

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No. 13-236.

Some things are inextricably linked. Penn Jillette will be forever tied to Teller. Daryl Hall will forever be tied to John Oates. Toni Tennille will forever be tied to the Captain. And the Cleveland Browns will forever be tied to . . . well, not-success, shall we say.

So, too, is the Ultra High Frequency (UHF) discount inextricably linked to the national television ownership cap. The FCC's national television multiple ownership rule prohibits a single entity from owning television stations that, in the aggregate, reach more than 39% of the total television households in the United States.¹ And until late last year, for purposes of calculating compliance with the 39% cap, a UHF television station was attributed with 50% of the television households in its market. For decades, this UHF discount was a critical component of the national cap. As one party pointed out in the record, the cap establishes a limit, and the discount defines how to calculate whether the limit is reached.²

In 2016, the FCC eliminated the UHF discount on a party-line vote. This effectively tightened the rule.³ For example, companies that were previously under the national cap suddenly went over it. But in reaching this decision, the Commission did not examine whether the facts justified a more stringent cap. Nor did it analyze whether the cap should have been raised at the same time as the UHF discount was eliminated. This was illogical and likely unlawful.

This situation was avoidable. Back in 2013, when the Commission began this proceeding, I had a simple request. I asked my colleagues to seek comment on both eliminating the UHF discount *and* adjusting the national television ownership cap.⁴ I specifically argued that we could not do one without the other.⁵ Unfortunately, my plea fell on deaf ears. Among other things, I was told that the proceeding would take too long to complete if it included a broader examination of the national cap. Ironically, it then took the Commission almost three years to take action and release an *Order* actually eliminating the UHF discount. We easily could have reviewed the national cap during those three years.

Today, the FCC is wiping the slate clean. And later this year, we will begin a new proceeding to review comprehensively the future of the national cap, including the UHF discount. Going forward, I will do everything within my power to ensure that this review does not similarly take three years to complete. And to get that done, we will be relying heavily on the dedicated staff of the Media Bureau, including Michelle Carey, Brendan Holland, Mary Beth Murphy, and Julie Saulnier, whose hard work made today's *Order* possible.

¹ 47 CFR § 73.3555(e)(1).

² Nexstar Broadcasting Inc., Reply Comments in Support of Petition for Reconsideration (Jan. 27, 2017).

³ *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No. 13-236, Report and Order, 31 FCC Rcd 10213 (2016) (Dissenting Statement of Commissioner Ajit Pai).

⁴ *See Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No. 13-236, Notice of Proposed Rulemaking, 28 FCC Rcd 14324, 14343–44 (2013) (Dissenting Statement of Commission Ajit Pai).

⁵ *Id.* at 14343 (stating that the FCC cannot “modify the UHF discount without simultaneously reviewing the national cap”).