

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
2010 Quadrennial Regulatory Review –)	MB Docket No. 09-182
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	

The Office of Communication of the United Church of Christ, Inc., Prometheus Radio Project, Media Alliance, National Organization for Women, National Hispanic Media Coalition, Communications Workers of America, The Benton Foundation, Common Cause, and Media Council Hawai`i respectfully submit these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) request for suggestions on additional studies.¹ At a minimum, we believe that the FCC should undertake additional studies to assess the impact of its current ownership limits on minorities and women and to assess the impact of new types of sharing arrangements between television stations.

**A. The Commission Should Study the Impact its
Ownership Rules have had on Broadcast Station
Ownership by Minorities and Women**

In reviewing the FCC’s decision in the 2002 Biennial Review of its ownership rules, the Third Circuit found that the FCC acted arbitrarily and capriciously in failing to consider the impact its ownership rules had on minority and female ownership of broadcast stations.² On remand, the Court instructed the Commission to consider “proposals for enhancing ownership

¹ *Media Bureau Announces the Release of Requests for Quotation for Media Ownership Studies and Seeks Suggestions for Additional Studies in Media Ownership Proceeding*, DA 10-1084 (June 13, 2010)

² *Prometheus Radio Project v. FCC*, 373 F.3d 372, 420-21 (3rd. Cir 2004).

opportunities for women and minorities which the Commission had deferred for future consideration.”³

The effect of the current ownership rules on station ownership by minorities and women is clearly relevant to the 2010 Quadrennial Review. Yet, the Commission has not requested any studies to assess the impact of its rules on minority and female ownership. For example, a study or studies might examine: (1) has the relaxation of the TV duopoly rules affected the number of television stations owned by minorities and women? ; (2) has re-implementation of the failed station solicitation rule increased minority and female ownership? ; (3) has the relaxation of the radio rules (both generally and by counting noncommercial stations in the numerical limits) affected the number of stations owned or controlled by minorities and women? ; (4) has the FCC’s decision to permit the transfer of grandfathered combinations in violation of the local ownership limits to certain eligible small businesses resulted in an increase in the number of broadcast stations owned by women or minorities? In addition to assessing the effect of the existing rules, the FCC should assess the extent minorities and women are involved in producing and owning media on new media platforms such as the Internet.

Despite the FCC’s historical efforts to increase opportunities for women to own broadcast stations and the Third Circuit’s direction that the FCC assess proposals for enhancing diversity through minority and female ownership, *none* of the studies announced by the Media Bureau ask for any analysis of how an owner’s gender impacts competition, diversity or localism. Indeed, only one -- Study 7 -- focuses on minorities, and it is limited to a very narrow question, that is, the impact of minority ownership on minority-targeted radio formats. Some other studies, e.g., Study 3 at ¶5, include minority (but not female) ownership as one of the factors to be included in

³ *Id.* at 435 n.82.

identifying ownership structures. Thus, the Commission should request an additional study to look specifically at the extent of women's participation in broadcasting, how the ownership rules affect women's participation, how women's ownership impacts diversity competition, and localism, and similar issues.

Finally, the Commission should study whether the needs of minority and female audiences are being met by the current ownership structure. Study 1 is intended to look at media usage of a proxy for consumer satisfaction. Paragraph 4 requires the contractor to measure "media usage by various demographic groups, to the extent feasible." At a minimum, the FCC should specify that demographics groups include minorities and women, and it should require this analysis to be done, rather than let the contractor decide if it is feasible. The Commission should also supplement this quantitative analysis with a qualitative assessment of whether minorities and women believe that their programming needs are being met in the current environment.

B. The Commission Should Study the Impact of New Types of Sharing Agreements on Diversity, Localism, and Competition

As detailed in comments filed by Communications Workers of America and Media Council Hawai'i in the Future of the Media proceeding,⁴ new types of sharing arrangements between broadcast stations called "shared services agreements" and "local news services" have become increasingly popular as a means to circumvent the local television ownership limits and, thus, undermine the public interest goals of diversity, competition, and localism.

⁴ GN Docket No. 10-25 (filed May 7, 2010).

1. Shared Services Agreements

Generally, a shared services agreement (SSA) consists of one or more agreements between two broadcast licensees in the same market that gives one broadcast station (“broker” or “brokering station”) the right to provide operational support and programming for the other station (“brokered station”) in return for some consideration. SSAs typically include a local marketing agreement (LMA) and a joint sales agreement (JSA). In addition, SSAs often include agreements to share office space, studio and transmission facilities, personnel, and support functions. In most SSAs, the brokered station completely outsources its news operation to the brokering station.

SSAs currently exist in at least twenty-five markets ranging from Denver (DMA-18) to Duluth, Minnesota (DMA-139). Several multiple station owners such as Sinclair, Raycom, Nexstar, and Granite, have extended their control by entering into SSAs. It has been reported that NBC is currently in talks to form an SSA between its station KNTV and rival KRON in the San Francisco-San Jose market (DMA-6).⁵

Shared services agreements typically reduce the diversity of local “voices” in a community by replacing independent newscasts with a rebroadcast or simulcast of another station’s news. Even if the SSA recites that the licensee of the brokered station retains editorial control, the licensee may lack the practical ability and/or financial incentive to produce its own programming. Because the brokered station typically has only a small number of employees⁶ and only a limited right to receive advertising revenue (or no right at all), the licensee is unable to fulfill its public interest obligations.

⁵ *NBC in Talks to Partner with KRON*, BROADCASTING & CABLE, Feb. 16, 2010.

⁶ For example, in the Raycom-HITV SSA in Honolulu, the brokered station has only two employees.

From the standpoint of local news programming, SSAs can have the same detrimental impact on diversity, competition and localism as do outright duopolies and triopolies. The Commission should conduct a study to assess the numbers and types of sharing arrangements between local stations. It should fully examine the impact that these arrangements have on diversity, localism and competition in local markets. For example, the study might examine the impact of SSAs on the amount of local news, the variety of stories covered, the size of news staffs, and the impact on local advertising.

C. Local News Services

Similar to SSAs, local news services (LNS) undermine diversity, competition and localism in local markets. Generally, an LNS is an arrangement between broadcasters to cooperate in the gathering and production of local news content. Details of many of these LNSs are hard to pin down because the agreements are not required to be disclosed under current Commission rules.

The first LNS began in January 2009 between the Fox and NBC owned-and-operated stations in Philadelphia (DMA-4).⁷ Fox and NBC indicated that they intended to bring the LNS model to other markets.⁸ Over the course of 2009, they launched LNSs in eight of the top nine DMAs. Other station owners quickly hopped on the bandwagon. For instance, in New York, the local Fox, NBC, The CW, and CBS stations have all joined an LNS,⁹ and in Los Angeles, Fox,

⁷ Michael Malone, *Fox, NBC Dive Into Pool; Launching Local News Service in Philly*, BROADCASTING & CABLE, Nov. 17, 2008.

⁸ *Id.*

⁹ Michael Malone, *New York Pool: WNYW, WNBC, WCBS, WPIX*, BROADCASTING & CABLE, June 8, 2009.

Telemundo, NBC, and The CW all participate.¹⁰ Similarly in Austin, Texas (DMA-49), the local Fox, ABC, NBC, CBS, and MyNetwork affiliates all participate in an LNS, leaving Austin viewers with access to *only one broadcast perspective* on any story covered by the LNS.

The Commission should study the impact of LNSs on competition, diversity and localism. The study should determine the number and extent of stations participating in LNSs in each DMA. It should address, among other things, (1) what percentage of each participant's local news stories aired come from the LNS? ; (2) how many different stories are produced in markets that have LNSs compared to ones that do not? ; (3) how has the introduction of an LNS affected investigative reporting? ; (4) what impact have LNSs had on the size of newsrooms? and (5) whether viewers are aware of these arrangements, and if so, how they are perceived?

CONCLUSION

UCC et al. supports the Commission taking a comprehensive assessment and analysis of the impact its ownership rules have diversity, competition and localism. To conduct a truly adequate review of its media ownership rules, the Commission's must, at a minimum, assess the effect its rules have on minority and female ownership and the impact of SSAs and LNSs on the goals of competition, diversity and localism.

¹⁰ Michael Malone, *Three L.A. Stations to Begin Local News Video Share June 15*, Broadcasting & Cable, June 2, 2009. Both the local NBC affiliate and the local Telemundo affiliate are owned by BC Universal, operating under a temporary waiver from the FCC which has expired.

Respectfully Submitted,

/s/

Adrienne T. Biddings, Esq.

Andrew Jay Schwartzman
Media Access Project
1624 K Street, NW Suite 1118
Washington, DC 20006
(202) 454-5681

*Counsel for Prometheus
Radio Project*

Angela J. Campbell, Esq.
Adrienne T. Biddings, Esq.
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, N.W.
Washington, D.C. 20001
(202) 662-9535

*Counsel for The Office of Communication
for the United Church of Christ, National
Organization for Women, Media Alliance,
National Hispanic Media Coalition, The
Benton Foundation, Communications
Workers of America, Common Cause, and
Media Council Hawai`i*

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