

**STATEMENT OF  
CHAIRMAN AJIT PAI**

Re: *Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, MB Docket No. 17-318.

The national television ownership cap and the UHF discount are inextricably linked. Any review of one must include a review of the other. What is the FCC’s authority to adjust this cap, and (assuming we have such authority), how should we adjust it? Should we eliminate the UHF discount? Those are the key questions we’re asking in this *Notice*. There are no tentative conclusions whatsoever. We’re just asking.

It’s amusing then (to use an unduly charitable construction) to hear such vociferous objections from this bench to simply asking the question whether we have authority, given that the same commissioners previously answered it—in the affirmative. In 2013, the FCC adopted the UHF Discount Notice of Proposed Rulemaking, which stated, “we believe the Commission retains the authority to modify both the national audience reach restriction and the UHF discount, provided such action is undertaken in a rulemaking proceeding separate from the Commission’s quadrennial review of the broadcast ownership rules pursuant to Section 202(h).”<sup>1</sup> Today’s minority expressed nary a doubt about that belief back then. And just last year, the FCC converted that belief into bedrock. It definitively “conclude[d] that [it] has the authority to modify the national audience reach cap, including the authority to revise or eliminate the UHF discount.”<sup>2</sup> And it went even further, stating that the Communications Act does “not impose a statutory national audience reach cap or prohibit the Commission from evaluating the elements of this rule.”<sup>3</sup> Yet again, the current minority voted wholeheartedly for that proposition.

I understand the literary appeal of Oscar Wilde’s dictum that “consistency is the last refuge of the unimaginative.” But our work typically demands a modicum of consistency—boring though it may be.

It’s also amusing that those who have repeatedly voiced their strong opposition to the UHF discount in recent months are now voting against seeking comment on eliminating it. Make no mistake: A vote against this *Notice* is effectively a vote in favor of keeping the UHF discount in place.

Getting back to the substance of this *Notice*, we need to take a holistic look at the national cap rule, including the UHF discount. The marketplace has changed considerably due to the explosion of video programming options and various technological advances that have occurred since the cap was

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<sup>1</sup> *Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, Notice of Proposed Rulemaking, 28 FCC Rcd 14324, 14330 (2013).

<sup>2</sup> *Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, Report and Order, 31 FCC Rcd 10213, 10222 (2016).

<sup>3</sup> *Id.*

last considered in 2004. So we need to examine whether our rules should change accordingly. That's an important discussion that will be informed by the facts in the record—not anything else.

I'd like to thank the dedicated staff who worked on this *Notice*: Ty Bream, Michelle Carey, Brendan Holland, Mary Beth Murphy, and Julie Saulnier from the Media Bureau; and Dave Konczal, Bill Richardson, and Royce Sherlock from the Office of General Counsel.