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Comments Are Due **July 12, 2010** and Reply Comments Are Due **July 26, 2010** in the FCC's Media Ownership Quadrennial Review Proceeding

by Richard R. Zaragoza and Paul A. Cicelski

In May, the FCC released a Notice of Inquiry (“NOI”) as part of its 2010 Quadrennial Review of its media ownership rules. According to the FCC, the purpose of the NOI is to take a “fresh look at the current rules to determine whether they promote the Commission’s goals of competition, localism and diversity.” The NOI is generally asking for comment regarding its policy goals and how to apply its specific media ownership rules in order to best achieve those goals. The Commission is planning on using the comments filed in this proceeding to help the agency formulate a subsequent formal Notice of Proposed Rulemaking. Pursuant to recent publication of the NOI in the Federal Register, comments are due **July 12, 2010**, with reply comments due **July 26, 2010**.

The FCC is seeking comment on how to: (1) define its policy goals of competition, localism, and diversity; (2) determine how best to promote these goals in today’s media market; (3) analyze the relevance of its policy goals to each of the groups of market participants it has identified; (4) measure whether particular ownership structures promote these goals; (5) determine whether any new or revised rules could be adopted to promote these goals; (6) determine when a goal has been achieved; and (7) balance the goals when they conflict with each other.

With respect to its ownership rules, the FCC is also requesting comment on the relationship of these public interest goals with a number of its ownership rules. Specifically, five of the Commission’s media ownership rules are the subject of the Quadrennial Review NOI: (1) the local TV ownership rule; (2) the local radio ownership rule; (3) the newspaper/broadcast cross-ownership rule; (4) the radio/TV cross-ownership rule; and (5) the dual network rule. Among other questions, the Commission is seeking comment on the following matters:

- **Local Television Ownership Rule:** Do the “eight voices” test and the associated “top four” rule promote competition, diversity, and localism? Which, if any, other

media should be taken into account when determining the number of voices in a given market? Should the FCC continue to take television contours into account when applying the rule? Would consolidation of television ownership in local markets provide more and better programming and would consolidation allow television stations to compete more effectively with multichannel video programming distributors such as cable and satellite providers?

- **Local Radio Ownership Rule:** Whether it continues to make sense for the FCC to use distinct sub-caps for AM and FM radio stations and whether recent technological advances have eliminated the need for this aspect of the rule? What part should low-power FM stations play in the rule? Should the Commission continue to only count the number of radio stations in a local market or should it take in account other factors such as market share or the degree of consolidation of other media in local markets when applying the rule?
- **Newspaper/Broadcast Cross-Ownership Rule:** Should the FCC continue to treat newspaper-television combinations differently than newspaper-radio combinations? Would a relaxation of the current limits result in economies of scale that would help newspapers survive and supply more local news and information? Should any such relief operate pursuant to a waiver standard and, if so, what factors should a waiver take into account? Should the current public interest presumption favoring newspaper/broadcast combinations continue to be applied only in the largest markets?
- **Radio/Television Cross-Ownership Rule:** Should the Commission modify its current process for counting the number of media voices in a market and does the rule make sense given recent technological advances and today's media marketplace? How should the Commission justify a decision to retain its numerical limits and what type of waiver standard should apply?
- **Dual Network Rule:** Should the dual network rule which allows common ownership of multiple broadcast networks that are not "top-four" networks (*i.e.*, ABC, CBS, Fox, or NBC) be retained in its current form? Would a merger of any of the top-four networks harm competition in the program acquisition market and what metrics should the Commission use when analyzing this market? If it is retained at all, should the rule be revised to more generally target mergers between networks with specific characteristics? If so, what should those characteristics be?

Finally, the NOI asks whether and how to use bright line rules, adopt a case-by-case approach, or adopt a broad cross-media approach to media ownership if the Commission determines the current rules no longer serve its public interest goals. The NOI seeks additional comment on the costs and benefits of outlet-specific rules, as compared to rules that apply to all media together, and how the Commission's National Broadband Plan may impact its review.

As discussed above, comments on these proposals are due by **July 12, 2010**, and reply comments are due by **July 26, 2010**. Those interested in filing comments should contact the attorneys in the Communications Practice.

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