, 2282 (Apr. 30, 1941).

[3] *See* Second Supplemental Appropriations Act, Pub. L. No. 98-396, § 304, 98 Stat. 1369, 1423 (1984) (*1984 SSAA*).

[4] *In the Matter of Amendment of Section 73.3555 [formerly Sections 73.35, 73.240 and 73.636] of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations*, 100 F.C.C.2d 74 (1984).

ultimately set the stage for Congress to revisit the Commission's ownership limitations in the Telecommunications Act of 1996 (1996 Act).

In the 1996 Act, Congress again asserted its authority over broadcast ownership limits when it created an initial national audience reach limitation of 35 percent and simultaneously created a biennial review process that required the Commission to consider whether this *congressionally created limitation*, along with additional rules "adopted pursuant to [the 1996 Act]" and all of the Commission's other existing ownership rules, continued to be "necessary in the public interest."[5] In June of 2003, the Commission raised the national audience reach limitation to 45% as part of such required review.[6] In *direct response to this Commission action*, in January of 2004, Congress stepped in yet again and in the 2004 CAA modified the relevant sections of the 1996 Act in several critical respects.[7]

Specifically, Congress directed the Commission to set the national audience reach limitation to 39 percent in the Commission's rules by modifying the language in section 202(c)(1)(B) of the 1996 Act.[8] It also changed the review process it had created by explicitly removing review of "the 39 percent national audience reach limitation in subsection (c)(1)(B)"[9] from the required, now quadrennial, review of the Commission's rules that were "*adopted pursuant to this section* and all of its ownership rules."[10] The 39 percent national audience reach limitation in subsection (c)(1)(B), and its precursor 35% rule originally adopted in 1996, are the original and subsequently congressionally modified version of a rule that was "adopted pursuant to this section."[11]

The changes to the text of the1996 Act also prohibited the Commission from forbearing from the 39 percent national audience reach limitation.[12] Forbearance is a term used specifically in the Communications Act to provide the Commission with the authority to not enforce statutory provisions.[13] As used here, by stating forbearance authority "shall not apply" to the 39 percent national audience reach limitation, the language makes clear two things. First, that Congress believed the limitation was statutory. Forbearance only applies to statutory provisions, it is not necessary for rules established by the Commission and use of the word would make no sense if Congress believed otherwise. Second, that forbearing from it was prohibited makes clear Congress's intent that the limitation was not to be changed.

This interpretation of the meaning of the forbearance provision is consistent with the related actions in the 2004 CAA that demonstrate Congress's intent to establish a limitation that the Commission did not have the authority to change. Congress lowered the 39 percent national audience reach limitation in direct response to the Commission's decision to raise it.[14] Congress then removed the now modified

[5] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 151 et seq.) (1996 Act).
[6] *2002 Biennial Regulatory Review -- Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13814, para. 499 (June 3, 2003) (*2002 Biennial Review*).
[7] 2004 CAA § 629.
[8] *Id.*
[9] *Id.*
[10] *Id.*; 1996 Act § 202(h).
[11] *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, 1043 (D.C. Cir. 2002) *(Fox I); see also*, *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, *modified on reh'g*, 293 F.3d 537, 540 (D.C. Cir. 2002).] (*Fox II*)
[12] 2004 CAA § 629.
[13] 47 USC §160. Congress provided the Commission with specific forbearance authority in the Telecommunications Act of 1996 in response to the Supreme Court reversing a Commission decision to not enforce a statutory tariffing requirement because the Commission lacked forbearance authority. MCI Telecomms. Corp. v. Am. Tel. & Tel. Co., 512 U.S. 218, 114 S. Ct. 2223 (1994). *See also*, Cary Adickman, Grin and Forbear It: Suffering Statutory Forbearance Under The Telecommunications Act Of 1996 at 5-8 (2013).
[14] *2002 Biennial Review* at 13814, para. 499 (2003); 2004 CAA §629.

national audience reach limitation from the congressionally established review process.[15] That review process specifically applied to "[The Commission's] rules adopted pursuant to this section."[16] The national audience reach limitation was adopted pursuant to the section of the 1996 Act in question. By taking the statutorily established rule out of the statutorily established review process,[17] Congress was removing the Commission's authority to modify the statutorily established rule.

Notably, Congress took further consistent actions. It also created a stand-alone ongoing divestiture obligation that made it crystal clear that the directed rule change removed the Commission's authority to change it.[18] Specifically, Congress established a statutory two-year timeline for entities that exceeded the limitation to come into compliance that was independent of the effective date of the 2004 CAA. The divestiture requirement is that any entity "that exceeds *the 39% national audience reach limitation* . . . through grant, transfer, or assignment of an additional license for commercial broadcast television station shall have not more than two years after exceeding *such limitation* to come into compliance with *such limitation*."[19] Importantly, this language refers specifically to a numerical limitation and then refers back to that specific limitation twice. It is not referencing the Commission's rule, it is speaking to the specific limitation that Congress had created with this action.

Conspicuously, the language the 2004 CAA inserts into the 1996 Act speaks in terms of the specifically enumerated "39 percent national audience reach limitation." Neither the exclusion of the limitation from quadrennial review, the divestiture requirement nor the prohibition against forbearance refer to the national audience reach limitation "in the Commission's rules," Instead in each instance the statutory language states explicitly "the 39 percent national audience reach limitation," demonstrating that Congress intended this specific limitation to be set absent further action by Congress.

Further, knowledgeable republicans with direct experience shaping, and later interpreting, the national audience reach cap agree that today's action is plainly foreclosed by law. Former FCC Commissioner Mike O'Rielly, who was personally involved in the negotiations that produced the 39 percent cap, has stated unequivocally that the Commission 'does not have the authority to modify the national audience reach cap,' explaining that Congress expressly codified the cap in statute, removed it from the Commission's periodic ownership review, and never revisited that limitation.[20] Former House Majority Leader Tom DeLay, who negotiated the final compromise with Senator Ted Stevens, has likewise emphasized that the 39 percent cap was deliberately enacted to prevent FCC revision absent a future act of Congress, underscoring that 'regulatory agencies cannot defy or modify laws enacted by Congress' and reaffirming that the cap is 'a statute, not a suggestion.'[21] And while Senator Ted Cruz did not serve in Congress during those negotiations, his present role as Chair of the Senate Commerce Committee gives him direct oversight over this very issue. He has made clear that he is 'skeptical a change can be made absent an act of Congress,' signaling that Congress's intent remains unchanged today.[22] Taken together, these perspectives from the architects of the cap, the regulators who implemented it, and the congressional leaders who now oversee it underscore a bipartisan, durable, and deeply

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[15] 2004 CAA §629 (amending 1996 Act § 202(h) "by striking ''biennially'' and inserting ''quadrennially'' and by adding the following new flush sentence at the end: ''This subsection does not apply to any rules relating to the 39 percent national audience reach limitation in subsection (c)(1)(B).")

[16] *Fox I* at 1043, *see also Fox II* at 540.

[17] 2004 CAA § 629.

[18] *Id.*

[19] *Id*. (emphasis added).

[20] *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No. 17-318, Notice of Proposed Rulemaking, 32 FCC Rcd 10785, 10808, para. 2 (2017).

[21] Tom Delay, *I Helped Create The FCC's Ownership Cap. Here's How We Did It* (Aug. 3, 2026) https://www.dailywire.com/news/tom-delay-i-helped-create-the-fccs-ownership-cap-heres-how-we-did-it.

[22] Monty Tayloe, Howard Buskirk, Matt Daneman and Jimm Phillips, *FCC to Vote on Eliminating National Cap at Aug. 6 Meeting* (July 16, 2026), https://communicationsdaily.com/article/view?search_id=82641&id=2789159.

informed consensus that the law prohibits the Commission from eliminating the national audience reach cap. No amount of policy preference can substitute for statutory authority.

Today's order eliminating the 39 percent audience reach limitation ignores or summarily dismisses inconvenient facts and legal findings from its description of the relevant history. The Commission concludes that Congress's statutory action in the 2004 CAA changing to the language in the 1996 Act directing the Commission to set the limitation at 39 percent was a mere temporary action in response to the Commission raising it too quickly. The Commission bases its analysis on the fact that the 2004 CAA did not change the language in the 1996 Act that directed the Commission to "modify its rules," the Commission's general rulemaking authority and language in appellate decisions predating the 2004 CAA.[23] Specifically, that "had the Congress wished to insulate the [national ownership reach limitation] from review under § 202(h), it need only have enshrined the 35% cap in the statute itself."[24] Upon close examination, the analysis falls apart. The order relies in large part on its analysis of the D.C. Circuit opinions in the *Fox* litigation.[25] The order is correct that the D.C. Circuit found the Congress had directed the Commission to review the national ownership reach limitation and that the Commission was required to revisit the 35 percent limitation because it was only a starting point.[26] The order fails to acknowledge, however, that the reason the that 35 percent was only a starting point and the Commission was required to review it was that the statute required a biennial review of rules adopted pursuant to that section of the 1996 Act. The decision specifically noted that the rule in question, the national audience reach limitation, was a rule adopted pursuant to the 1996 Act.[27] When Congress removed the 39 percent national audience reach limitation from the required, now quadrennial, review, it removed the statutory requirement on which the court relied in making its determination.

The Commission's reliance on Fox II is equally unpersuasive. It relies on the court's statement that "had Congress wished to take away the Commission's ability to alter the cap, 'it need only have enshrined the 35% cap in the statute itself.'"[28] While it is an accurate recitation of the court's decision, it completely ignores that in the 2004 CAA Congress, in fact, took action to enshrine the 39 percent national audience reach limitation by statute. As explained above, Congress (1) directed the Commission's rules be changed to reflect the 39 percent national audience reach limitation, (2) directed the removal of the 39 percent national audience reach limitation from the review process for congressionally established broadcast ownership rules that served as the basis for the decision in *Fox I*, (3) directed that the Commission should not forbear from the 39 percent national audience reach limitation, and (4) established an ongoing two-year deadline by which any broadcasters that exceeded the 39 percent national audience reach limitation had to divest stations to come into compliance.[29] By its action today, the Commission is turning a willfully blind eye to the clear intent of Congress.

The Commission's assertion that national ownership limitations have always been rules set by the agency with longstanding Congressional deference is contrary to history. Congress legislated on national television broadcast ownership limitations three separate times over the course of 20 years in 1984, 1996 and 2004.[30] What is clear is that Congress kept the Commission on a very short leash with regard to these limitations.

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[23] *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No 17-318, at 44-45, paras. 84-85 (July 16, 2026) (*National Television Multiple Ownership Rule*).
[24] *Fox II* at 540.
[25] *National Television Multiple Ownership Rule* at 46-48, paras. 87-88.
[26] *Fox I* at 1043.
[27] *Id.*
[28] *National Television Multiple Ownership Rule* at 46, para. 87 (citing *Fox II* at 570).
[29] 2004 CAA §629 (divesture requirement does not apply when the national audience reach limitation is exceeded through population growth). *See also* 47 CFR § 202(c)(3).
[30] 1984 SSAA § 304; 1996 Act § 202; 2004 CAA § 629.

The public-interest harms that will arise from this unauthorized rule change compound the statutory deficiency. This decision ignores the harms to the media ecosystem that will likely arise as a consequence of raising the national audience reach limitation. These harms include the negative impact on local journalism, consumers paying higher fees to their cable and satellite providers, known as Multichannel Video Program Distributors (MVPDs), and the MVPDs' loss of customers as increased costs result in more consumers cutting the cord. These are not speculative harms. When the Media Bureau waived the cap to clear the way for the Nexstar-TEGNA merger, a federal judge halted the transaction, finding that the states and DirecTV are likely to succeed in proving it violates antitrust law. A court has already signaled that this kind of consolidation may harm competition and consumers, a signal that this Commission should take seriously before eliminating the cap altogether. Broadcasting does not need to look outside the world of journalism for a second warning. Over roughly the same period that the largest newspaper chains grew their share of the industry from one-third to 70 percent, the country lost more than 3,300 newspapers. Consolidation did not save that industry. It concentrated what remained of it while the industry itself collapsed.

I am cognizant of the economic challenges facing broadcasters today and I remain open to discussing solutions that address these challenges by taking actions that are within our authority and address the issues in a holistic manner. Local journalists do important work and local broadcasters are provided with valuable rights precisely because the public values local journalism. However, the Commission is not doing its job when it modifies its rules to protect the profit margins of corporate behemoths without ensuring that they will continue to provide claimed public interest benefits to consumers.

The Commission concludes that consolidation will allow economies of scale to support more local news and that the relevant market is the entire media ecosystem. The claim that media consolidation will lead to more local news is belied by history as submitted by DirectTV.[31] In short, history shows that media consolidation leads to commonly owned stations sharing "common news website[s] and content, common news leadership, and common news talent."[32] These assertions are validated by academic research that studied how broadcaster consolidation impacts the rate of news duplication, where station pairs connected through a service agreement, duopoly, or common ownership with one content originating station and one non originating member had at least 50% of the content of their transcripts matched exactly.[33]

Further, the assertion that the relevant market is the entire media ecosystem because local broadcasters compete with national digital media platforms for advertisers and audience share is an oversimplification that ignores both the public interest and the complexity of the broadcast ecosystem. The complex and longstanding regulatory structure underlying broadcasting is designed, on the one hand, to ensure a diversity of viewpoints are represented by precluding one entity from dominating the voices available in a community and, on the other hand, to support a balance of negotiating power between large broadcasting networks that produce news and entertainment content targeting a national audience and locally licensed broadcasting stations that produce news and entertainment content that is targeted locally. Those advocating for lifting the national audience reach limitation assert it is necessary to preserve local broadcasting from the dominance of national networks. The assertion that the creation of large national ownership groups will result in more locally generated news content to serve local communities is both nonsensical and contrary to the evidence.

The structure is further complicated by the impact of consolidation on broadcasters' negotiations with MVPDs for retransmission consent payments for the distribution of the broadcasters' content. These

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[31] *See* DIRECTTV Letter in MB Docket No. 17-318 at p. 7-8, filed February 25, 2026; see *also*, DIRECTTV Reply to Opposition in MB Docket No. 25-331, at p. 21-27, filed January 26, 2026.

[32] *Id.*

[33] Danilo Yanich and Benjamin E. Bagozzi, *Reusing the News*, at 28-29 (2025).

payments are an important and significant source of support for free over the air programming. The MVPD community asserts that increasing or waiving the national audience reach limitation to allow consolidation into larger broadcast ownership groups will result in increased retransmission consent fees that will be paid by consumers. This assertion is supported by the public statements of Nexstar, the broadcast ownership group granted a waiver of this limitation by the Media Bureau earlier this year, which asserted such consolidation would cause Nexstar to achieve hundreds of millions of dollars in "economic synergies," which includes significantly increased retransmission consent fees.[34] This is further supported by Nexstar's actions after the transaction closed, where is asserted in court filings that it was required by its contracts to raise retransmission consent rates for acquired entities.[35]

The Commission's response in this decision to stakeholder concerns about increases in retransmission consent fees that are likely to result from eliminating the national reach limitation is jaw-dropping when considered together with its prior statements on the subject of retransmission consent fees. Specifically, in the order adopted today the Commission states that the impact of eliminating the 39 percent national audience reach limitation on retransmission consent fees is not appropriate for consideration in this proceeding and should instead be considered as part of the case-by-case reviews in individual transactions or in a separate rulemaking proceeding.[36]

There is nothing new about case-by-case reviews. They already happen in every license transfer and the treatment of these issues is instructive as to what stakeholders can expect from this Commission. What is notable about such reviews is the studied avoidance thus far of addressing the impact of the transaction at issue on retransmission consent fees on the merits every single time it is raised.[37] The Media Bureau routinely summarily dismisses such issues as outside the scope of what it should be considering. For example, in the Nexstar Tegna decision, despite evidence that the transaction would result in millions of dollars in increased fees on consumers, the Media Bureau determined that it was inappropriate to consider the issue in that "case-by-case" review because "allegations regarding retransmission consent do not raise a substantial and material question of fact as to whether grant of the Applications would serve the public interest"[38] and such questions should be considered in a rulemaking proceeding.[39] Clearly the Commission does not want to address the challenging questions retransmission consent raises, but passing the buck to another proceeding when the impact is significant, direct, and current can only go so far without becoming the very essence of arbitrary and capricious. The Commission has crossed that line here. This is indefensible.

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[34] Press Release, Nexstar Media Group, Inc., *Nexstar Media Group, Inc. Enters into Definitive Agreement To Acquire TEGNA Inc. for $6.2 Billion in Accretive Transaction* (Aug. 19, 2025), https://www.nexstar.tv/nexstar-media-group-inc-enters-into-definitive-agreement-to-acquire-tegna-inc-for-6-2-billion-in-accretive-transaction/.

[35] Todd Spangler, *Nexstar and Tegna Claim They Can't Fully Comply With Court Order Halting Merger Because Certain Actions 'Cannot Be Undone'* (Apr. 1, 2026) https://variety.com/2026/tv/news/nexstar-tegna-merger-tro-court-order-reply-1236704471/.

[36] *National Television Multiple Ownership Rule* at 34-35, paras. 67-68.

[37] Letter from Michael Nilsson, Counsel to the American Television Alliance, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-318 (filed July 27, 2026) (citing the Media Bureau's declining to address restransmission consent issues in nine proceedings since Feb. 3, 2026, *see* DA 26-755; DA 26-612; DA 26-441; DA 26-427; DA 26-417; DA 26-304; DA 26-267; DA 26-177; and DA 26-108).

[38] *Applications for Consent to the Transfer of Control of TEGNA Inc. to Nexstar Media Inc.*, MB Docket No. 25-331, Memorandum Opinion and Order, DA 26-267 at 31, para. 77 (Mar. 19, 2026) *(Nexstar Tegna Order*).

[39] *Nexstar Tegna Order* at 32, para. 80 (2026)(". . . Petitioners' and Opposing Commenters' allegations regarding Nexstar's incentive and ability, post Transaction, to black out (or threaten to black out) its stations go to the functioning of the retransmission consent marketplace, and the Commission has not previously entertained general concerns about the retransmission consent marketplace in the context of individual transactions. Instead, the Commission has, in the past, considered issues related to retransmission consent—including leverage in retransmission consent negotiations—in rulemaking proceedings, and we believe that it is appropriate to continue that practice here.")

The order further noticeably maintains willful ignorance of other proposed changes to statutes as well as Commission rules and requirements for which broadcasters are currently advocating that will potentially impact the economics of local broadcasting. These include proposals in Congress to apply consent obligations to virtual MVPDs (e.g., DirectTV Stream, Hulu+ Live, Sling TV and YouTube TV) and to make changes to the Sports Broadcasting Act in response to streaming carriage of NFL games, as well as proposals at the Commission to mandate a hard cutover date for transition to the next generation TV broadcast standard and insert the Commission into negotiations between networks and their affiliates. In each of these proceedings, broadcasters are asserting preferential economic treatment is justified by the public good that local broadcasters provide in the form of public safety, local journalism, and cultural touchstones.

The Commission's decision to eliminate the national audience reach cap is not only a departure from decades of statutory and regulatory precedent, but a profound threat to the public interest. Congress has repeatedly and unequivocally asserted its authority over broadcast ownership limits, calibrating the cap to preserve localism, diversity, and competition in the media landscape. By removing this structural safeguard, the Commission disregards clear legislative intent and undermines the foundational principles that ensure communities retain access to independent local journalism, emergency information, and culturally significant programming. This action risks accelerating media consolidation, diminishing the diversity of voices available to the public, and eroding the civic infrastructure that broadcasting uniquely sustains.

Moreover, the Commission's rationale rests on a misreading of statutory language and a willful blindness to the historical record. Congress's repeated interventions in 1984, 1996, and 2004 demonstrate a consistent commitment to limiting national broadcast ownership and preventing excessive concentration of control. The statutory framework, including the prohibition on forbearance and the stand-alone divestiture requirement, leaves no ambiguity: only Congress has the authority to change the cap, and the Commission is expressly prohibited from doing so. By disregarding these constraints and dismissing the interconnected rules and market realities that define today's media ecosystem, the Commission abdicates its responsibility to uphold both the law and the public interest. Eliminating a statutory cap without addressing these interconnected issues is not a strategy. It is improvisation, and improvisation that will hasten the collapse this Commission claims it wants to prevent. I respectfully dissent.