PREPARED STATEMENT OF JAY IRELAND
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Good morning, Chairman, Commissioners, distinguished guests, ladies and gentlemen. I am Jay Ireland, President of the NBC Television Stations, and I am delighted to speak with you this morning regarding the realities of today's media marketplace.

The Commission faces a difficult task. Both the U.S. Congress and the D.C. Circuit have asked it to justify long-standing broadcast ownership regulations in light of the vastly increased competition within the industry and the diversity of media outlets available to virtually all Americans today.

But my job is as difficult. Every day, I have to figure out how we are going to compete with this same endless and expanding universe of media outlets, many of which face no or far fewer regulatory obstacles than broadcast television, while seeking to maintain the quality local and national programming that the public expects to find on free, over the air television.

Today's world is not the world of 40 years ago, when markets like Washington, DC, had fewer than 30 local metropolitan media outlets, and smaller markets, like Richmond, Virginia, had a mere handful. Today, Washington has 65 broadcast stations alone, and literally hundreds of other media outlets, including hundreds of cable or satellite television networks, 100 or more satellite radio channels, dozens more daily or weekly newspapers, and, perhaps most important, the Internet, which empowers every user to be his or her own programmer, editor or content creator.

This is consistent with the national trend. According to the FCC's own data, there has been nearly a 200 percent increase in the number of media outlets – and a 139 percent increase in the number of owners – since 1960. Let's look at the media landscape today: there are over 2200 commercial television stations; 81 percent of TV homes receive their signal from either cable or satellite; the average number of channels received is 89, of which 14 are over-the-air stations.

Here is another way to look at it. In the past, broadcast television had a predominant share of the nation's media revenues. Today, based on 2001 estimates, roughly 87 percent of the nation's media revenues went to industries other than the broadcast television industry.

Here is yet another perspective. During prime time, the NBC and Telemundo stations attract less than 3 percent of the nation's total television audience. Yet under the current national ownership cap, we are near the legal limit of our ability to own broadcast stations. This is in stark contrast to the rules applicable to other industries, in which market concentration concerns generally do not arise until a company has a market share of around 40%. This anomaly is due to the FCC's rules, which focus on theoretical audience reach rather than actual viewership – thereby transforming our 3 percent actual viewership into a deemed nearly 35% national audience reach. This is based on the assumption that every household in every market in which we own a station is tuned to our station at all times. On this theory, General Motor's market share would be calculated not on the basis of actual sales, but instead on the assumption that every car-owner in every market in which GM has a dealer will buy a GM car.

On the programming side the competition is equally fierce. NBC used to compete against two other networks to acquire first-run, prime time programming. Now, it has to compete against as many as six other general entertainment, English-language broadcast networks, and a hundred-plus targeted cable networks. You can see the results in your electronic program guide. The top-four networks have been forced to reach out to ever more diverse sources of programming – from Arena Football and NASCAR to a proliferation of news magazine and reality programming.

Not surprisingly, NBC's primetime program costs have increased nearly 50 percent during the last seven years – in other words, since the courts and the FCC eliminated the Financial Interest and Syndication rules. That increase in cost speaks volumes about the competitive nature of today's program buying market.

This unprecedented -- and ever-growing -- level of media and programming diversity is the reality of today's media marketplace. In such a diverse marketplace it makes no sense to subject the broadcast industry to rules developed more than half a century ago. Those rules reflected a view of the world in which broadcast television was the only source for much video programming. That world no longer exists. To leave these rules in place would subject television broadcasters to unfair and burdensome constraints that prevent them from competing effectively against other forms of media.

Fortunately, the answer to each of the arguments for more regulation requires nothing more than a little reality.

National Ownership. Some advocates for more government intervention argue that relaxation of the national cap will undermine "local" viewpoints. The reality is that the cap has nothing to do with local program diversity. The national and local media are so diverse, vibrant and robust that the cap plays no meaningful role in ensuring that Americans can access as much viewpoint diversity as they wish. The Commission reached this conclusion 20 years ago. In 1984, the Commission determined that the national programming market was so diverse as not to require any sort of national cap. In the two intervening decades, the market has only grown dramatically more diverse and robust.

The truth is that, in large markets – which is where the major networks are most interested in owning stations -- there is virtually no solely local ownership of television stations. Most non-network owned stations in the top 50 markets are owned by major stations groups like Belo, Hearst Argyle, Media General, Tribune and Cox. Even NBC's Richmond affiliate, WWBT, which is not in a top-50 market is owned by a media conglomerate that owns 20 television and radio stations. These are national conglomerates; they are no more "local" than the networks. In fact, a survey of 65 DMAs across the country revealed that only *20 percent* of all television stations are owned by an individual or entity that is based in the same market as the station. The pros and cons of "local" ownership are simply not at issue if the rules were changed to allow the networks to acquire some of these stations. The only thing the cap does is protect these national groups -- many of which own 10 or more stations -- from having to compete with network-owned stations in new markets.

Some assert that the national cap promotes diversity because it ensures the existence of a strong affiliate network, and affiliates are more "local" because they preempt network programming more frequently. But this premise is just not true. On average, a network affiliate preempts network program about as often as a network O&O, and historically an NBC affiliate uses barely one-half of its annual preemption basket - which are the number of hours of network programming an affiliate can preempt for any reason at all. And the pattern of affiliate preemption demonstrates that the predominant motivation is economic, not local diversity. An affiliate has a strong economic incentive to preempt network programming, since it does not have to share advertising time with the network when it does so. For example, towards the end of a quarter a general manager of a non-network owned station may be tempted to increase revenue by replacing a network program with a re-showing of "Rambo" or paid programming. Certainly, an affiliate choosing to substitute its own movie for the network's does not enhance the type of diversity the FCC is seeking. It just adds to the affiliate's bottom line.

Indeed, the network owned stations provide programming that is more locally oriented compared to the programming of the affiliated stations. For example, NBC has owned Telemundo for less than a year and we have already added many hours of newscasts in several key Spanish-language markets. Also, the NBC-owned stations on average air more hours of local news per week than do the independently owned stations. Ultimately, a true measure of local relevance is ratings in the local market, and on average, NBC's O&Os perform at least as well as, if not better than, the independently owned stations.

In certain circumstances the national cap inhibits rather than enhances program diversity and competition. NBC recently acquired the Telemundo network, and is working hard to improve Telemundo's performance so that it offers more competition to Univision, the leading Spanish-language network. Yet under current rules NBC will soon be constrained by the national cap and will be unable to continue expanding the Telemundo station group. This is because each additional station acquired is counted against the cap as if every household in that market is a Telemundo viewer, regardless of the rating or actual viewership of that station. Moreover, the Telemundo programming is clearly distinct from the NBC network programming, yet for the purposes of the cap that is entirely disregarded. As a result, the cap inhibits NBC/Telemundo's ability to improve diversity of programming for the nation's largest minority group. That's the reality of the cap.

Local Ownership. Some argue that the current local ownership rules are critical to preserving local viewpoint diversity. They assert that diversity would be undermined if any party were allowed to own more than two television stations in a market, regardless of the size of the market or the nature of the stations involved.

But the reality is that every market in the country has plenty of outlets to protect viewpoint diversity even if the local ownership cap is relaxed. Moreover, by imposing such a rigid set of restrictions, the FCC's existing rules produce arbitrary results. Under these rules, I can own 2 stations in a 9-station market, but could not own 3 stations in a 24-station market. This result defies logic. No one has offered a plausible justification of this regulatory approach.

Some who defend the current ownership rules (both local and national) assert that common ownership results in a common viewpoint, and therefore necessarily decreases diversity. This is not supported by fact or logic. The fact is, as previously noted, NBC has owned Telemundo for less than a year, and already has added newcasts in several key Spanish-language markets. Why? Because NBC can share the backroom and equipment costs of a news operation across its other stations, including same-market stations. And let me assure you – NBC and Telemundo do not merely offer the same news and entertainment programming in different languages. Why? Because logic dictates that to justify our investment we must expand our total audience, and to do so we must offer distinctive programming. It is in our own economic self-interest to differentiate our local stations in order to maximize their total viewership.

Implicit in the argument that common ownership undermines diversity is the assumption that network necessarily speaks with a monolithic voice. This assumption is simply wrong. Even a single channel – much like a single newspaper – offers content with disparate points of view. NBC airs the conservative-leaning "Law & Order" after the liberal-leaning "West Wing." Tim Russert interviews persons with conflicting views on the same program. NBC and Telemundo stations are commonly owned, but these stations hardly parrot a particular party line. The reason is obvious. NBC, Telemundo, and the other media outlets are all looking to broaden and expand their audience appeal. If the viewers do not like our programming, it is far too easy today to change to any one of 150 channels or turn off the television altogether to surf the Net or access other forms of media.

Financial/Syndication. It was only seven years ago that the federal courts, and the FCC, abandoned the fin-syn rules. The Commission originally adopted such rules in 1970 to curb what it perceived as the "excessive" power of the three major broadcast networks. In 1970, there were three broadcast networks, cable was in its infancy and DBS did not exist. Two decades later, the Seventh Circuit struck the rules down as being unjustifiable and anti-competitive. In the seven years since that decision, the competition for programming has only accelerated, as the explosion in the number of programming outlets has created many more bidders seeking quality programming. There is no basis for resurrecting rules that make even less sense today than they did when they were struck down. And there is certainly no basis for doing so in a preceding addressing station ownership.

Apparently some independent producers believe that networks are dominating program production. Yet a fair assessment of the program buying market indicates that the top-four networks produced only 35 percent of their respective 2002-2003 prime time programming. NBC, for example, relies heavily on independent and other producers for its programming – ask Dick Wolf, who has created an institution with his "Law & Order" series. There is no evidence that free competition has endangered programming diversity.

Conclusion. Relaxation of the Commission's ownership rules will not diminish diversity. What will diminish diversity is the loss of media outlets because they can no longer compete in today's fragmented marketplace. If those who want more government intervention win – the reality will be that viewers will lose. This is because the broadcast networks will no longer be able to afford to obtain the top-quality programming that viewers have grown accustom to. And, on the local level – groups will not be able to gain the efficiencies they need to compete against the huge number of media options available. The best protection against television becoming an increasingly marginalized source of information and entertainment in today's market place is not more regulation, but more competition nationally, locally, and in programming.