NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

News Media Information 202 / 418-0500
Internet: http://www.fcc.gov
TTY: 1-888-835-5322

FOR IMMEDIATE RELEASE
December 18, 2007

NEWS MEDIA CONTACT
Mary Diamond (202) 418-2388
Email: mary.diamond@fcc.gov

FCC Adopts Revision to Newspaper/Broadcast Cross-Ownership Rule

Washington, DC –The Federal Communications Commission (FCC) today concluded its quadrennial review of the broadcast ownership rules. The Commission amended the 32-year-old absolute ban on newspaper/broadcast cross-ownership by crafting an approach that would presumptively allow a newspaper to own one television station or one radio station in the 20 largest markets, subject to strict criteria and limitations.

The newspaper/broadcast cross-ownership rule currently prohibits common ownership of a broadcast station and a daily newspaper in the same market. The U.S. Court of Appeals for the Third Circuit (Court), affirmed the Commission's determination that this blanket ban on newspaper/broadcast cross-ownership was no longer in the public interest while remanding the specific cross-media ownership limits drawn by the Commission in 2003. The Court agreed that "…reasoned analysis supports the Commission's determination that the blanket ban on newspaper/broadcast cross-ownership was no longer in the public interest."

The media marketplace has changed considerably since 1975 when the newspaper/broadcast cross ownership was put in place. At that time, cable was a nascent service, satellite television did not exist and there was no Internet. Consumers have benefited from the emergence of new sources of news and information. But according to almost every measure newspapers are struggling. For example, at least 300 daily papers have stopped publishing over the past thirty years and circulation and advertising revenues at approximately half of all U.S. dailies has dropped precipitously in recent years. Permitting cross-ownership can preserve the viability of newspapers by allowing them to share their operational costs across multiple media platforms.

The rule adopted today would presumptively permit cross ownership only in the largest markets where there exists competition and numerous voices. The revised rule balances the need to support the availability and sustainability of local news while not significantly increasing local concentration or harming diversity. Under the new approach, the Commission presumes a proposed newspaper/broadcast transaction is in the public interest if it meets the following test:
(1) the market at issue is one of the 20 largest Nielsen Designated Market Areas ("DMAs");
(2) the transaction involves the combination of only one major daily newspaper and only one television or radio station;
(3) if the transaction involves a television station, at least eight independently owned and operating major media voices (defined to include major newspapers and full-power

TV stations) would remain in the DMA following the transaction; and
(4) if the transaction involves a television station, that station is not among the top four ranked stations in the DMA.

All other proposed newspaper/broadcast transactions would continue to be presumed not in the public interest. However, the Report and Order addresses two limited circumstances in which this negative presumption would be reversed:

- First, it adapts the Commission's longstanding approach concerning failed or failing station waivers to newspaper/broadcast combinations, using the same criteria in defining whether an outlet is "failing" or has "failed." To be deemed "failed," the newspaper or broadcast station would have to have ceased publication or gone dark at least four months before the filing of an application, or be in bankruptcy proceedings. To be treated as "failing," the applicant must show that (a) the broadcast station has had an all-day audience share of 4 percent or lower, (b) the newspaper or broadcast station has had a negative cash flow for the previous three years, (c) the combination will produce public interest benefits, and (d) the in-market buyer is the only reasonably available candidate willing and able to acquire and operate the newspaper or station.

- Second, the negative presumption against a newspaper/broadcast combination will be reversed when a proposed transaction results in a new source of local news in a market – to be specific, when a combination would initiate at least seven hours of new local news programming per week on a broadcast station that previously has not aired local news.

Under the new rule, the Commission would consider these presumptions as establishing a high hurdle as it reviews the transactions on a case-by-case basis. In particular, applicants attempting to overcome a negative presumption about a newspaper television combination will need to demonstrate by clear and convincing evidence that post-merger, the merged entity will increase the diversity of independent news outlets (e.g., separate editorial and news coverage decisions) and increase competition among independent news sources in the relevant market. The Commission will use the following factors to inform its evaluation:

(1) the level of concentration in the DMA;
(2) a showing that the combined entity will significantly increase the amount of local news in the market;
(3) a showing that the newspaper and the broadcast outlets each will continue to employ its own news and editorial staff and that each will exercise its own independent news judgment; and
(4) the financial condition of the newspaper or broadcast station in the proposed combination, and if the newspaper or station is in financial distress, the proposed owner's commitment to invest significantly in newsroom operations.

This approach will permit the Commission to balance the needs of the public for media and viewpoint diversity with its concerns about the financial health of traditional media outlets in the context of each particular transaction.

This rule change is notably more conservative in approach than the remanded newspaper/broadcast cross-ownership rule that the Commission adopted in 2003. That rule would have allowed transactions in the top 170 markets. The rule adopted today allows only a subset of transactions in only the top 20 markets, which would still be subject to an individualized determination that the transaction is in the public interest.

With respect to the remaining broadcast ownership rules currently under review, the Commission determined that any further relaxation of ownership rules in the radio or television broadcast markets should not be allowed. The Commission will make no changes to the local television "duopoly" rule, the local radio ownership rule, local radio-television cross ownership rule and the dual network rule currently in effect.

Action by the Commission December 18, 2007, by Report and Order (FCC 07-216). Chairman Martin, Commissioners Tate and McDowell with Commissioners Copps and Adelstein dissenting. Separate statements issued by Chairman Martin, Commissioners Copps, Adelstein, Tate, and McDowell.

-FCC-

.