

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NEWS MEDIA ALLIANCE	)	
	)	
<i>Petitioner,</i>	)	
	)	
v.	)	No. _____
	)	
FEDERAL COMMUNICATIONS	)	
COMMISSION and UNITED STATES	)	
OF AMERICA,	)	
	)	
<i>Respondents.</i>	)	
_____	)	

**PETITION FOR REVIEW**

Pursuant to 47 U.S.C. § 402(a), 28 U.S.C. §§ 2342 and 2344, and Rule 15(a) of the Federal Rules of Appellate Procedure, the News Media Alliance (the “Alliance”)<sup>1</sup> hereby petitions this Court for review of an order of the Federal Communications Commission (“Commission”). *See* Second Report and Order, *Matter of 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; 2010 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Promoting*

---

<sup>1</sup> The Alliance was formerly known as the Newspaper Association of America, and participated in the proceeding for which review is sought here under that name.

*Diversification of Ownership In the Broadcasting Services; Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets*, MB Docket Nos. 14-50, 09-182, 07-294, 04-256, FCC 16-107 (“*Second Report and Order*”). The *Second Report and Order*, a copy of which is attached to this Petition, was adopted by the Commission on August 10, 2016, released to the public on August 25, 2016, and published in the Federal Register on November 1, 2016. See 81 Fed. Reg. 76,220.

Venue is proper in this Court under 28 U.S.C. § 2343, which permits petitions for review to be filed “in the United States Court of Appeals for the District of Columbia Circuit.” However, the Alliance recognizes that the United States Court of Appeals for the Third Circuit has retained jurisdiction over aspects of the *Second Report and Order* and related FCC orders. See *Prometheus Radio Project v. FCC*, 373 F.3d 372, 435 (3d Cir. 2004) (*Prometheus I*); *Prometheus Radio Project v. FCC*, 652 F.3d 431, 472 (3d Cir. 2011) (*Prometheus II*); *Prometheus Radio Project v. FCC*, 824 F.3d 33, 60 (3d Cir. 2016) (“*Prometheus III*”) (“[T]his panel retains jurisdiction over the remanded issues.”). This Court transferred the *Prometheus III* proceeding to the Third Circuit,<sup>2</sup> and the Alliance does not oppose the issuance of a similar transfer order in this case.

---

<sup>2</sup> See Order, *Howard Stirk Holdings, LLC v. FCC*, No. 14-1090, Document No. 1585135 (D.C. Cir. Nov. 24, 2015).

The *Second Report and Order* brings to a close the Commission’s 2010 and 2014 Quadrennial Review proceedings. See *Second Report and Order* ¶¶ 1–5; 81 Fed. Reg. at 76,220-76,221. Under Section 202(h) of the Telecommunications Act of 1996, the Commission “shall” review its media-ownership rules every four years, “determine whether any of [those] rules are necessary in the public interest as the result of competition,” and “repeal or modify any regulation it determines to be no longer in the public interest.” Pub. L. No. 104-104, § 202(h), 110 Stat. 111–12; see also Pub. L. No. 108-199, § 629, 118 Stat. 3, 99–100 (2004) (making review quadrennial rather than biennial).

The *Second Report and Order* violates the Administrative Procedure Act, 5 U.S.C. § 706, and the Telecommunications Act of 1996. Despite the unambiguous commands set forth in Section 202(h) of the Telecommunications Act, and despite substantial evidence showing that the Newspaper-Broadcast Cross-Ownership rule<sup>3</sup> is antiquated and no longer serves the public interest, the *Second Report and Order* retains that rule with only minimal changes. See, e.g., *Second Report and Order* ¶¶ 3–5, 129–197; 81 Fed. Reg. at 76,220-76,221, 76,232-76,238. For this reason and others, the *Second Report and Order* is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or

---

<sup>3</sup> See 47 C.F.R. § 73.3555.

limitations, or short of statutory right; without observance of procedure required by law; and unsupported by adequate evidence. *See* 5 U.S.C. § 706(2); *see also* Dissenting Statement of Commissioner Ajit Pai, *Second Report and Order* at 182–195; Dissenting Statement of Commissioner Michael O’Rielly, *Second Report and Order* at 196–199.

NMA respectfully requests that this Court hold unlawful, vacate, enjoin, and set aside the *Order*, and provide such other relief as may be necessary and appropriate. *See* 5 U.S.C. § 706; 28 U.S.C. § 2349(a).

Respectfully submitted,



---

Robert A. Long, Jr.  
Kurt Wimmer  
Kevin King  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Street, NW  
Washington, DC 20001-4956  
(202) 662-6000  
rlong@cov.com  
kwimmer@cov.com  
kking@cov.com

*Counsel for Petitioner News Media  
Alliance*

November 14, 2016

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NEWS MEDIA ALLIANCE,	)	
	)	
<i>Petitioner,</i>	)	
	)	
v.	)	No. _____
	)	
FEDERAL COMMUNICATIONS COMMISSION and UNITED STATES OF AMERICA,	)	
	)	
<i>Respondents.</i>	)	
	)	
<hr style="border: 0.5px solid black;"/>		

**CORPORATE DISCLOSURE STATEMENT**

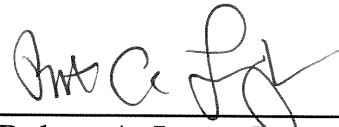
Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, the News Media Alliance states as follows:

The News Media Alliance is a nationwide, not-for-profit trade association representing nearly 2,000 companies engaged in all aspects of the news media industry in the United States and Canada, from the largest news groups and international outlets to hyperlocal news sources—including digital-only, digital-first, and print news. The News Media Alliance was known as the Newspaper Association of America until September 2016.

The News Media Alliance has no parent companies, and no publicly held company has a ten percent or greater ownership interest in the News Media Alliance. Further, the News Media Alliance qualifies as a “trade association”

under Circuit Rule 26.1(b) because it is a continuing association of numerous organizations operated for the purpose of promoting the general commercial, professional, legislative, or other interests of the News Media Alliance's membership.

Respectfully submitted,



---

Robert A. Long, Jr.

Kurt Wimmer

Kevin King

COVINGTON & BURLING LLP

850 Tenth Street NW

Washington, DC 20001

(202) 662-6000

*Counsel to Petitioner News Media  
Alliance*

November 14, 2016

## CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of November 2016, I caused copies of the foregoing Petition for Review and Corporate Disclosure Statement to be served upon the parties listed below in the manner specified.

Service by First Class Mail, postage prepaid, and by electronic mail:

**Federal Communications Commission**

Howard Symons

General Counsel

Federal Communications Commission

445 12th Street SW

Washington, DC 20554

howard.symons@fcc.gov

LitigationNotice@fcc.gov

Service by First Class Mail, postage prepaid:

**United States of America**

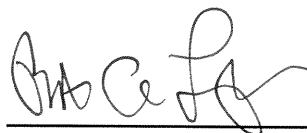
The Honorable Loretta E. Lynch

Attorney General

U.S. Department of Justice

950 Pennsylvania Avenue, N.W.

Washington, DC 20530-0001



Robert A. Long, Jr.