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STATEMENT OF COMMISSIONER KEVIN J. MARTIN ON BIENNIAL REVIEW OF BROADCAST OWNERSHIP RULES

First, I want to congratulate Chairman Powell for his leadership on this issue. He has long advocated his vision for a new media ownership framework. Through his hard work and dedication, we are bringing this proceeding to a close and will finally adopt these proposed new rules.

I also commend Commissioners Capps and Adelstein for their tireless efforts in reaching out to the public, informing them of the issues, and encouraging them to participate in the process. While I ultimately disagree with them on the course of action the Commission should take, I appreciate and respect the contribution they have made to this debate.

The decision we make today is as difficult as it is critical. The media touches almost every aspect of our lives. We are dependent on it for our news, our information, and our entertainment. Indeed, the opportunity to express diverse viewpoints lies at the heart of our democracy. In fact, I agree with many of the concerns about consolidation and preservation of diversity that have been expressed by my colleagues this morning.

I also believe, however, that the FCC must respond to congressional and judicial calls to update our rules for the 21st century. We are under a legal mandate to review our broadcast ownership rules and determine whether they are still “necessary” in today’s marketplace. If they are not, we must repeal or modify the rules. And according to the courts, this is an obligation that the Commission did not take sufficiently seriously in the past. Indeed, the courts have overturned the last three broadcast ownership rules they reviewed because the Commission did not sufficiently take into account new voices present in the current marketplace.

Therefore, we must analyze today’s marketplace. As Congress anticipated and as the courts have ordered us to recognize, the media marketplace is not stagnant. Factors such as rapidly improving technology and innovation have contributed to a media landscape that is continually evolving—and considerably different from the one when most of the broadcast ownership rules were first adopted. I recall having extremely limited choices on our family television set when I was growing up. There was no cable. There was no Satellite. Even with our roof antenna, we received just five channels—the three major networks, one independent, and one public television station. Our national news was delivered to us by the three networks for one-half hour, straight from New

York City, at the same time every evening. No CNN, FOX, MSNBC, or CNBC. Local news was broadcast by the local stations just once at 6:00 and once at 11:00. And at that time, news from 24 hour local cable channels was far off on the horizon.

While my parents still live in the same house, they now have access to seven broadcast networks, hundreds of digital cable channels (including a local cable news channel), many more radio stations, and thousands of sites on the Internet. Indeed, people today have access to more information from more diverse sources than at any time in our history.

Clearly, the media marketplace has changed significantly since our media ownership rules were first adopted. Yet what has *not* changed is the importance of the three principles our original rules were intended to promote: competition, localism, and diversity. Fundamentally, our rules must still promote competition, localism, and diversity to nourish a vibrant media marketplace.

I am particularly pleased that, for the first time in 28 years, the Order we adopt today finally concludes a review of the newspaper/broadcast cross-ownership rule, which has prohibited a company from owning a newspaper and broadcast station in the same market. Adopted in an era with little cable penetration, no local cable news channels, few broadcast stations, and no Internet, the rule was based on a market structure that bears almost no resemblance to the current environment. Indeed, because of these marketplace changes, we have revised all our other media rules at least once since the ban's adoption. As a result, newspapers have been the *only* media entities prohibited from owning a broadcast station in the markets they serve, regardless of how large the market was or how many newspapers or broadcast stations were present. For example, in the large markets, two broadcast television stations have been permitted to combine and could own up to six radio stations, as well. Yet, newspapers remained prohibited from owning even a single radio station. Today we correct this imbalance, finally giving newspapers the same opportunities other media entities enjoy in medium and large markets. In so doing, we recognize that newspaper/broadcast combinations may result in a significant increase in the production of local news and current affairs, as well as an improvement in the quality of programming provided to their communities.

I also am pleased that, where the Commission determines that existing rules should be modified, we have crafted simple, clear rules. I remain skeptical of overly complicated mathematical formulas and the uncertainty they can beget in the marketplace.

I appreciate the staff's hard work in developing a diversity index, and I found much of their analysis helpful in informing us of general markets trends. I also appreciate my colleagues' recognition that the diversity index cannot be used in particular transactions. A concept as complex as diversity cannot be quantified with mathematical precision.

Finally, I note that the decision regarding the national ownership cap was particularly difficult. The record contained strong evidence on both sides of this issue. I believe the affiliates made a compelling case as to why a national limit needs to be retained. I agree that a balance between the affiliates and the networks is important to maintaining localism, and thus I did not support proposals in the record to eliminate the

cap altogether. Yet, the networks also made persuasive arguments that a 35% cap is not necessary—in particular, that we do not have sufficient evidence to conclude that the two networks currently reaching over 40% of the country have caused actual and significant harm today.

The Order we adopt today attempts to respond to the courts’ admonitions and our Congressional mandate by recognizing the availability of these new media outlets, evaluating their impact on our core goals, and modifying our rules as appropriate.

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