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BROADCASTING OWNERSHIP

IN THE 21ST CENTURY

Friday, September 25, 2015

House of Representatives,

Subcommittee on Communications

and Technology,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to notice, at 10:07 a.m., in Room 2123, Rayburn House Office Building, Hon. Robert E. Latta [vice chairman of the subcommittee] presiding.

Present: Representatives Latta, Shimkus, Blackburn, Lance, Guthrie, Bilirakis, Johnson, Collins, Upton (ex officio), Eshoo, Welch, Yarmuth, Clarke, Loeb sack, DeGette, Butterfield, Matsui,

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McNerney, Lujan, Pallone (ex officio).

Staff Present: Ray Baum, Senior Policy Advisor for Communications and Technology; Rebecca Card, Staff Assistant; Grace Koh, Counsel, Telecom; David Redl, Counsel, Telecom; Charlotte Savercool, Legislative Clerk; Greg Watson, Staff Assistant; Christine Brennan, Minority Press Secretary; Jeff Carroll, Minority Staff Director; Jerry Leverich, Minority Counsel; Lori Maarbjerg, Minority FCC Detailee; Tim Robinson, Minority Chief Counsel; and Ryan Skukowski, Minority Policy Analyst.

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Mr. Latta. Thank you very much, and I appreciate our witnesses for being here today and discuss a very important matter, broadcast ownership. The FCC has been entrusted to regulate media ownership, ensuring the broadcast industry remains competitive and meets the information needs of local communities. However, the FCC has failed to act in completing its mandatory review of current rules governing this dynamic marketplace.

As a result, longtime industry participants that are subject to these rules and regulations are placed at competitive disadvantage as newer market entrants who are afforded greater flexibility to compete in an environment transformed by the Internet. Ignoring the need to make media ownership rules more relevant only hurts the industry and public interest. We need updated laws that better reflect the 21st century communications landscape. I look forward to today's witnesses talking about the current regulatory framework governing broadcast ownership and the impact that it is having on businesses, consumers, and on the economy.

With that, I am going to yield my time, and I will now recognize the gentlelady from California, the ranking member of the subcommittee.

[The prepared statement of Mr. Latta follows:]

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Ms. Eshoo. Thank you, Mr. Latta. I appreciate it.

I just want to make a comment. Yesterday was a day filled with joy in the Congress. We welcomed the historic visit of Pope Francis. I think today is a sad day with the news of John Boehner announcing that he is stepping down as Speaker. He has my respect and my gratitude for what he has done over the years in the Congress.

Mr. Chairman, a digital content revolution is underway. Thanks to the power of broadband, millions of Americans are using social media and over-the-top video services for original content, news, entertainment, and sports. A consumer can Hulu the last episode of "Glee," Netflix "House of Cards," or stream major league baseball games over Apple TV. There is no doubt that the media landscape is rapidly changing, but consumers continue to rely on traditional bastions of 20th century media, including broadcast television, radio, and newspaper for local news, public information, and weather.

Consistent with the goals of the Communications Act, our subcommittee and the FCC should remain focused on promoting localism, advancing competition, and encouraging diversity across all content platforms. A lack of diversity in particular continues to plague the industry. Data reported by the FCC this year shows that just 3 percent of broadcast TV licenses are held by people of color. Similar challenges exist among the highest ranks of management, with just 4 percent of TV networks and studios led by minorities.

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A 21st century broadcast system should reflect the composition of our country. This is not only the right thing to do, it is good business as well. And this is clearly an area where little to nothing has changed.

We know that nothing we deal with has easy answers, but one thing is certain: Relaxing the FCC's media ownership rules will pave the way for increased industry consolidation, which does, in my view, nothing to promote localism, competition, or diversity, and I think it flies in the face of our democracy, where we believe there should be many voices to the many and not fewer.

I had a much longer, magnificent statement, but given the beginning of this hearing later, I will yield back, Mr. Chairman. Thank you.

[The prepared statement of Ms. Eshoo follows:]

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Mr. Latta. Thank you very much.

Ms. Eshoo. And thank you to the witnesses for being here.

Mr. Latta. The gentlelady yields.

The chair recognizes the gentleman from Illinois, Mr. Shimkus.

Mr. Shimkus. Thank you, Mr. Chairman.

Welcome to Washington and a subcommittee in Washington where once you think you have got it figured out, stuff changes. So I want to thank the ranking member of the subcommittee for her focusing on obviously a big issue that is going on here in the House and also the Republican Conference, and we will miss John.

So we will do our best to wrap ourselves around your testimony and the issue at hand, but, please, especially for folks on this side and probably on both, there is a lot of other thoughts going through a lot of my colleagues' minds right now, and we will try to drag them back to this hearing as soon as possible.

So with that, I yield back my time.

[The prepared statement of Mr. Shimkus follows:]

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Mr. Latta. The gentleman yields back. And the chair now recognizes the gentleman from New Jersey, the ranking member of the full committee, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you. I am going to try to limit it to 2, Mr. Chairman.

It is easy to say the ways we get news and information is changing. That is certainly true. But it is equally true that we continue to turn to broadcast TV and radio, and that means a diversity of voices over the air remains essential. Some say that we should overlook the need for diverse voices because the broadcast industry must consolidate if it is going to survive, but the fact is broadcasters are thriving, even without consolidation.

The data speaks for itself. The radio industry last year raised advertising revenue to the tune of nearly \$15 billion. TV broadcasters earned \$20 billion from on-air ads in 2014. Billions of dollars in political ad buying helped drive this total, and that number will likely skyrocket with the upcoming 2016 Presidential election cycle.

The FCC must continue to serve as a sentinel, protecting the ideals of localism, diversity of ownership, and diversity of viewpoints. And given the impact of political ads, the Commission also has an obligation to make sure the public knows who is spending that money to control their airwaves.

We do not need to look any further than my home State of New Jersey

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to see what can happen when consolidation goes too far. Nearly 9 million New Jerseyans are forced to rely on mostly out-of-state stations for news and information. One of the few New Jersey stations we do have is part of a trio where one entity owns three TV stations in the New York market, and this station still does not serve adequate news about New Jersey for our local residents.

So again, I am please we are having this hearing to discuss these issues, and I look forward to the testimony.

I yield back, Mr. Chairman.

[The prepared statement of Mr. Pallone follows:]

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Mr. Latta. Thank you very much. The gentleman yields back.

And at this time, on behalf of the chairman, I want to thank all of our panelists for being here today. We really appreciate your being here and your testimony.

And at this time, the chair will recognize Mr. Gerald Waldron of the National Association of Broadcasters for 5 minutes. Thanks very much.

And just turn that mike on and pull it closer to you, and we will get started.

Thank you.

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STATEMENTS OF GERRY WALDRON, PARTNER, COVINGTON & BURLING LLP (ON BEHALF OF THE NATIONAL ASSOCIATION OF BROADCASTERS); KIM KEENAN, PRESIDENT AND CEO, MULTICULTURAL MEDIA, TELECOM AND INTERNET COUNCIL; JASON KINT, CEO, DIGITAL CONTENT NEXT; PAUL BOYLE, SENIOR VICE PRESIDENT OF PUBLIC POLICY, NEWSPAPER ASSOCIATION OF AMERICA; TODD O'BOYLE, PROGRAM DIRECTOR, MEDIA AND DEMOCRACY REFORM INITIATIVE, COMMON CAUSE; MICHAEL SCURATO, VICE PRESIDENT, POLICY, NATIONAL HISPANIC MEDIA COALITION

STATEMENT OF GERRY WALDRON

Mr. Waldron. Thank you. Good morning, Chairman Latta, Ranking Member Eshoo, and members of the subcommittee. My name is Gerry Waldron. I am a partner at the law firm of Covington & Burling. I am pleased to be here today on behalf of the National Association of Broadcasters.

The FCC's broadcast ownership rules were adopted with the stated purpose of fostering three longstanding policy goals: Competition, localism, and diversity of voices. But an honest assessment of the current video environment shows these rules failed to advance any of those objectives.

I want to make three points for your consideration. First, the

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current ownership rules actually inhibit rather than promote broadcasters' ability to compete in a vibrant video marketplace. Second, as a result, these rules undermine broadcasters' uniquely local focus. And third, the rules actually fail to promote diversity.

The broadcast ownership rules do not serve the public interest because they are simply out of touch with the reality of today's media landscape. These days, watching TV frequently does not mean watching the big screen in your living room. Consumers are increasingly likely to turn instead to their laptops or tablets. Millennials do not necessarily watch channels. Rather, they consume programs whenever they want and wherever they may be. Consumers create their own content packages through services such as Amazon Instant Video, Hulu, and Netflix.

The risk of a powerful broadcast owner, a Citizen Kane, if you will, that drove the creation of the broadcast ownership rules in the 1970s, is not just unlikely, it is almost nonexistent. The media landscape is simply too diverse and evolving too quickly, both with regard to content creation and content distribution, to justify the current rules.

Against that backdrop, the FCC's rules pick winners and losers in this new media landscape. They limit broadcasters' ability to compete with the cable, satellite, and online media outlets that face no comparable restrictions. As a result, these competitors have grown

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and have taken away both audience share and advertising revenue from traditional broadcasters.

The reality is that today broadcasters' main competition for advertising dollars comes from companies such as Google and Facebook, the newly merged AT&T/DirecTV, and cable companies like the soon-to-be merged Time Warner. I bring this information to the committee's attention not to complain about competition, but rather to underscore that the FCC's rules pretend this competition does not exist.

My second point is that while the FCC's rules should be promoting localism, they have had the opposite effect. A healthy, vibrant broadcast industry serves the public interest through locally focused news, sports, public affairs programming, and emergency services. No other industry has that responsibility, and most importantly, the ability or incentive to serve the needs of the public. Yet, the broadcast ownership rules act to inhibit broadcasters' ability to serve this basic responsibility by limiting investment and synergies that could otherwise fuel locally focused programming.

To maintain the ability to provide quality local service, the FCC's ownership rules must permit reasonable combination of station ownership. Broadcasters are a critical source of information and entertainment in every community across the country, but it takes significant resources to provide up-to-the-minute news, local and national emergency information, and highly valued entertainment

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programs. To compete and serve their communities successfully, broadcasters should be governed by regulations that at least account for the new and varied competition that is all around us.

Finally, the record is clear that the current rules have failed to promote minority ownership of broadcast properties, and yet support for these rules is sometimes justified on diversity grounds. NAB has long supported the goal of diversity among broadcast stations, and to that end supports the reinstatement of the a certificate program. But our industry is not alone in having a great deal of room for improvement in this area. However, ownership rules that are out of step with today's competitive reality only suffocate smaller broadcasters and limit new entrants.

In conclusion, we are asking Congress for help to hold the FCC accountable for completing its review of the rules and making the necessary changes to the benefit of both communities and consumers across the country.

I thank you for your attention to this important issue and look forward to your questions.

[The prepared statement of Mr. Waldron follows:]

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Mr. Latta. Well, thank you very much. I appreciate your testimony.

And the chair now recognizes Mr. Boyle, who is vice president of public policy, Newspaper Association of America.

And we appreciate your being here today, and thank you for your testimony.

STATEMENT OF PAUL BOYLE

Mr. Boyle. Vice Chairman Latta, Ranking Member Eshoo, and members of the subcommittee, on behalf of my 2,000 member newspapers, thank you for this opportunity to testify.

Congress and the administration have long been concerned about the future of newspaper journalism as our industry adjusts to new economic realities. The challenges that newspapers face today are well-documented. For the most part, these challenges are market driven. The one striking exception is the FCC's ban on cross-ownership that prohibits investors from owning or investing in both a daily newspaper and a television or radio station in the same market.

The rule may have been reasonable and appropriate in 1975, but with the surge of media across multiple platforms -- cable, satellite TV, satellite radio, and the Internet -- the cross-ownership ban no longer makes sense. Today, the American public has access to more

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information and more viewpoints than ever before, including through new digital platforms and social media Web sites. As the Pew Project for Excellence in Journalism summarized in its State of the News Media report: "The pace of technological evolution and the multiplicity of choices -- from platforms to devices to pathways -- show no sign of slowing down."

Newspapers are investing significant resources of their own on digital and mobile platforms and applications, providing consumers with news and information how, when, and where they want it. Most newspapers are also providing video to enhance news reports and provide viewers with in-depth features, videos that closely mirror the work of traditional broadcasters.

For example, the New York Times received a 2013 Pulitzer Prize for a multimedia project about skiers killed in an avalanche and the science of such disasters. And the Detroit Free Press received an Emmy for documentaries that live exclusively online.

The point is, media companies and consumers have embraced digital and mobile platforms, yet the FCC is desperately holding on to a media ownership rule that was constructed 40 years ago.

The FCC's cross-ownership ban is not only outdated, it is siphoning much needed investment in newspapers. Since 2008, print advertising in newspapers has decreased by 55 percent. Yes, digital advertising is a growing source of revenue, but it only produces a

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fraction of the resources that newspapers have historically relied upon to sustain their newsrooms.

In 1996, Congress required the FCC to review its media ownership rules every 4 years and to repeal or modify any rule that is no longer in the public interest. The FCC has consistently ignored this directive.

As this Commission continues to delay, this ban on cross-ownership is much further removed from the reality of today's media marketplace. In fact, the FCC inaction has contributed to the decision by some media companies to either sell their broadcast stations or to divide their publishing and broadcast properties. After 20 years of waiting for regulatory relief, many media companies have moved on from cross-ownership as a strategy.

These actions do not mean that the rule is irrelevant. Local newspapers will come on the market, and there will be situations where the most logical buyer is a broadcaster who shares a commitment to local journalism. And there will be a daily newspaper interested in buying a TV station so that it can diversify its revenue stream in support of journalism.

But let's be clear, the repeal of the cross-ownership ban will not lead to massive consolidation. More likely, mergers would occur in a few select markets where it makes economic sense and where there are synergies that would support local journalism.

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Finally, because the scope of this hearing includes diversity of ownership in the broadcast industry, I would like to point out that NAA has consistently supported many of the diversity proposals put forward by MMTC and others, such as the incubator program and a reinstatement of the minority tax certificate.

In the past, some have argued that the FCC should not change the cross-ownership ban until the Commission takes certain steps to increase diversity in media. We believe the Commission is fully capable of doing both at the same time.

Thank you.

[The prepared statement of Mr. Boyle follows:]

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Mr. Latta. Thank you very much for your testimony.

And the chair now recognizes Kim Keenan, president and CEO of the Multicultural Media, Telecom and Internet Council.

Thank you very much, and you are recognized for 5 minutes.

STATEMENT OF KIM KEENAN

Ms. Keenan. Thank you, Vice Chairman Latta, Ranking Member Eshoo, distinguished members of the subcommittee, and esteemed colleagues on the panel. I am honored to appear today to address the Nation's efforts to promote and preserve opportunities for diversity in the ownership of our Nation's airwaves.

My name is Kim Keenan, and I do serve as president and CEO of MMTC, or Multicultural Media, Telecom and Internet Council. This nonprofit was founded 29 years ago to promote equal opportunity and social justice in mass media, telecommunications, and the broadband industries. We proudly partner with dozens of national and local civil rights and advocacy organizations.

In an effort to do our part to increase minority broadcast ownership, MMTC's nonprofit Media and Telecom Brokerage division has participated in nearly one-third of all broadcast station sales to women and people of color since 1997. At MMTC, we believe that consistent with the mandate of Sections 151, 257, and 309 of the

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Communications Act, our Nation's media must reflect the cultural and viewpoint diversity of our Nation.

The late Dr. Everett C. Parker was one of our cofounders and a minister of the United Church of Christ. He passed away last week at the age of 102. And he fought very hard to desegregate both radio and television stations. Why? He said: "If we want the voiceless to have a voice that everyone can hear, we must have a robust minority broadcast ownership. It is essential to our democracy."

This message of advancing diverse media ownership still resonates as MMTC and other media advocates push for equity in representation and participation in the industry. So for the purpose of this hearing, I want to focus on three things.

First, the FCC has not been proactive in advancing minority broadcast ownership. First, the FCC must swiftly act upon proposals and policies that address the market-entry barriers that limit diversity and inclusion in broadcasting.

The FCC has four decades of minority ownership jurisprudence. In response to a 1973 court decision, the FCC first began to consider minority ownership as a factor in comparative broadcast hearings. It followed that decision in 1978 with the famous tax certificate policy, which until its repeal in 1995, quintupled the number of bona fide minority-owned broadcast stations. Unfortunately, since 1978, the FCC's activity regarding minority ownership has been marked by

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inconsistently applied policies and in some cases repeal of minority ownership initiatives without the implementation of new or alternative approaches.

In the FCC's most recent media ownership report issued in 2014 and reporting on October 2013 data, people of color, including Hispanics, held a majority voting interest in only 6 percent of full-power commercial television stations, 11.2 percent of commercial AM stations, and 6.2 percent of commercial FM stations. And because these stations are mostly small and underpowered, MMTC estimates that they represent no more than 2 percent of broadcast industry assets as a whole. It is well settled that this is an indispensable element of broadcast ownership diversity.

One of the other things that the FCC did under Michael Powell in 2004 was to create the Advisory Committee on Diversity for Communications in the Digital Age to advance media ownership opportunities for minorities and women.

For our part, MMTC, joined by over 50 national civil rights, professional, and civic organizations, has placed before the FCC some 44 race-neutral and almost entirely deregulatory proposals for rule changes and legislative recommendations that would advance minority ownership and participation in broadcasting. Despite clear interest in promoting ownership by women and minorities, the Advisory Committee on Diversity has not met since September 17, 2013.

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The last Section 257 Market Entry Barriers report to Congress was due December 31, 2012. The FCC rejected 23 of MMTC's 44 pending proposals with no analysis or consideration in the 2014 quadrennial report and order on the theory that they were beyond the scope of the 2014 rulemaking.

In 2004, and again in 2011, the Third Circuit Court of Appeals had commanded the agency to consider pro-diversity proposals as a part of the quadrennial process. MMTC had to go to court to compel the FCC to simply rule on dozens of mostly unopposed proposals that have been pending for over a decade.

To be fair, the FCC took a significant step by relaxing its foreign broadcast investment policy, an action that MMTC immediately lauded, yet the agency had rejected nearly all of the other diversity proposals presented to it and has been consistently tardy in issuing the congressionally mandated Section 257 reports regarding the status of minority ownership.

My time is running short. I want to make sure I make both of my final points.

Reform must continue on JSAs and SSAs to ensure that they promote meaningful ownership opportunities for minorities. We applaud their long-overdue crackdown joint service agreements, JSAs, and shared service agreements, sometimes called sidecars. They allow one station to sell advertising for or operate another station in the same market.

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These arrangements have almost always been used to evade the TV duopoly rule.

Although a handful of those selected to operate sidecars happen to be minorities, these arrangements do not help people of color advance in broadcasting. As a practical matter, most sidecar licensees own 100 percent of nothing.

For decades, before sidecars were invented, women and people of color actually operated real television stations successfully. The owners hired the staff and chose to address and put on local programs to address those issues.

We should note that there are rare instances where a JSA or an SSA can effect a legitimate purpose, and an example is Tougaloo College's WL00-TV, which was donated to the college by Raycom Media and is owned and operated by the college to train mass communication students. The student is a JSA with American Spirit's WDBD-TV.

Finally, and I think this is the most important, the FCC has an immediate opportunity to foster minority media ownership through its broader efforts to revitalize AM radio. Pending before the FCC is the proposal to create an AM-only window to allow AM stations to apply for FM translators as a part of this proceeding. Last month, in an unprecedented mass letter--

Mr. Latta. Pardon me, Ms. Keenan, if you could wrap up, because I know they are going to be calling votes here real quick. So if you

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can just wrap up in about another 10 seconds.

Ms. Keenan. Excellent. I will do that.

Given this, 12 members of the Congressional Black Caucus have written to Chairman Wheeler urging the Commission to open the AM-only translator window. I respectfully urge other Members of Congress to follow suit and help guarantee that AM stations obtain the translators they need to remain competitive and provide our communities with the service that they need.

We respectfully implore the subcommittee to exercise their oversight powers to ensure that the FCC makes up for lost ground and takes dramatic and timely steps to increase minority broadcast ownership. Thank you.

[The prepared statement of Ms. Keenan follows:]

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Mr. Latta. Thank you.

The chair now recognizes Michael Scurato, who is the vice president of policy, National Hispanic Media Coalition.

Thank you very much. You are recognized for 5 minutes.

STATEMENT OF MICHAEL SCURATO

Mr. Scurato. Vice Chairman Latta, Ranking Member Eshoo, members of the subcommittee, thank you very much for inviting me to testify here today on this important issue of broadcast ownership in the 21st century.

Broadcasting remains incredibly important in today's media landscape, yet despite an increasingly diverse population and near universal recognition of the importance of broadcast ownership, people of color and women remain shut out. For many years, the National Hispanic Media Coalition has issued a number of recommendations that we think would help remedy this.

First, the FCC should tighten and enforce its existing media ownership rules to create opportunities. Recent action to close the joint sales agreement loophole has already demonstrated how further and long-overdue action on this recommendation can create positive change.

Second, the FCC should aggressively improve its collection of

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ownership data and perform analysis that is necessary to create proactive policies that promote diversity.

And third, Congress should reinstate the minority tax certificate, which increased ownership diversity before being abandoned many years ago.

Promoting ownership diversity in broadcasting should be prioritized given the role of the media in fostering public discourse on critical issues and providing important local news and information. The FCC also has a statutory obligation to promote diversity.

Broadcasting remains the way that most people in this country access important local news and information. Broadcast television reaches 98 percent of Americans. Radio is similarly pervasive. In Los Angeles, over 95 percent of the population listens to radio on a given week, including 98 percent of Latinos and 99 percent of Spanish-speaking Latinos.

However, excessive consolidation and lack of diversity has caused harm to diverse communities and prevented these communities from fully benefiting from the public resource that broadcasters use to serve them. Last year, before this subcommittee, NHMC compellingly recounted the harms that result from the prevalence of hate speech in the media.

Examples from the past few weeks show this problem remains. For instance, one host on a conglomerate-owned station in Iowa recently

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suggested that all undocumented immigrants being enslaved.

Additionally, the repeated broadcast of the hateful remarks of a high-profile public figure was recently revealed to be directly responsible for the violent and vicious beating and degradation of a Latino in Boston.

While Internet access holds great promise, for two key reasons it is not yet able to match the power of broadcasting. First, as many as one in three Americans lack home broadband access. People living in rural areas, people of color, the poor, seniors, non-English speakers, and people with disabilities are far less likely to access the Internet at home. Second, local news and information online still by and large originates from traditional media sources, such as local newspapers and broadcasters.

The FCC's latest diversity statistics are shameful. There are more than 1,300 full-power television stations in this country. In 2013, African Americans held the majority interest in only nine, by early 2014, only four, many of those entangled in JSAs and other arrangements that limit control or wealth-generation potential. For Asians, the number of stations owned is five. Latinos held the majority interest in only 3 percent of full-power television stations in 2013, despite accounting for 17 percent of the population.

Female ownership continues to remain low or decrease. Women owned only 6.3 percent of full-power commercial television stations

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in 2013. And radio, once considered a key entry point for diverse broadcasters, presents a similarly bleak picture. There was a 20 percent decrease in African American owners and a 10 percent decrease in Asian owners between 2011 and 2013. These numbers are persistently bad at a time when nearly 38 percent of the population is comprised of people of color, and they have remained bad for quite some time. There is a strong possibility that these numbers could decline further following the upcoming incentive auction.

NHMC envisions a world in which broadcasters reflect the diversity of our population and adequately serve the needs of all communities. Congress should promote diversity in broadcasting by encouraging the FCC to strengthen its media ownership rules and perform the research and analysis necessary to create new diversity initiatives. Congress should also reinstate the minority tax certificate. These are important steps towards achieving NHMC's vision.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Scurato follows:]

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Mr. Latta. Well, thank you very much.

And the chair now recognizes for 5 minutes Mr. Todd O'Boyle, who is the program director, Media and Democracy Reform Initiative, at Common Cause.

Thank you very much. You are recognized for 5 minutes.

STATEMENT OF TODD O'BOYLE

Mr. O'Boyle. Good morning, Mr. Vice Chairman, Ranking Member Eshoo, and members of the subcommittee. Thank you for inviting me to be a part of this discussion about the future of broadcast ownership. Former FCC Commissioner Michael Copps leads our media reform work at Common Cause, and he sends his warmest rewards.

Mr. Latta. Thank you.

Mr. O'Boyle. At Common Cause we advocate for inclusive, responsive governance and a diverse local media ecosystem that informs the electorate. Therefore, we oppose further relaxation of media ownership rules and support the unwinding of shell operations that undermine lively civic discourse. Waves of mergers and consolidation, too often with the blessing of Federal Communications Commission, have eroded the vitality of local communications media to the detriment of our electorate.

In recognition of the special compact at the heart of

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broadcasting, Congress wisely empowered the FCC to prevent local broadcast monopolies, and the diversity of voices enlivens the marketplace of ideas in which democracy depends. And competition for news-gathering resources means more newsroom jobs as rival news crews hustle to get the scoop. More local journalists, in turn, means more sunlight, the best disinfectant for corruption and graft.

In other words, localism increases employment and enhances the quality and quantity of news -- a win, win, win. But the inverse is also true. Consolidation wreaks havoc on journalism. The record is grim. The FCC has for many years sanctioned merger after merger, formally entrenching local information monopolies. And to be clear, this has been a bipartisan problem that has facilitated an arms race between big cable and big broadcast at the expense of audiences everywhere.

Meanwhile, the agency has regularly looked the other way as media monopolists found and exploited loopholes to effect a covert consolidation through shared services and joint sales agreements.

The consequences have been staggering. Diverse and female ownership took a nosedive. Is it any surprise that minorities and women still struggle with backwards portrayals in the media when they control so little of it? Clearly, ownership matters.

There is scant evidence that these arrangements promote the public interest and reams of data that they harm it. Researchers at

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the University of Delaware found that SSAs resulted in duplicated content in every market they studied. They found stations sharing anchors, graphics, videos, and scripts. In some markets, such as Honolulu, broadcasters simply simulcast the exact same content on multiple channels. In short, more shells mean fewer journalists and less journalism.

While we are disappointed the FCC has not yet reined in SSAs, thankfully, the agency has addressed JSAs. Last year Common Cause applauded when the Commission took an important first step back to media diversity. It brought more parity between radio and television broadcasters by making joint sales agreements attributable in ownership calculations. Within months of the FCC's action, the agency reported 10 new minority/female ownership arrangements, the first meaningful gains in years.

This represented a great first step, but should be viewed as only the beginning of pro-diversity reforms. Indeed, the FCC's own ownership data paint a dire picture. Female minority ownership still lags in the single digits.

Broadcasters frequently defend these tricks of the trade as essential to keeping the lights on. They often claim that without these financial instruments, broadcasters would go dark. On the contrary, the bevy of recently announced mergers illustrates the broadcast business is booming thanks to record ad sales, the bulk of

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which come from political advertising.

Presently, Congress is considering legislative vehicles to eliminate JSA reform. We call on you to halt them forthwith. A reversal would be a staggering step backwards and foreclose future pro-local, pro-diversity policies. Indeed, the rule in question includes a waiver process that broadcasters can make the case to keep the arrangements if they truly are serving the public interest.

There are other areas where the FCC could improve. We have long urged the agency to do a better job of collecting ownership data with Form 323. The reporting tool itself is cumbersome and the agency has been known to grant extension after extension, rendering the underlying data of questionable quality. Notably, the courts twice previously rejected attempts to relax cross-ownership rules, citing insufficient record on ownership and how proposed changes would affect historically disadvantaged groups. Regardless of where each of us stand on ownership, any change would require more and better data.

I close with this observation. The present moment is one of opportunity. Will the FCC, with your oversight, approve another slew of broadcast consolidations, or will it go down a different path, one of diverse voices and an informed electorate, the path of local and diverse ownership? Let's hope it seizes the opportunities before it, first by putting the brakes on media consolidation, and then by building on its JSA reform to rein in SSA abuses.

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Thank you, and I look forward to your questions.

[The prepared statement of Mr. O'Boyle follows:]

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Mr. Latta. Well, thank you very much, and I appreciate your testimony.

Our next witness is Jason Kint, who is the chief executive officer, Digital Content Next.

We appreciate your being here, and you are recognized for 5 minutes.

STATEMENT OF JASON KINT

Mr. Kint. Thank you. Vice Chairman Latta, Ranking Member Eshoo, and the members of the subcommittee, it is my honor to appear here before you today.

I am the CEO of Digital Content Next, DCN, formerly known as the Online Publishers Association. We are the only trade group dedicated to serving high-quality digital content companies that manage trusted relationships with both consumers and advertisers.

By way of background, I have spent over 20 years in digital media in a number of executive roles, operating both established and native digital companies and brands. Much of that work involved shifting these brands into multiplatform brands in a short period of time based on consumer demand. I am proud now to represent media companies from every segment of the market, from large to midsize companies, to newer upstarts that are carving niche market in the delivery of original

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content over the Internet.

The members of DCN reached 230 million unique visitors, over 100 percent of the U.S. online population, and they are leading the revolution of the marketplace.

In the late 1990s, consumers turned to the disruptive power of the Internet because of the ease of access to content and the availability of this content on new platforms. As we have all witnessed over the course of nearly two decades since the beginning of this transformation, the current media landscape looks vastly different than it once did. When we examine where consumers turn for news and information, even more consumers are now turning online.

In my full testimony, I provided some data on this transition, but I would like to highlight two important findings here. According to a 2015 Reuters Digital News Report, 74 percent of respondents got their news online, compared to 64 percent on television, 26 percent on radio, and just 23 percent from print media. If you look at the under-35 audience, less than 25 percent still get news from television. These statistics inform the debate.

The underlying intent of the media ownership rules is to ensure diversity of independent voices is available to consumers. However, the rules have also served to limit investment in media companies, which for newspapers in particular has made their transition to a digital world much more difficult.

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At its core, the Internet is an innovative, and importantly, open platform that has produced a diverse ecosystem that allows businesses small and large to engage with consumers in a variety of ways, limited only by their creative capacity. It allowed a variety of consumer and professional voices to flourish. Recognition of what the Internet delivers and its potential is critical to analyzing the media ownership rules.

I understand that developing the rules in this environment is difficult. On the one hand, consumers are increasingly moving online for their news and entertainment, as demonstrated by the data I have previously shared. On the other hand, broadband adoption to access that content is not ubiquitous yet, although that is changing.

Moreover, there has been a decades-long decline in ad revenue for newspapers that digital ad revenue has not offset. That decline has resulted in job cuts and other reductions impacting their available news resources. However, there are new digital native news sites providing coverage from a variety of perspectives. Pew estimates that as many as 400 new native digital news sites now exist.

Of course, others suggest that absent the ownership rules the growth in digital news sites may have been even greater. Balancing these competing data points and many others that speak to the levels of competition, localism, and diversity in media should provide an impetus for the FCC to decide what modifications to the media ownership

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rules should be made to reflect the new reality.

In a digital age, consumers have even more access to a diverse amount of content than 20 years ago. DCN's members have been at the forefront of this change. We have venerable institutions attempting to reform their business models and adapt their trusted brands to this digital ecosystem. We also have new digital native companies challenging the assumptions for how news should be covered and delivered.

The Internet has been the great equalizer as content creators are able to access markets on a global scale while still having the ability to reach hyperlocal markets with original and compelling content.

As any DCN member can tell you, there is no business model that can succeed long term without being built around the consumer demand. It should be no different in this case. It starts with the consumers. The key to any assessment of media ownership rules should be rooted in the answer to this question: Are consumers getting the news and content they want, and are those business models sustainable? My answer is that they are and that the offerings and offerors continue to proliferate.

It is important to the marketplace, and ultimately consumers, that the Commission update and relax the ownership rules to reflect the media landscape as it exists today. I fear that expansion of outdated regulations to the online environment could stunt the growth

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of online content in a way that will prove detrimental to the consumer experience.

DCN looks forward to working with this committee and engaging with policymakers and regulators on this issue, and I thank you for the opportunity to testify before you today.

[The prepared statement of Mr. Kint follows:]

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Mr. Latta. Well, thank you very much for your testimony. We appreciate it.

And in the interest of where we are right now, because we are almost at the end of this first vote, we are going to recess the subcommittee at this time, and committee staff will be back with you, because with all of the other events that have happened today, probably we won't have members coming back in. So what we will do, we will recess the hearing and then be back in touch with you all as to furthering the committee hearing at that time.

We appreciate your testimony and -- sorry, the gentlelady from California.

Ms. Eshoo. Thank you, Mr. Chairman. What I would like to suggest, given 11 votes coming up, and we are very late for the first one, and the importance of the testimony and the issues that are embedded in the testimony, I would request that this hearing be continued until a date certain is set rather than members just submitting questions to the witnesses. I really think we need to have an exchange, and it would be a healthy and worthy one.

So that is the preference on this side, and I hope that that could be honored. Thank you.

Mr. Latta. So I think what we can do, both committee staffs will work to get that put together.

I thank you.

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Ms. Eshoo. Good. Wonderful.

Mr. Latta. And again, we appreciate your time this morning. And we will recess the committee at this time.

[Whereupon, at 10:50 a.m., the subcommittee was adjourned.]