

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

*Re: Broadcast Media Ownership, Diversity and Joint Sales Agreements*¹, MB Docket Nos. 14-50, 09-182, 07-294, 04-256.

True Southerners have a unique ability to turn lemons into lemonade, and that knack best reflects what I hope we have achieved in the matter before us today.

JSAs and SSAs have been around for some time — with the patent blessing of the FCC — and are the backbone of growth and profits for many broadcasters. Many of these arrangements have resulted in enhanced economic returns through the selling of advertising by a more experienced sales force, additional programming, and most notably, the production of local news. Many also have provided access to state of the art facilities for those stand-alone stations that could never afford them on their own.

JSAs and SSAs, however, have not been without controversy. Some arrangements, quite frankly, were thought to be “workarounds” of our local ownership rules, and the Commission’s staff rightfully began to scrutinize these arrangements more closely.

In so doing, we uncovered some glaring abuses. In some markets, JSAs masked a threadbare ownership structure, where the brokered station owned little else beyond the FCC license. We found arrangements that masked full-scale control of the brokered station, right down to the same programming, the same talent, the same management, and the same studio. More egregiously, we have seen arrangements where the second station was little more than an orphan of the first, including veiled single ownership schemes.

At stake are billions of dollars in revenue, investment capital, and plain old profits for independent television stations in second and third tier markets. On this issue, the economics are truly local.

I am keenly aware of the impact of our actions on broadcasters; the effect on local communities; the reaction of capital markets and institutional investors; the present and future opportunities for minorities and small business entities; the concerns of public interest groups; and last, but not least, the appropriate role of this agency as the regulator of last resort, representing the public interest.

This item has also required me to respond to questions from allies and opponents, alike, about the timing, intent, and fundamental fairness of today’s action. I am not sure whether all issues have been addressed satisfactorily, but in the course of our inquiry we have uncovered several new concerns raised by industry, public interest and minority groups, as well as policymakers, which we seek to address today.

To me, perhaps one of the most ironic and unexpected by-products has been that the issue of diversity, all of a sudden, has risen in the debate. When this was initiated, I had no idea that it would spawn such a heated dialogue on the value and importance of minority broadcast ownership. It is my hope that this concern and expression of goodwill lives well beyond this item.

¹ *2014 Quadrennial Regulatory Review--Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; 2010 Quadrennial Regulatory Review--Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Promoting Diversification of Ownership in the Broadcasting Services; Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets, Further Notice of Proposed Rulemaking and Report and Order, CLAS # 140027.*

For the past several weeks, I have been very clear that my support of any policy shift would only come with a responsible balance of competing interests. First, this item gives a licensee the opportunity to seek a waiver of our local television ownership rule, if it can demonstrate that a JSA is in the public interest. For example, an applicant could demonstrate that a JSA would enable a school, community college, institution of higher education or other community support organization, to own a station, and to demonstrate that the benefits of such common ownership would advance the public interest.

Second, it establishes a shot-clock of 90 days for the Bureau's review of waiver requests. I believe that if we are going to have a viable waiver process, we need to have a definite set of rules concerning how those waivers are to be considered. This provides a level of predictability and certainty for licensees, so that their transactions do not become mired in FCC purgatory. In itself, this is a significant step forward.

Third, this item establishes guidelines for waivers, noting that if a waiver request for a JSA is limited in scope and duration, and has a time-frame for full operational control, it is more likely to succeed than one that is open ended. This should give smaller stations the amount of runway they need to take-off toward full independence.

What we have here today is an item that is admittedly not perfect, nor will it be fully embraced by every stakeholder or interest group. But, I am convinced of our earnestness and good faith to address the key issues involved in the media ownership debate. Responsible regulation requires the balancing of interests. On the one hand, we must uphold those well-defined rules in order to realize our goals of promoting predictability and stability for markets, business owners and investors. On the other hand, there is great value in the decision to uphold our statutory goals of localism, diversity and competition.

There is much more in this item, but in sum, I wish for it to be known that my objective from the beginning has been to provide licensees who want to advance local content in their area television markets, the incentive and framework to do so. And I am convinced that we can both enforce our rules and realize those objectives that the statute directs, if we simply pierce the veneer, abandon the platitudes, and embark on a legally sustainable pathway, to facilitate localism, diversity and competition.

I want to acknowledge the fine work on this item by the Media Bureau, the Office of General Counsel, Maria Kirby of the Chairman's office, and Adonis Hoffman, in my office.