

**STATEMENT OF  
CHAIRMAN TOM WHEELER**

*Re: Broadcast Media Ownership, Diversity and Joint Sales Agreements*, MB Docket Nos. 14-50, 09-182, 07-294, 04-256.

The Commission has long imposed limits on concentration of ownership of broadcast media to promote the statutory goals of competition, localism, and diversity.

Our action today with respect to Joint Sales Agreements (JSAs) will close off what has become a growing end-run around the one-to-a-market limitation. Our goal is not to prohibit agreements that advance the statute's public interest mandate. Rather, we are applying to television a rule that has worked well in radio. The agreements we address, under which one station typically sells all of the advertising time on another station, give a broadcaster the incentive and ability to unduly influence the operations of a competing station.

Joint sales agreements have become the tool to increase corporate control of local media. When one licensee controls the cash flow of another, it controls the other. The old admonition "follow the money" has never been more appropriate. The Justice Department's Antitrust Division has endorsed this proposal, arguing that "There has been a pronounced trend toward one station controlling another station that is nominally owned by a separate entity." DOJ added, "Failure to account for the effects of such arrangements can create opportunities to circumvent FCC ownership limits and the goals those limits are intended to advance."

What we do is no surprise. Industry participants, including investors, attorneys, and financial analysts, acknowledge that it has been anticipated for years that the Commission would close this loophole. Industry participants have disclosed this to investors, making statements like this: "[w]hile all of our existing local service agreements comply with current FCC rules and policies, the FCC may not continue to permit local service agreements as a means of creating duopoly-type opportunities."<sup>1</sup> Industry has known for some time that this day might come. Today is that day.

But let's be clear, attribution of TV JSAs does NOT change the number of TV stations a single entity may own in a market under the Local Television Ownership Rule. It just means that we won't tolerate any longer that licensees circumvent our rules.

It also does not end the use of sharing agreements that promote the public interest. It provides for an expedited waiver review process that will examine the merits of JSAs on a case-by-case basis. If a company can show that the benefits of a JSA serve the public interest, it will get a waiver.

Today, we are also taking the next step in our review of the broadcast ownership rules. The Further Notice allows the Commission to move toward a comprehensive analysis of the relevance of these important rules in today's dynamic and vital media marketplace. We will welcome input from various

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<sup>1</sup> Nexstar Broadcasting Group, Inc., SEC Form 10-K for the Annual Period Ended December 31, 2013, at 40. SEC filings are also instructive in other ways. A cursory review of those filings discloses such things as (1) consolidation of the dependent stations' financials in the financial statements of the controlling entity; (2) "going concern" qualifications based on the dependent broadcaster's relationship with the independent broadcaster; (3) the contingent arrangements enabling acquisition of the dependent broadcaster on very favorable terms; (4) an implausibly small number of employees overseeing the operation of the dependent stations; and (5) low levels of compensation for broadcast group executives relative to peers managing multiple station groups.

industry sectors, the public, and watchdog groups about the realities of the marketplace in 2014 and how these rules serve the public interest. As noted by critics of our actions today, the Commission has been unable to complete the 2010 Quadrennial review. This does not reflect a lack of effort – my predecessor circulated an item in 2012 that languished for over a year. But an inability to achieve a majority on the 2010 review does not entitle us to shirk our responsibilities to take other action that is related to enforcement of our ownership rules. In any event, we are committed to completing both reviews. I have instructed the Media Bureau to complete this review by June 30, 2016, essentially half the time normally allocated to such a review.

We also reaffirm our commitment to ownership diversity and seek input on how our regulations can best assist small entities and niche communities in achieving broadcast ownership without running afoul of legal hurdles. We note in this regard the statements by organizations representing African-Americans, Hispanics, and women that JSAs and other sidecars have inhibited the opportunities for such small businesses to acquire television licenses. Organizations representing these interests and other public interest groups supporting our action today on JSAs include the ACLU, Asian Americans Advancing Justice/AAJC, Center for Media Justice, Color of Change, Common Cause, Communications Workers of America, Free Press, Georgetown Institute for Public Representation, Howard (University) Media Group, The Leadership Conference on Civil and Human Rights, Media Council Hawaii, Media Mobilizing Project, Media Literacy Project, Minority Media & Telecommunications Council, NAACP, National Association of Black Journalists, National Association of Black Owned Broadcasters, National Association of Broadcast Employees and Technicians – CWA, National Association of Hispanic Journalists, National Consumer Law Center, National Hispanic Media Coalition, National Organization for Women, National Urban League, Public Knowledge, Rainbow/PUSH, St. Paul Neighborhood Network, United Church of Christ, OC Inc., Women’s Institute for Freedom of the Press and 19 Media and Communications Policy Scholars.

Finally, we seek to improve the transparency of operations in our broadcast industry. As broadcast stations continue to find new and innovative ways to cooperate in local communities, we need information about the implications of agreements between local television stations. Sharing agreements can offer public interest benefits in the form of increased efficiency that may result in more service to consumers. On the other hand, evidence points to the ability to pervert such agreements to undercut competition. We are seeking additional input on how to best to obtain sufficient information about these sharing arrangements to make a comprehensive evaluation.

Despite assertions otherwise, our interest in attributing JSAs does not mean that we are looking to eliminate the efficiencies and benefits of SSAs. Far from it. While they can be found together, SSAs and JSAs are not one and the same. No one should interpret our actions today on attribution of JSAs as risking the ability of stations to produce original programming and modernize their facilities. Such obfuscation is misleading.

Thank you to Bill Lake and his team in the Media Bureau for their work on this item, and for the work of Maria Kirby in my office.