Subcommittee on Communications and Technology
Committee on Energy & Commerce
United States House of Representatives

Broadcast Ownership in the 21st Century

Testimony of Paul Boyle
Senior Vice President of Public Policy, Newspaper Association of America
September 25, 2015

EXECUTIVE SUMMARY

The Newspaper Association of America commends this subcommittee for focusing on issues of broadcast ownership in the 21st Century. We believe that one of the most important aspects of media ownership today is ensuring that ownership is not restricted by outdated regulations that do not reflect today's 21st century media marketplace. Specifically, my comments focus on the newspaper-broadcast cross ownership ban, a regulation that does not reflect the diversity of today's media.

The newspaper-broadcast cross ownership ban was enacted in 1975, when the Federal Communications Commission feared that if an owner had both a newspaper and a TV or radio station in the same market, that owner could control all of the news in the community. That is simply not true today. The growth of media across all platforms has created a much broader range of news sources for consumers than anyone could have contemplated forty years ago, including digital-only sites for national, regional and local news. Newspapers are adapting to well-documented challenges in the marketplace by investing in their print, online and mobile platforms—providing consumers with news and information how, when and where they want it.

The federal government should not prohibit a company from investing in newspapers just because they also have broadcast interests—especially when broadcast companies may share the same core journalistic values as newspapers. Indeed, such investments have been shown to improve journalism. Nor does the cross-ownership ban help promote diversity in the industry, which is better addressed through specific and tailored efforts that NAA supports. The Commission can provide newspapers with regulatory relief while at the same time encouraging diversity of broadcast ownership.

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Good morning and thank you for the opportunity to appear before you to discuss issues of broadcast ownership in the 21st Century. I am Paul Boyle, senior vice president of public policy at the Newspaper Association of America, which represents the publishers of nearly 2,000 newspapers in the United States and Canada.

I commend the subcommittee for examining issues relating to media ownership. I appeared before the subcommittee last summer to speak about these issues, and I am pleased to appear before you again to continue this important dialogue. Your focus on broadcast ownership in the 21st century is particularly relevant, because many of today's ownership regulations are stuck in the 1970s and they do not fit today's media marketplace. Indeed, restrictions on media ownership can stifle innovation and investment that could benefit the communities our members serve.

I want to focus today on one such regulation: the newspaper-broadcast cross ownership ban. That ban prohibits investors from owning or investing in both a daily newspaper and a television or radio station in the same market. The Federal Communications Commission adopted the cross-ownership ban in 1975. At that time, the FCC feared that if an owner had both a newspaper and a TV or radio station in the same market, that owner could control all of the news and editorial viewpoints in a community. That was 40 years ago, when each market had one newspaper and three television stations, and cable and the Internet did not exist. Today, amid the surge of online media that have become vital to the 21st century media marketplace, the cross ownership ban simply does not make sense.

Media today face many challenges. For the most part, these challenges are marketplace issues, which the industry is working steadfastly to address, and are not government issues. The one striking exception is the cross ownership ban, which is a relic that undermines the FCC's own goal of preserving strong journalism to serve the information needs of American communities. When we talk about broadcast ownership in the 21st century, we believe one of the most critical areas for consideration is ensuring that today's media ownership regulations reflect today's media.

We all recognize that Americans today have access to more information and more viewpoints than ever before, including through new digital platforms and social media websites. Young people are particularly likely to rely on such platforms for news. According to the Pew Research Center, a poll of adults younger than age 30 showed that just as many saw news on a social networking site the prior day (33%) as those who saw any television news (34%).[1]

The growth of media across all platforms has created a much broader range of news sources for consumers than anyone could have contemplated forty years ago. The endless capacity of the Internet has enabled the rise of well-funded online news sites including Vox, BuzzFeed, and Vice News. A rich breeding ground also exists for local and regional news sites, such the Texas Tribune, Voice of San Diego and ARLnow.com across the Potomac in Arlington, VA. We also see interesting collaborations between traditional media outlets and nonprofit organizations such as ProPublica and the Center for Investigative Reporting. As the Pew Project for Excellence in Journalism summarized in its State of News Media 2015 report, "the pace of technological evolution and the multiplicity of choices—from platforms to devices to pathways—show no sign of slowing down."[2] These sites are not simply aggregating the content published by traditional media, but are contributing their own original content to the media marketplace.

Newspapers are adapting to well-documented challenges in the marketplace by investing in their print, online and mobile platforms—providing consumers with news and information how, when and where they want it. Every day, newspapers innovate to ensure the communities they serve receive the robust journalism that has been a cornerstone of this country since the nations' founding.

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[1] *See* Pew Research Center, in Changing News Landscape, Even Television is Vulnerable (Sept. 27, 2012), *available at* http://www.people-press.org/2012/09/27/in-changing-news-landscape-even-television-is-vulnerable.

[2] *See* Pew Research Center, State of the News Media 2015, *available at* http://www.journalism.org/2015/04/29/state-of-the-news-media-2015.

Newspapers are attracting users to their digital and mobile platforms by combining videos, photos, and storytelling—not unlike the work of traditional broadcasters. The Radio Television Digital News Association has recognized this work, awarding the 2015 Edward R. Murrow Award for overall excellence in online news to the Denver Post, for a project that combined video with photos and text storytelling. Similarly, The New York Times received the 2013 Pulitzer for Feature Writing for a multimedia project about skiers killed in an avalanche and the science of such disasters, and the Detroit Free Press received an Emmy Award for several locally focused documentaries that live online. The point is, as media companies and consumers move to digital and mobile platforms, the FCC is still holding on to a rule that was designed for the media landscape in the 1970s.

In today's media environment, the FCC's cross-ownership rule is not only unnecessary—it is actively stifling much needed investment in newspapers.

For the past five years, newspaper ad revenue has maintained a consistent trajectory: print ads have produced less revenue. While digital advertising revenue has increased at newspapers, digital ads produce a fraction of the revenues that newspapers have traditionally relied upon to sustain their newsrooms. Furthermore, newspapers compete for advertising revenue with search engines and a growing number of social platforms—Internet companies that do not invest in newsgathering or content creation. According to the Pivotal Research Group, advertising in search represented 13.5 percent of total advertising revenues in 2014, while advertising in newspapers represented 8.7 percent in total advertising revenues.[3]

Congress and the Administration have long been concerned about the future of journalism as the industry adjusts to new economic realities. Yet, we still have a 40-year old regulation on the books that essentially prohibits investments in newspaper journalism. As Walter Isaacson, a longtime journalist and president and chief executive officer of the Aspen Institute told the FCC last year we must "do all we can to encourage investment in newspapers and improve the business models for local journalism."[4]

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[3] *See* Pivotal Research Group, U.S. Advertising Forecast (July 10, 2015).

[4] *See* Walter Isaacson, Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, Re: 2010 and 2014 Quadrennial Regulatory Reviews, MB Docket Nos. 14-50, 09-182, 07-294 (July 9, 2014).

It makes little sense to continue enforcing a ban prohibiting any company with in-market TV ownership from investing in newspaper companies, when such investments have actually been shown to help improve journalism. According to FCC-commissioned research, on average a cross-owned television station produces more local news than a stand-alone station.[5] Sharing newsgathering and production resources—which is made possible by newspaper-broadcast combinations—results in better breaking news coverage, increased resources for investigative reporting, and more Pulitzer Prizes, including in small and medium-sized media markets that would otherwise be unlikely to dedicate significant levels of investment to these efforts.

In 1996, Congress recognized in that the rules that govern media ownership need to reflect the reality of today's media. That is why Congress required the FCC to conduct a comprehensive review of its media ownership regulations every four years, and to "repeal or modify any regulation that it determines to be no longer in the public interest."[6] The FCC has consistently ignored this congressional directive and recently wrapped up two quadrennial reviews into one (2010/2014). As the Commission continues to delay, and delay, and delay, this outright ban on cross-ownership gets much further removed from the reality of today's media marketplace. In fact, the FCC's inaction on the cross-ownership rule has contributed to the decision for some media companies to either sell their broadcast stations or to divide their publishing and broadcast properties. In the space of only a few years, Gannett, Dispatch Printing Company, E.W. Scripps, Fox, Journal Communications, Media General and Tribune all spun off their publishing divisions or sold their newspaper interests. After 20 years of the FCC examining the validity of the 1975 cross-ownership ban with no regulatory relief or certainty in sight, these companies have moved on. But these actions do not mean that the rule is irrelevant.

The media industry is in need of continued investment and innovation. Local newspapers will come on the market in the future where the most logical buyer is a local broadcaster with a proven commitment to local journalism. And, there will be a daily newspaper interested in buying a TV or radio station if one becomes available. In Ohio, for example, a newspaper might be interested in purchasing a TV or radio property so that it could diversify its revenue stream—

[5] *See* FCC, 2010 Quadrennial Regulatory Review, Notice of Proposed Rulemaking ¶ 98 (Dec. 22, 2011).

[6] Telecommunications Act of 1996 § 202(h).

particularly with the growth of political advertising on broadcast stations in “swing” states. This is important revenue that would support both broadcast and newspaper journalism.

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 sense to support the journalism provided in that community.

Finally, the scope of today’s hearing is on broadcast ownership, including the diversity of ownership. One stated purpose underlying the adoption of the newspaper-broadcast cross-ownership rule in the 1970s was the maintenance of diversity in the broadcast industry. As we all know, when the FCC made changes to the media ownership rules in 2003, The U.S. Court of Appeals for the Third Circuit sent the rules back to the FCC because of flaws in the “diversity index” used in support of multiple media ownership rule changes. The Court in remanding rule changes back to the Commission concluded that cross-ownership prohibition “was no longer in the public interest.” We strongly believe that the Commission can provide newspapers with regulatory relief while at the same time encouraging a diversity of broadcast ownership.

NAA specifically supports many of the diversity proposals put forward by the Multicultural Media Telecommunications Council, such as the “incubator program” that provides broadcasters incentives to finance or incubate minority owned businesses or a reinstatement of the Tax Certificate policy that would allow companies to defer capital gains taxes from the sale of media properties to minorities. In fact, NAA has filed in favor of most of the diversity-enhancing proposals advocated by the Multicultural Media and Telecommunications Council at the FCC. NAA supports efforts to increase diversity of the airwaves, and in the changed media marketplace, we see the tailored and specific approaches being undertaken by the MMTC as the right way to achieve greater diversity. The cross-ownership rule has never fostered diversity, and forcing its retention now will not increase minority ownership of broadcasting stations at all.

We look forward to working with this Subcommittee and the full Energy & Commerce Committee as you move forward on these broadcast ownership issues.