Testimony of W. Kenneth Ferree
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Before the Federal Communications Commission
On Media Ownership Proceedings

As I started to think about a statement for this hearing, I began to try to unravel exactly the status of each of the relevant proceedings involving the FCC's broadcast ownership rules, and to try to figure out what might be procedurally possible at this juncture. Before I came to any conclusions, however, I was pulled up short by one overwhelming thought – are these ownership rules even relevant in today's media marketplace?

I understand that by statute the Commission is obliged to periodically review the status of certain rules. But my strong suspicion is that, at this point in the media revolution, this proceeding will end up being a lot of sound and fury signifying nothing. At the end of the day, these rules are only about who can own broadcast radio and television stations. But, I think, even the most hawkish foes of consolidation are beginning to realize that efforts to limit broadcast ownership are mis-focused.

First, there can be no denying that radio and television broadcast is a much less significant part of the media universe than they once were. I would commend to those who are interested a report done by my colleague, Adam Thierer, called "Media Metrics: The True State of the Modern Media Marketplace.1" The book outlines in terrific detail the increasingly marginal role that traditional broadcast outlets play in the media markets. For example, "[w]ith the rise of new audio competition," Thierer writes, "broadcast radio station listenership is falling steadily. Listenership is falling fastest for younger demographic groups. According to Arbitron ratings data, from the summer of 1999 to the

1 Adam Thierer and Grant Eskelsen, Media Metrics: The True State of the Modern Media Marketplace
(Washington, D.C.: The Progress & Freedom Foundation, Summer 2008), www.pff.org/mediametrics/

summer of 2007, the average quarter-hour radio ratings for the teen demographic (ages 12-17) fell almost 22 percent, listeners between the ages of 18 and 24 fell by 20 percent, and those between the ages of 25 and 35 years of age fell by 18 percent.2" (Exhibits 1) As a result, radio revenue growth has been essentially flat for the past five years – with no reasonable prospect of improvement in sight. (Exhibit 2)

Broadcast television, too, is challenged by technological and market developments that have rendered obsolete the old business model. Broadcast audience shares have been in a steady decline since 1980 (Exhibit 3-4), corresponding to increasing audience shares for new distribution technologies, notably cable and satellite.

Indeed, even newspapers, which are indirectly encompassed within the FCC ownership restrictions, are increasingly irrelevant in the market. As Adam points out in Media Metrics, "Newspapers have been in a steep decline – both the total number of papers and paid circulation – since 1980. Daily circulation has been in a state of freefall since 1980, and readers of all ages are turning away from papers and toward the myriad other media options at their disposal.3" (Exhibits 5-6)

Unfortunately, it is traditional media that have historically carried the burden when it comes to production of some of the most important content. The real concerns today should not be about whether one entity should be allowed to own a spate of radio stations in any given market, or whether one should be permitted to own a print property and a broadcast property in the same market, but whether it will even be possible in the new atomistic, hyper-competitive media markets to sustain the production of high-quality news and entertainment programming.

2 Thierer and Eskelsen, pg 48
3 Thierer and Eskelsen, pg 67

The reality that is fast becoming clear is that high-end original programming costs a great deal of money to produce. Homemade YouTube videos may sometimes be clever and entertaining in small doses, but it is highly unlikely that amateur producers will ever replicate full-length drama, serial comedies, and other expensive long-form program offerings.

More importantly, real journalism costs real money. As I said when we were involved in this exercise in 2003, if you love journalists, you've got to love those who pay them to do their work. A free, active, and intelligent press corps is critical to a well functioning democracy, and there is no substitute for full-time, professional journalists on the beat. But somebody has to pay them, and it is less and less clear that any media organization – particularly those in the traditional media most concerned with the FCC's ownership rules – will be able to attract a sufficient paying audience to sustain a robust journalistic operation.

This tension can be found nationally and at the local level. Network broadcast news audiences continue to shrink and circulation figures for even the jewels of the newspaper business like the New York Times, are deteriorating. It takes a certain size and scope to support a sophisticated national news organization with bureaus in far flung locations – a size and scope that is increasingly hard to maintain.

Moreover, the audience fragmentation that has occurred with the onset of new media threatens not only the ability of large organizations to cover in depth news stories with national and international implications, but also the continuing viability of local news operations in communities large and small.

Which brings me back to my initial question – why are we fixating on the

appropriate ownership limits for broadcast properties? Indeed, today you are working on rules that limit those who may own broadcast properties; tomorrow this all may be inverted and the government may be trying to craft rules to encourage people to buy these same properties, perhaps in distress. The lead news stories today having to do with media ownership are not about acquisitions of broadcast properties, but of sales and disaggregation of large media companies. The list is quite long, but it includes such noteworthy transactions as Disney selling its radio group, Time Warner divesting its cable companies, Viacom splitting with CBS, News Corp. shedding its DIRECTV distribution arm, The Tribune Company's bankruptcy, and Clear Channel's sale of all of its television stations and its efforts to reduce its radio holdings. In short, the age of broadcast media consolidation appears to be past – we are now squarely in the age of media fragmentation.

For example, when I was involved in this proceeding in 2003, we worried about justifying the national television ownership cap to prevent the large networks from buying too many of affiliates and thereby undermining localism in smaller markets. Today all evidence suggests that the networks are no longer in the market to acquire stations and that they may in fact be divesting stations and/or moving programming to cable distribution in some markets.

That's not to say our worries have ended. Indeed, as much as we worried about media consolidation, media fragmentation may pose much more significant risks to our society. As crass at it may sound, the ability of broadcasters to "serve the public interest," to provide original news programming, to engage in local production, and to

cover political events, depends on their ability to be commercially successful. There is no tooth fairy leaving silver coins under the pillow to finance these efforts. Broadcasting, as a service, is seriously threatened in this new media environment.

The goal of re-energizing and revitalizing local commercial broadcast service, if it ever is to be realized, will come only when the shackles that bind broadcasters' ability to respond to new competitive pressures are removed. Of course, with respect to this proceeding, that would include eliminating outdated ownership restrictions so that broadcasters can organize in economically efficient ways.

I'm afraid, however, that the time has passed when easing ownership restrictions alone might have made a difference. If the FCC were today to simply eliminate all of its broadcast ownership limits the reaction in the market would be widespread oscitation. The fact is that broadcasting today appears not to be a very attractive investment risk.

Thus, other, bolder steps are probably required for traditional media to flourish again. For example, the FCC and Congress should abolish archaic broadcast speech restrictions so that broadcasters can compete with new media platforms that enjoy full First Amendment protection. Even more dramatically, Congress could recognize that broadcasters hold a property interest in their licenses and allow them to use their assigned spectrum in the most efficient manner as determined by free people interacting in free markets – or to trade or sell it to those who would.

Obviously these suggestions go beyond the scope of this proceeding and I will not belabor them here. In a larger sense though, I do think it is fair to ask whether all of the time, energy, and resources that will be devoted to this proceeding might be better spent otherwise. Tinkering with ownership limits in a subset of the media industry that is

suffering from a deteriorating investment environment holds little hope of effecting significant positive change. Whatever the Commission is going to do with regard to its ownership limits, it should do it quickly so that it can turn its attention to removing other

regulatory burdens that continue to unnecessarily hamstring broadcast media.

Exhibit 1:

AverageQuarter-HourRadioRatingsbyAge(1998-2007)
0510152025303540455OFA98WI99SP99SU99FA99WI00SP00SU00FA00WI01SP01SU01FA01WI02SP02SU02FA02WI03SP03SU03FA03WI04SP04SU04FA04WI05SP0
SU05FA05WI06SP06SU06FA06WI07SP07SU07QuarterAverageQuarter-HourRatingPersons35-64Persons18-34Teens12 -17
Exhibit 2:

Historic
and
Projected
Radio
Revenue
Growth

(1996-2010)

20.0%

14.0%
11.9%

15.0%

11.4%

8.7%

7.8%

7.2%

3.1%

2.6%

0.5%
0.9%
-0.1%
10.0%

5.0%

0.0%

-5.0%

1.2%
1.0%
1.4%

2010
20092008200720062005200420032002200120001999199819971996

-7.8%

-10.0%

Growth
Rate

Exhibit 3: Falling Audience Shares for Traditional TV

Exhibit 4: Cable TV Ratings Overtook Broadcast Years Ago

Exhibit 5

DailyNewspapers -TotalNumber&Circulation(1940-2007)
1,2001,3001,4001,5001,6001,7001,8001,9002,0001940194219441946194819501952195419561958196019621964196619681970197219741976197819019821984198619881990199219941996199820002002200420 06Number ofDailyNewspapers40,00045,00050,00055,00060,00065,000Circulation(inthousands)
Exhibit 6

DailyNewspaperReadershipbyAgeGroup(1999-2006)
303540455055606570751999200020012002200320042005200 6YearPercentageofRespondantsAge18-24Age25-34Age35-44Age45-54Age55-64Age65+