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FCC LAUNCHES COMPREHENSIVE EXAMINATION OF RULES ON MULTIPLE OWNERSHIP OF LOCAL MARKET RADIO STATIONS

Also Sets Interim Policy and Deadlines to Resolve Pending Radio Applications

Washington, D.C. – The FCC today took three significant steps toward providing clarity and certainty to the processing of radio license transfer applications in cases that may result in substantial economic concentration and thus raise competition concerns.

- The FCC commenced a comprehensive examination of its rules and policies concerning multiple ownership of radio stations in local markets. The Commission said its objective is to ask the relevant questions and develop a complete record that will support the approach and the implementing regulations it ultimately adopts.
- The FCC established an interim policy to clarify the review criteria for applications that are currently under review and for applications filed during completion of the rulemaking.
- The FCC set specific deadlines in order to expedite the resolution of pending applications.

In a *Notice of Proposed Rulemaking* (NPRM) adopted today, the FCC seeks to undertake a comprehensive examination of the rules and policies concerning multiple ownership of radio stations in local markets. The FCC said it intends to be more responsive to current marketplace realities while continuing to address its core public interest concerns of promoting diversity and competition. The FCC said it would examine the statutory framework as well as consider the public interest advantages and disadvantages of various potential rule and policy changes.

The FCC also adopted an interim policy that establishes a plan of action to resolve pending applications. The interim policy sets timetables for the FCC staff to make its recommendation to the Commission on how to resolve the pending applications. The applications that have been pending the longest will receive the highest priority. For example, within 90 days of today, the staff must make a recommendation on the limited number of applications that have been pending for more than one year. The FCC said it will continue to “flag” applications that raise competitive concerns, and the staff will then conduct a public interest analysis, including a competitive analysis of the particular market. The categories of information that the staff may use in conducting its competitive analysis include: product market definition; geographic definition; market participants; market shares and concentration; barriers to entry; potential adverse competitive effects; and efficiencies and other public interest benefits.

The FCC noted that the radio industry has undergone substantial changes since the revision of radio ownership limits in the Telecommunications Act of 1996 and it expressed concern that FCC policies on local radio ownership do not adequately reflect current industry conditions.

For instance, when the 1996 Act became law, there were approximately 5,100 owners of commercial radio stations nationwide; today there are approximately 3,800 owners, a decrease of 25%. Local markets have seen similar consolidation. In March 1996, an Arbitron metro market had an average of 13.5 owners; in March 2001, the average was 10.3, a decrease of 22%.

The FCC said in addition to comments on theoretical arguments about local ownership rules, today's NPRM also asked for specific empirical data on the effect of consolidation on the public interest. It specifically asked for data in three Arbitron radio markets that illustrate significant differences in market structure but which have all undergone substantial consolidation since 1996: Syracuse, N.Y.; Rockford, Ill; and Florence, S.C. The FCC also encouraged commenters to file information on any local market they feel is relevant or helpful.

The NPRM asked for comment on the interplay between the numerical radio ownership limits in Section 202(b) of the 1996 Act and the public interest mandates of sections 309(a) and 310(d) of the Communications Act of 1934 and how these sections relate to Commission policies on competition and diversity.

The Commission noted that promoting diversity and competition remains the touchstone of its local radio ownership rules. It asked for comments on whether the three traditional aspects of diversity (viewpoint, outlet and source) should guide its public interest consideration.

With respect to competition, the NPRM asked for comments on the scope of the FCC's interest in competitive radio markets, on the definition of the relevant market (advertising or audience), on barriers to entry, potential efficiencies, possible harms, and on the economic costs and benefits of consolidation.

The NPRM requested comment on the general costs and benefits, and advantages and disadvantages, of various methods by which its policies concerning diversity and competition can be implemented, including: relying on numerical limits or other bright-line rules to guide the FCC's public interest determination; conducting a case-by-case public interest analysis; using other regulatory tools such as screens or processing guidelines; or using a mixture of these methods.

The Commission also asked for comments on a variety of specific situations: how it should review applications proposing to assign or transfer control of existing station groups to new owners; how to treat claims that a station is failing, failed, dark, or unbuilt; and what is the appropriate regulatory and ownership treatment of contractual agreements between stations, including Local Marketing Agreements, Time Brokerage Agreements, and Joint Sales Agreements.

Action by the Commission, November 8, 2001, by *Notice of Proposed Rulemaking* (FCC 01-329). Chairman Powell, Commissioners Abernathy, Copps, and Martin with Commissioner Copps issuing a separate statement.

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