

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
2014 Quadrennial Regulatory Review –)	MB Docket No. 14-50
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 –)	MB Docket No. 09-182
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
Promoting Diversification of Ownership)	MB Docket No. 07-294
In the Broadcasting Services)	

COMMENTS OF FREE PRESS

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SUMMARY

Free Press respectfully submits these comments in response to the Further Notice of Proposed Rulemaking issued in the Federal Communications Commission's 2014 Quadrennial Review of its media ownership rules. This proceeding marks the sixth periodic media ownership review undertaken by the Federal Communications Commission since the passage of the Telecommunications Act of 1996. Notably, the Commission has yet to conclude its 2010 Quadrennial Review and seeks to do so concurrently with this proceeding.

Free Press supports the Commission's proposal to retain the local television ownership rule and certain cross-ownership bans in light of traditional media's continued importance in today's news ecosystem. While new media technologies may offer the promise of supplemental news services, they have not come close to replacing the local news gathering and information programming of broadcast television and newspapers. Thus, when promulgating its ownership rules, the Commission must take into account the public's reliance on broadcasters and newspapers as the primary sources for information about local communities, local affairs and democratic processes.

The Commission's media ownership rules should ensure that the public has access to diverse, independent, and competing sources of local news. Research shows that the sources of local news available online are virtually identical to those available offline. The websites of local TV stations and local newspapers remain the dominant sources and destinations for local news on the Internet, just as TV stations and local newspapers do off of it.

For this reason, we urge the Commission to retain the newspaper broadcast ownership rule as well and to approach waivers on a traditional case-by-case basis so as to not render the rule meaningless. A case-by-case approach with presumptions would be, in effect, the rule the

Commission put forth in the 2006 Order and proposed to adopt again in 2011. Since 2011, none of the doomsday predictions offered by the newspaper industry have come to pass. However, the potential for harm to competition, localism, and diversity resulting from a merged newspaper-broadcast operation remains. Thus, the Commission cannot justify eliminating the NBCO rule.

Moreover, the Commission cannot justify relaxing any of its rules because it has punted yet again on the Third Circuit's diversity directive. In the 2010 Quadrennial Review NPRM, the Commission stated that it would undertake measures "in preparation for the 2014 broadcast ownership review to establish with the requisite foundation and clarity what additional policies can be implemented promoting greater broadcast ownership diversity, including female and minority ownership." The instant comments come eight months into 2014 and the Commission has failed to take any steps to address the disproportionately low levels of ownership by people of color and women. Despite a clear mandate from the Third Circuit in *Prometheus I* and *II* and despite its own promises, the Commission appears once again set to ignore the court's instruction to address diversity issues prior to the completion of its Quadrennial Review. If the Commission again fails to study the impact of its rules on diverse ownership or relaxes its rules before doing so, it will again disregard the court's explicit mandate.

The Commission should make diversity a central focus of this proceeding and complete the diversity measures required by the court on remand before it concludes the 2014 Review. To accomplish this it must do the following:

- (1) Assess the market structures that are more likely to foster ownership by women and people of color, and evaluate the potential impact of media ownership rule changes on ownership opportunities for such owners; and
- (2) Conduct the research required to support targeted measures to promote ownership of broadcast stations by underrepresented groups, while guarding against further erosion of media ownership among members of these groups that could occur if the FCC were to prematurely relax existing media ownership limits.

The prematurity of relaxing the rules in light of this judicial directive, with the potential for jeopardizing existing diversity levels, is by itself a legal and policy reason sufficient to maintain existing limits. But even if that were not enough, there is substantial evidence that the FCC media ownership rules continue to play a necessary and integral role in promoting competition and independence among the most popular and important local information sources.

Finally, Free Press encourages the Commission to continue addressing covert consolidation tactics used by broadcasters to evade local media ownership limits. Such arrangements undermine the competition-promoting benefits of the local duopoly rules. While outright media consolidation in local TV markets adversely impacts competition and diversity, covert consolidation achieves a more insidious yet equally adverse effect. In many communities, the end result is a TV dial where most of the news on one channel is essentially a rehash—or even an exact copy—of what airs on a putatively competing station. The corrosive effects that these practices have on editorial independence and journalistic integrity should concern the public, regulators, and industry professionals alike.

Requiring disclosure of shared services agreements is a necessary first step in assessing the scope of broadcasters' evasions, but disclosure alone cannot remedy the harms to competition, localism and diversity that flow from the arrangements. The Commission should define SSAs as broadly as possible to capture any and all agreements that undermine its policy goals and should make SSAs attributable under the ownership rules under circumstances that exhibit an unpermitted transfer of control.

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COMMENTS OF FREE PRESS

Free Press respectfully submits these comments in response to the *Further Notice of Proposed Rulemaking* (“FNPRM”) issued in the Commission’s ongoing 2010 Quadrennial Review and nascent 2014 Quadrennial Review.¹ This FNPRM comes nearly five years after the Commission began its 2010 Quadrennial Review with a series of workshops held from November 2009 through May 2010 and more than two years after the Commission released the first Notice of Proposed Rulemaking in December 2011 in that proceeding.²

¹ *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*, MB Docket No. 14-50, Further Notice of Proposed Rulemaking and Report and Order, 29 FCC Rcd 4371 (2014) (“FNPRM”).

² *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*, MB Docket No. 09-182, Notice of Proposed Rulemaking, 26 FCC Rcd 17489 (2011) (“2011 NPRM”).

Little has changed in that time, other than continued treading water and worsening of broadcast ownership diversity, and a few small but important steps by the Commission to stem the tide of concentration and the loss of diversity. Given its inability to finish the 2010 review and to satisfy the Third Circuit's mandate in *Prometheus II*,³ the Commission seeks answers to questions it has been asking since 2009. Because of the repetitive nature of these proceedings, Free Press has addressed many of the issues presented by the FNPRM in previous filings and reports. The data and policy analyses contained therein demonstrate that media consolidation adversely impacts the quantity and quality of local news and information from competing sources and diverse owners. Moreover, our research details the breadth and scope of certain large broadcasters' attempts to sidestep local ownership limits through outsourcing arrangements.⁴

In keeping with tradition, we expect industry commenters to reassert two main claims: that media ownership limits are no longer necessary because of increased competition from multichannel video providers and the Internet, and that consolidation through resource sharing arrangements enables broadcasters to improve or maintain the provision of news and information in the face of harsh market realities. In these comments, Free Press will reiterate that these arguments have no basis in reality.

The Commission's media ownership limits continue to be necessary to preserve competition and promote the greatest number of diverse and antagonistic voices in local communities. In the FNPRM, the Commission recognized this necessity and made encouraging tentative conclusions regarding the state of local markets and the need to retain its rules.

³ *Prometheus Radio Project v. FCC*, 652 F.3d 431 (3d Cir. 2011) ("*Prometheus II*").

⁴ See S. Derek Turner, *Cease to Resist: How the FCC's Failure to Enforce Its Rules Created a New Wave of Media Consolidation* (2014), re-submitted as an attachment hereto.

Free Press supports the Commission’s proposals to retain the local television ownership rule and a general prohibition against newspaper-television cross ownership. However, we question the wisdom of the Commission’s finding that cross-ownership does not impact diverse ownership, and encourage the Commission to study the impact of its rules on diverse ownership in general. In all cases, the Commission should promote policies that create favorable market conditions for diverse, independent entrants.

I. The FCC’s Media Ownership Limits are Necessary to Protect Public Access to Diverse and Competing Sources of Local News and Information

In the FNPRM, the Commission rightly reaffirmed the important role traditional media outlets play in local communities and found that local ownership limits remain necessary in today’s media ecosystem. The Commission’s media ownership rules protect and promote competition, diversity, and localism among sources of local news and information that communities rely on most—broadcast stations and newspapers. Thus, these rules foster viewpoint diversity and competition in the delivery of local news.

Undoubtedly, as it has in past media ownership reviews, the broadcast industry will pressure the Commission to relax one or more of its media ownership rules. NAB and others will likely ask the FCC to permit more duopolies and to repeal the Newspaper Broadcast Television Cross Ownership Rule. In doing so, industry will likely reiterate one or more of the following arguments: (1) Media ownership limits are unnecessary and outdated in light of competition from cable and Internet sources; (2) If the Commission relaxes or eliminates its media ownership limits, broadcasters will benefit from “efficiencies” that will allow them to invest more resources into producing local news; or (3) Broadcasters need to consolidate in order to offset declining advertising revenues and financial hardships. The Commission should weigh the public interest more heavily than these warmed-over and self-interested corporate media claims.

A. The Local TV Ownership Limits Remain Necessary

In the FNPRM, the Commission proposed to retain the local television ownership rules, including the eight-voices test and the existing numerical limits and the prohibition against mergers among the top-four rated stations in a market. The Commission concluded that the rule will promote competition, localism, and viewpoint and ownership diversity. The FNPRM only proposed a limited modification to the rule: replacing the Grade B contour overlap test currently used to determine when the rule applies with a digital noise limited service contour test.

Free Press fully supports the Commission's decision not to relax the local television rules. Additionally, we reiterate our support for a return to a single-license rule. A one license per owner, per market rule would promote competition in large urban markets where today duopolies are permitted, as these duopolies have all but wiped out diverse ownership. Returning to a one-to-a-market rule would free-up stations for purchase by new entrants. Additionally, given the multicasting benefits resulting from the digital transition, stations still could program multiple streams on a single licensed channel.⁵ A single-license per market rule thus would encourage more efficient use of spectrum too.

Whether or not the Commission returns to a one-to-a-market rule, however, it is critical that the agency not relax the local television rule further. Even though Americans can turn to a variety of media today, local television remains a top source for news. According to one study,

⁵ Sinclair Broadcast Group has announced that it would return its licenses and employ multicasting technology in two markets where it is prohibited from acquiring a second station. In light of opportunities to profit from the sale of licenses in the upcoming incentive auction, Sinclair's claim that it could not find any buyers for these stations is very hard to believe. A more likely explanation for Sinclair's maneuvers is that the nation's largest broadcaster views multicasting not only as a viable business model, but as one that is preferable to facing competition from other licensees who would hold the network affiliations if Sinclair sold the stations. By canceling the licenses and multicasting this programming, Sinclair can retain these affiliations and eliminate the prospect of local competition. *See* Lauren M. Wilson, "The Latest Twist and Turn in Sinclair's Quest to Buy Allbritton," Free Press Blog, June 3, 2014.

93 percent of Americans rely on a TV news operation for information, counting both broadcast and cable outlets' linear programming and their websites.⁶ Yet more people still look to their local TV news station, either live on-air or online, than any other news source.⁷ And more Americans trust the information they get from local TV news stations than from any other source.⁸ The local TV ownership rule guarantees a baseline of diversity among these local news sources upon which the public consistently relies.

Still, even when people turn to the Internet for news, they are reading stories produced by traditional television (and newspaper) sources that have been re-packaged for online consumption. One seminal study by Pew counted the number of news outlets in Baltimore, and found that while more than fifty-three outlets were available in the market, 95 percent of the content on these sites originated from broadcast TV, radio, or the local newspaper.⁹

Local broadcast journalism is already suffering from two decades of rampant media consolidation. Absentee owners long ago pushed out most station owners with ties to their communities. And in many communities, the same company owns multiple media outlets: changing the channel brings the same content from the same newsroom, packaged with slightly different graphics and sometimes, although not always, delivered by a different reporter.¹⁰ 2013 was the fourth-largest year for local TV deals in the past three decades. 286 full-power broadcast

⁶ American Press Institute, "How Americans get their news," Mar. 31, 2014, <http://www.americanpressinstitute.org/publications/reports/survey-research/how-americans-get-news/>.

⁷ 82 percent of Americans watch the news on their local broadcast TV station compared with 73 percent of Americans who tune into the three national network broadcast news programs and 62 percent of Americans who turn to 24-hour cable news channels. *Id.*

⁸ *Id.*

⁹ PEW RESEARCH CENTER'S PROJECT FOR EXCELLENCE IN JOURNALISM, HOW NEWS HAPPENS: A STUDY OF THE NEWS ECOSYSTEM OF ONE AMERICAN CITY (Jan. 11, 2010), http://www.journalism.org/analysis_report/how_news_happens.

¹⁰ *See* Comments of Free Press, MB Docket Nos. 09-182, 07-294, at 50-51 (filed Mar. 5, 2012) ("Free Press 2012 Comments").

television stations were sold, making 2013 the biggest year for television consolidation since the turn of the century—and most of these deals involve existing owners expanding their holders, not new voices entering the market.¹¹ Given these developments, the Commission should be skeptical of relaxing the local television ownership rules and exacerbating a trend that has left shuttered newsrooms and underserved communities in its wake.

B. The Commission Should Retain the NBCO Rule

The FNPRM tentatively concluded that some restriction on newspaper-broadcast cross-ownership remains necessary to promote viewpoint diversity.¹² As such, the Commission proposed to retain the general prohibition against newspaper-television combinations. Rejecting industry’s self-serving calls to remove or gut the ban on newspaper-television combinations is the right decision. As stated above, local TV stations and newspapers remain the primary sources of news and information in local communities. The impending doom for newspapers, of which the Newspaper Association of America (NAA) has frequently warned, has not come to pass. Indeed, many media companies are moving to spinoff print operations from their broadcasting business as they plan for more profitable futures.¹³ There is no reason to risk the harms to competition, localism, and diversity that would result from eliminating the newspaper television ban altogether, or from weakening it as prior quadrennial review orders have proposed.

Free Press supports therefore the FNPRM’s proposal¹⁴ to abandon the newspaper-television cross ownership rule advanced by the 2006 Review.¹⁵ As we explained in detail in our

¹¹ Volker Moerbitz, “Broadcast deal market December: A dynamic end to a dynamic year,” *SNL Kagan*, Jan. 13, 2014; *Cease to Resist* at 11-12, 37.

¹² FNPRM ¶ 114.

¹³ Rick Edmonds, “Splitsville: Why newspapers and TV are going their separate ways corporately,” *Poynter*, July 31, 2014.

¹⁴ FNPRM ¶ 117.

opposition to that proposal,¹⁶ Free Press cautions against adopting rules or waiver standards that would presume certain newspaper-television combinations are in the public interest—including combinations involving television stations ranked outside of the top-four stations in the DMA and combinations that would leave at least eight independent voices in the DMA.

With respect to the NBCO Rule, the public interest is best served by a pure case-by-case approach to waivers. The Commission’s traditional waiver test is not only sufficient, but also best-suited to effect the purpose of the rule. An examination of the facts of any proposed newspaper-broadcast combination, and its impact on the relevant market, will best guard against unjustified the loss of an independent voice in those communities. It may be true that waiver presumptions would provide some guidelines for applicants. However, waiver presumptions also would invite gamesmanship on the part of broadcasters to match deals against a set of pre-fabricated factors—without analysis of these combinations’ actual harm to competition, localism, and diversity in the affected markets.

In other words, a “Case-by-Case Approach with Presumptions” is merely another iteration of the bright line rule the Commission has said it is “disinclined to impose.”¹⁷ It would suffer from the same flaws by setting out tests that are “vague, subjective, difficult to verify, and costly to enforce.”¹⁸ The presumptions outlined in that approach mirror the approaches adopted in the 2006 Review and proposed in the 2011 NPRM. Then, the Commission would have presumptively allowed combinations in top 20 markets between a newspaper and “(1) a radio

¹⁵ See *2006 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*, MB Docket No. 06-121, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, ¶ 20 (2008) (“2006 Review R&O”).

¹⁶ Free Press 2012 Comments at 27-28, 39-44.

¹⁷ FNPRM ¶ 117.

¹⁸ *Id.* ¶ 184.

station or (2) a television station [when] (a) the television station [is] not ranked among the top four stations in the DMA and (b) at least eight independently owned and operated ‘major media voices’ would remain in the DMA after the combination.”¹⁹ The presumptions included in the instant FNPRM are exactly the same and would cause the same adverse effects against which Free Press²⁰ and even industry commenters²¹ warned in 2012.

The FNPRM also made the troubling tentative finding that the NBCO rule “does not have a significant impact minority ownership.”²² The Commission comes to this finding because maintaining cross-ownership bans alone may not be enough to maintain or increase diverse ownership levels, and the FNPRM thus described the newspaper-broadcast ban as an “indirect measure” for promoting diversity.²³ That missed the point entirely by misjudging the harm to diversity caused by excessive concentration.

That one rule is unable to counteract the difficult and disproportionate economic hardships minorities face in the broadcast market is not cause to say the rule has had no bearing on diversity. Free Press has painstakingly outlined the difficulties women and minorities face both entering and remaining in broadcast markets because of factors within and outside of the Commission’s control.²⁴ It is not possible for the NBCO Rule alone to offset discrimination in access to deals, capital and equity. Yet concentration in local media markets unquestionably makes it more difficult for small broadcasters and single station owners to survive, and diverse owners tend more often to be small station group or single station owners. Cross-ownership and

¹⁹ 2011 NPRM ¶¶ 85-91.

²⁰ Free Press 2012 Comments at 39-44.

²¹ FNPRM ¶ 156 (citing comments of Tribune).

²² *Id.* ¶ 120.

²³ *Id.* ¶¶ 190, 193.

²⁴ Free Press 2012 Comments at 18-23.

concentration thus result in higher barriers to entry, aided and abetted by the (till now) persistent evasion of the Commission's ownership limits through resource sharing arrangements. It should be unthinkable that the cross-ownership ban should be singled out for its failure to do the impossible, or that cross-ownership's obvious reduction of the number of opportunities for diverse owners could be ignored.

Evaluating the impact of cross-owned properties on diverse ownership is an inherently difficult task because the rules have prohibited many such combinations in many markets, and the statistical sample is small because minority ownership levels have always been appallingly low. A proper study of the impact would compare how minority owners have fared in markets where cross-ownership is present and in markets where cross-ownership is absent. Two limited categories of cross-owned properties exist—grandfathered stations and stations with waivers—and there are significant differences in the history and market position of these two groups of stations. For instance, waived combinations are more likely to be in larger DMAs where more minority stations have historically existed. Also, large corporate chains tend to control waived cross-owned operations, while grandfathered combinations are primarily controlled by local or regional family operations.²⁵ A comprehensive study of the relationship between diversity and cross-ownership would take these market realities into account. Neither the Commission nor any other party has yet to undertake this analysis. Therefore, the Commission is not in a position to conclude tentatively or otherwise that cross-ownership has no significant impact on ownership by women and people of color.

²⁵ See Comments of Free Press, MB Docket Nos. 09-182, 07-294 at 14 (filed July 22, 2013).

In today's media ecosystem where firms are consolidating at record pace, and the incentive auction promises to reduce still further the available pool of stations, diverse ownership is in dire straits. The pressure for minority owners to exit the market is growing and opportunities for them to enter the market are ever shrinking. As a result, policies that fail to promote minority ownership, as well as those that reduce opportunities for entry and continued independent ownership, inevitably cause harm. The Commission cannot afford to relax its rules unless there is proof that doing so will not hurt ownership diversity and at the very least, the agency cannot relax its rules until it has attempted to find out.

II. The Commission Cannot Justify the Relaxation of Its Rules Until the Agency Studies the Impact They Have Had on Broadcast Ownership By People of Color and Women

The Commission's latest *323 Report* reiterates what Commission has long known: people of color and women hold broadcast licenses in alarmingly low numbers and the situation is not improving. For this reason, in 2011 the Third Circuit remanded portions of the 2008 Diversity Order for failing to demonstrate how the adopted measures would "enhance significantly" minority and female ownership.²⁶

Yet with this FNPRM, the Commission once again seeks to avoid its duty to address diversity concerns. Specifically, the Commission tentatively concludes that it lacks "sufficient evidence...to satisfy the constitutional standards necessary to adopt race- or gender-conscious measures."²⁷ However, the Commission has not made a serious attempt to gather this evidence as a first step to promoting diverse ownership. The Commission should commit to gathering the requisite evidence it needs to support adoption of specific measures to enhance ownership by

²⁶ *Prometheus II*, 652 F.3d at 471.

²⁷ FNPRM ¶ 282.

women and people of color. Furthermore, as it gathers this evidence, the Commission should also ensure that it does not exact further harm upon ownership diversity by relaxing its rules and allowing for even more consolidation in local broadcast markets.

The latest Form 323 data reveals that racial minorities collectively or individually own just 41 full power commercial television stations, or 3 percent of the 1,386 stations included the Commission's report.²⁸ In comparison, when the 2010 census was taken, racial minorities made up 36.3 percent of the US population.²⁹ By 2042, today's racial "minorities" will make up the majority of the population. The fate that has befallen African-American broadcast television owners is particularly troubling. African-Americans make up 14.1% of the population, yet the number of black-owned *and* operated stations is at most 1.³⁰ That number is down from 5 full-power broadcast television stations in 2012 and 18 stations just 6 years prior. In short, racial and ethnic minorities are already grossly underrepresented in broadcast media ownership and unless the Commission acts, the situation will only get worse.³¹

²⁸ See *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*, MB Docket Nos. 14-50, 09-182, 07-294, Report on Ownership of Commercial Broadcast Stations, DA 14-924 (Media Bur. rel. Jun. 27, 2013) ("*2014 Form 323 Summary Report*"). Past Free Press analyses of Form 323 data have demonstrated that the Commission's *Form 323 Summary Report* may not be up to date. See Comments of Free Press, MB Docket Nos. 09-183, 07-294 (filed Dec. 12, 2012). A cursory look at the 2014 Form 323 Report reveals that the Commission's latest accounting may not accurately reflect the current state of minority ownership. For example, the data set underlying the summary lists WRBU in East St. Louis, IL and WZRB in Columbia, SC as minority-owned stations. However, WRBU and WZRB are Ion Television owned-and-operated stations following a sale by African-American owned Roberts Broadcasting.

²⁹ Centers for Disease Control and Prevention, "Racial and Ethnic Minority Populations" <http://www.cdc.gov/minorityhealth/populations/remph.html>.

³⁰ See Joseph Torres, S. Derek Turner, "A Sorry Moment in the History of American Media," Free Press Blog, Dec. 20, 2013.

³¹ *Id.*

In the FNPRM, the Commission reaffirmed its commitment to promoting diversity of ownership among broadcast licensees. Consequently, the Commission has sought to reform its process for collecting ownership data. Free Press commends this effort but recognizes that inadequacies in the Commission's data collection and analysis remain.

The Third Circuit gave the Commission three instructions with respect to diversity. Specifically, the Court ordered the Commission to:

- “[S]ynthesize and release existing data such that studies will be available for public review in time for the completion of the 2010 Quadrennial Review.”³²
- “Consider the effect of its rules on minority and female ownership.”³³
- Consider alternative proposals and definitions for the vacated revenue-based eligible entity definition before it completes its 2010 Quadrennial Review.³⁴

The Commission has failed to complete the Third Circuit's first directive, has not undertaken its second directive, and also has punted on the third.

Free Press acknowledges that given the pace with which full power television stations are changing hands, an always up-to-date portrait of ownership is difficult to maintain. The Commission has taken strides in reforming its data collection process, but the *2014 Form 323 Report* still does not provide the most accurate snapshot of current ownership levels possible and still does not attempt to compensate for pitfalls inherent in an accounting of a market characterized by an accelerating pace of deals and constant pressure to buy competitors.

The Commission should work to organize Form 323 data so that it can be easily searched, aggregated, and cross-referenced. Moreover, the data contained therein should allow for trend analysis over a period of more than two years. These basic deficiencies indicate that the

³² *Prometheus II*, 652 F.3d at 471 n.42.

³³ *Id.* at 471.

³⁴ *Id.* at 438, 471.

Commission still is not taking ownership diversity analysis seriously enough. This is particularly troubling in light of a Commission acknowledgment that Form 323 Reports alone cannot satisfy the Third Circuit’s instruction to assess the public interest implications of its ownership rules.³⁵ The FNPRM states that the *2012 Form 323 Report* “contains valuable information about minority and female ownership...that is being taken into account in the proceeding.”³⁶ Likewise, the Commission is considering information contained in the *2014 Form 323 Report*.³⁷ However, at no time has the Commission identified what new measures it has taken or plans to take in order to meaningfully analyze ownership data.³⁸

It is critical that the Commission articulate its specific data needs and complete the necessary analysis. Free Press and others have commented at length on the need for these studies since 2006. We along with other groups have suggested specific research questions and have even endeavored to complete the first full accounting of minority broadcast ownership. Still, the Commission has consistently ignored our concerns. As a result, ownership diversity has plummeted and the Commission is being hauled into Court yet again.³⁹

One basic assessment the Commission has failed to make is a study of the types of market and ownership structures that correlate with women’s and people of color’s entry into the market, success in the market, or exit from the market. An understanding of what structures

³⁵ FNPRM ¶¶ 259, 261.

³⁶ *Id.* ¶ 262.

³⁷ See *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*, MB Docket No. 14-50, Order, DA 14-926 (Media Bur. rel. June 27, 2014).

³⁸ After nearly three years since it released its first NPRM in the 2010 Quadrennial Review, seemingly the full extent of the Commission’s plans concerning a study of ownership diversity has been the following statement: “We also expect that additional data will advance the Commission’s future research and analysis efforts.” FNPRM ¶ 262.

³⁹ John Eggerton, “Prometheus Challenges FCC Ownership Rule Decision,” *Multichannel News*, May 30, 2014.

sustain ownership diversity should be the first step in evaluating during a quadrennial review whether the Commission should maintain, modify, or repeal a media ownership rule—consistent with the Commission’s statutory obligations to promote competition, localism, and diversity and to expand opportunities for minorities and women to hold broadcast licenses.

In February 2012, the Office of Communications Business Opportunities (OCBO) and the Media Bureau announced that pursuant to Section 257 of the Communications Act,⁴⁰ they were commissioning a study to examine “how Americans meet their critical information needs, how the media ecosystem operates to address critical information needs, and what barriers exist in providing content and services to address critical information needs.”⁴¹ The research design was released in May 2013 under the tenure of Acting Chairwoman Clyburn.⁴² One purpose of the OCBO studies was to determine whether a dearth in opportunities for diverse owners to enter the broadcast market affects whether women’s and people of color’s information needs are met. Whatever the merits of the research design, the initiative was a step in the Commission’s follow-up on its promises and its obligations to study the media ecosystem. A successful study also could have illuminated how ownership and market structures, including outsourcing agreements and consolidation, impact ownership by women and people of color.

⁴⁰ Section 257 of the Communications Act requires the Commission to conduct a review and report to Congress on: 1) regulations prescribed to eliminate market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications and information services, or in the provision of parts or services to such providers; and 2) proposals to eliminate statutory barriers to market entry by those entities, consistent with the public interest, convenience, and necessity.

⁴¹ *The Office of Communications Business Opportunities and the Media Bureau Announce the Release of a Request for Quotation for Study Examining the Critical Information Needs of the American Public*, BO Docket No. 12-30, Public Notice, 27 FCC Rcd 1363 (2012).

⁴² *Office of Communications Business Opportunities Announces Release of Critical Information Needs Research Design*, BO Docket No. 12-30, Public Notice, 28 FCC Rcd 9776 (2013).

Regrettably, the Commission abandoned the OCBO studies after members of the current House majority and members of the Commission itself falsely claimed the agency was attempting to regulate news content.⁴³ Pro-industry lawmakers may have suspected instead that the OCBO studies would offer more proof that consolidation leads to higher barriers to entry for those typically underrepresented in the media business. Now the Commission is back at square one—without evidence to support specific measures to enhance ownership by women and people of color. The Commission points out *ad nauseam* that “the data currently in the record of this proceeding are not complete and are likely insufficient either to address the concerns raised in *Prometheus II* or to support race- or gender-based actions by the Commission.”⁴⁴ What the Commission does not acknowledge is that the record in this proceeding is insufficient because the agency itself failed to even attempt to study barriers to entry until last year, and because it then allowed advocates for consolidation to kill the study.

Free Press notes that an analysis of ownership diversity would be useful even if it fell short of justifying race and gender-based policies. In fact, such analyses are not only required for reasoned decision-making in a quadrennial review, they were mandated by the court in *Prometheus II*. Analyses of ownership diversity and market structure can help to inform race- and gender-neutral policies that can promote ownership diversity. Assessing what types of market structures are more likely to support new entrants and ownership by diverse and independent owners, and promulgating Commission policy to encourage or mirror those structures, does not implicate equal protection issues or require strict scrutiny.

⁴³ John Eggerton, “FCC Suspends Critical Information Needs Pilot Study,” *Broadcasting & Cable*, Feb. 21, 2014.

⁴⁴ 2011 NPRM ¶ 158; FNPRM ¶ 282.

As the Commission studies the impact of its rules on minority ownership and works to promote and sustain entry into the broadcast market, it should be mindful that any proactive policy intended to remedy low levels of diversity will be jeopardized if the agency allows increased consolidation in local media markets.⁴⁵

III. The FCC Should Continue Addressing Covert Consolidation By Local Television Stations

There is no question that outright media consolidation diminishes competition and diversity. However, for decades the Commission ignored covert consolidation carried out through resource sharing agreements between broadcasters and their so-called sidecar companies. There have been encouraging signs that the Commission intends to crack down on these arrangements and enforce local media ownership limits. In March, the Commission adopted a rule that requires attribution of Joint Sales Agreements (JSAs) above a certain level.⁴⁶ Then in July, the Commission approved Sinclair Broadcast Group's \$985 million deal with Allbritton Communications only after Sinclair abandoned plans to control multiple stations in three markets using outsourcing arrangements with its shell corporations.⁴⁷ And with this

⁴⁵ In several reports and extensive comments over the last decade, Free Press has repeatedly demonstrated that negative impact concentration has on local media markets, and on the chances for diverse ownership within them. Concentration creates artificial economies of scale. This drives away potential new entrants in favor of existing large chains. Concentration also diminishes the ability of smaller station groups and single-station owners to compete for advertising and programming contracts. These effects combine to create immense pressure for small owners to sell their stations and exit. This destructive cycle disproportionately impacts minority owners, as they are far more likely to own just a single station than are their white-male and corporate counterparts. See S. Derek Turner, *Out of the Picture 2007: Minority & Female TV Station Ownership in the United States* (2007); S. Derek Turner, *Off the Dial: Female and Minority Radio Station Ownership in the United States* (2007).

⁴⁶ See FNPRM ¶ 340.

⁴⁷ *Applications for Consent to Transfer Control from Licensee Subsidiaries of Allbritton Communications Co. to Sinclair Television Group, Inc.*, MB Docket No. 13-203, Memorandum Opinion and Order, DA 14-1055 (Media Bur. rel. July 24, 2014).

FNPRM, the Commission proposed to require disclosure of Shared Service Agreements (SSAs). These are merely first steps, though. Through our license transfer oppositions and independent research, Free Press has published a wealth of information about the true nature of resource sharing arrangements. The Commission should act to curb abuse of its rules and require attribution of SSAs as well as JSAs.

Both the Department of Justice and the Securities and Exchange Commission have recognized certain outsourcing agreements as mechanisms for exercising control over the “sidecar” and ownership of its licenses.⁴⁸ The time is ripe for the FCC to follow suit and as recognize such effective transfers of control as the blatant rule evasions they are. This Commission can no longer tacitly approve these arrangements through inaction. The FCC must change its attribution policies to address the anti-competitive effects of outsourcing arrangements and it must do so immediately.

A. Broadcasters’ Resource Sharing Arrangements Undermine the Purpose and Enforceability of the FCC’s Media Ownership Limits

The FCC’s media ownership limits are designed to preserve localism, competition and diversity by preventing local markets from being controlled by a few owners. Many of the country’s largest broadcasters, including Sinclair Broadcast Group, nevertheless are using outsourcing agreements to get around these limits. When the law precludes owners from formally consolidating station ownership, these deals allow stations to consolidate their core

⁴⁸ *Ex Parte* Submission of the United States Department of Justice, MB Docket Nos. 09-182, 07-294, 04-256 (filed Feb. 20, 2014). In annual reports required by Section 13 or 15(D) of the Securities Exchange Act, broadcasters concede that they are the owners of stations with which they have entered into SSAs. *See* Nexstar Broadcasting Group, Inc., Annual Report Pursuant to Section 13 or 15(D) of the Securities Exchange Act of 1934, for the fiscal year ended Dec. 31, 2012, Commission file number: 000-50478 (Mar. 15, 2013); Sinclair Broadcast Group, Inc., Annual Report Pursuant to Section 13 or 15(D) of the Securities Exchange Act of 1934, for the fiscal year ended Dec. 31, 2012, Commission file number: 000-26076 (Mar. 12, 2013).

local news operations—producing effects that mirror an outright merger and that are expressly contrary to the Commission’s public interest goals.

In the absence of effective FCC oversight, reliance on these arrangements is increasing dramatically. Free Press research conducted in 2013 and 2014 showed that across the country, there were 118 Designated Market Areas (“DMAs”) where one company operates another licensee’s station pursuant to some combination of outsourcing agreements and related financial arrangements, including JSAs and Option Agreements. Of these 118 markets, there were 97 in which outsourcing agreements are used to evade the Commission’s multiple ownership rules based on the so-called “8 voices test.”⁴⁹ There were 80 markets where outsourcing agreements are used to evade the Commission’s multiple ownership rules concerning co-ownership of two or more top-four ranked stations.⁵⁰ Finally, there were five markets where outsourcing agreements are used to evade the Commission’s newspaper broadcast cross-ownership rule.⁵¹ In total, there were 103 markets where outsourcing agreements are used to evade one or more of the Commission’s broadcast ownership rules, equating to nearly half of the 210 U.S. media markets.⁵²

B. The Category of Attributable and Disclosed SSAs Should Be Defined Broadly to Inform the Commission and the Public About the Prevalence of the Agreements and Their Impact on Local Media Markets

Outsourcing agreements come in many forms. They may involve a licensee producing the local news broadcasts for one or more competing in-market stations. With this setup, the serviced station licensee may retain operational control over its station. Yet other arrangements involve one owner exclusively controlling every aspect of a nominal licensee’s operations. Joint Sales

⁴⁹ 47 C.F.R. § 73.3555(b)(1)(ii).

⁵⁰ *Id.* § 73.3555(b)(1)(i).

⁵¹ *Id.* § 73.3555(d).

⁵² *See* Appendix.

Agreements are merely one type of financial arrangement into which parties to these outsourcing agreements often enter.

For the purpose of requiring disclosure, the Commission proposes to define an SSA as “any agreement or series of agreements, whether written or oral, in which:

- (1) a station, or any individual or entity with an attributable interest in the station, provides any station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to a station that is not under common ownership (as defined by the Commission’s attribution rules)
- (2) stations that are not under common ownership (as defined by the Commission’s attribution rules), or any individuals or entities with an attributable interest in those stations, collaborate to provide or enable the provision of station-related services, including, but not limited to, administrative, technical, sales and/or programming support, to one or more of the collaborating stations.”⁵³

Free Press supports this broad definition. Over the last two decades, broadcasters haven’t demonstrated their ability to devise new schemes to evade the FCC’s rules. A narrow SSA definition would only invite such gamesmanship by those set on consolidating further to pad their bottom lines. It is important that the definition of SSA not be limited to those agreements for which licensees are parties. The Commission is already aware of broadcasters’ tendency to create corporations for the sole purpose of evading its rules. If SSAs were limited to agreements among licensees, broadcasters would just create two new corporations: one to hold the licenses and a separate non-licensee to provide services. For this reason, SSAs should be defined to capture any *de facto* transfer of control and not be concerned solely with legal terms of art.

C. Disclosure of SSAs is Necessary, but Only a First Step in Addressing Runaway Media Consolidation

Currently, the Commission only becomes aware of an SSA through license transfer proceedings pursuant to broadcast mergers and acquisitions. These license transfer transactions

⁵³ FNPRM ¶ 330.

increasingly involve some form of an SSA as well.⁵⁴ These contractual arrangements have become a major component of the broadcast media landscape and the Commission agreed that Free Press and other public interest and MVPD commenters in this proceeding have “raised meaningful concerns about the potential impact of sharing agreements on competition, diversity, and localism.”⁵⁵ It follows that the Commission cannot evaluate the efficacy of its rules if it does not have a full understanding of how the agreements operate and the degree to which they are utilized. In short, the Commission’s statutory obligation to review its media ownership rules necessitates disclosure of SSAs.

Free Press supports the Commission’s proposals to require the substance of oral SSAs to be reported in writing. Furthermore, any oral agreements or understandings that underpin a provision of a written SSA should also be disclosed. Many SSAs are crafted to give the impression that “ultimate” decision-making control lies with brokered stations when in practice, that is not the case. Also, many SSAs require brokered stations to pay the brokering station an undisclosed performance bonus that is up to the discretion of the brokering station. When combined with the specified payments under all of the various outsourcing agreements and financial vehicles, these unspecified bonuses frequently account for most, if not all, of the brokered stations profits. The Commission needs this information if it is to uncover the true nature of a relationship between parties to an SSA.

⁵⁴ See Letter from National Organization for Women Foundation, ColorOfChange, Center for Media Justice, Communications Workers of America National Association of Broadcast Employees and Technicians, Women’s Institute for Freedom of the Press, United Church of Christ, Free Press, Common Cause, Media Council Hawaii, Media Mobilizing Project, Media Literacy Project, and St. Paul Neighborhood Network, to Hon. Thomas Wheeler, Chairman, Federal Communications Commission, MB Docket No. 09-182 (filed Mar. 24, 2014).

⁵⁵ FNPRM ¶ 54.

The Commission should require television stations to place of copy of each SSA for the station in its public inspection file at its main studio and in the station's online public file. The Commission already requires this of all radio and television Local Marketing Agreements and Joint Sales Agreements. Disclosing SSAs is only a matter of scanning another document. The nominal cost of uploading a document is far outweighed by transparency benefits. Furthermore, both the brokering station and brokered station should make such a disclosure. This method ensures the public has the best access to information about who is controlling their airwaves and safeguards the trust that should exist between broadcasters and the public. Broadcasters build their businesses and reap profits using the public's airwaves, using licenses for which they paid nothing. In return, broadcasters are obligated to serve the public's needs responsibly—this means being transparent about the extent of their influence in local communities.

D. The FCC Must Make Broadcaster News Sharing and Outsourcing Arrangements Attributable Under the Media Ownership Rules

Beyond requiring disclosure of them, the FCC should adopt criteria that identify the types of SSAs that trigger attribution under the FCC's media ownership limits. The Commission should identify provisions of such agreements, which independently or in conjunction with other factors, demonstrate that a station is exerting significant influence or control over the programming, operations, and/or revenues of another in-market station.

Free Press supports the test advanced by the Georgetown Institute for Public Representation in its 2010 Quadrennial Review comments filed on behalf of The Office of Communication of the United Church of Christ, Inc., Media Alliance, National Organization for Women Foundation, Communications Workers of America, Common Cause, Benton Foundation, and Media Council Hawai'i (collectively, UCC *et al.*). Those comments proposed a bright line, multifactor test for assessing the level of control that one station exercises over

another via a sharing agreement, such that attribution of that agreement would be deemed necessary to account for its effect on the localism, diversity, and competition goals of the FCC media ownership limits. One factor of the UCC *et al.* test considered whether a brokering station sells 15 percent or more of the brokered stations weekly advertising time. In the Report and Order released simultaneously as part of the FNPRM, the Commission required attribution of JSAs that account for 15 percent or more of a station's weekly advertising time,⁵⁶ and in a separate decision prohibited joint negotiation of retransmission consent by top-four stations located in the same market but not under common control.⁵⁷ Those factors may have been adequately accounted for by these March 2014 decisions, but the UCC *et al.* proposal included several other indicators for which an agreement would be automatically attributed:

- 1) The brokering station provides all or significantly all local news programming for the licensee's station;
- 2) The stations share management personnel;
- 3) The brokered station maintains no separate facilities;
- 4) The brokering station reports to the Securities and Exchange Commission that it owns, controls or operates the brokered station;
- 5) Fifty percent or more of the brokered station's total revenues go to the brokering⁵⁸

Acknowledging that in some circumstances it is the confluence of multiple factors, rather than a single aspect of an agreement, that raise attribution concerns, UCC *et al.* propose an additional and alternative test that would trigger attribution if at least three of the following

⁵⁶ See FNPRM ¶ 340.

⁵⁷ See *Amendment of the Commission's Rules Related to Retransmission Consent*, MB Docket No. 10-71, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 3351 (2014).

⁵⁸ Comments of UCC *et al.*, MB Docket No. 09-182, at Section I(C)(1) (filed Mar. 5, 2012).

factors are satisfied: (1) the brokering station provides between 8% and 15% of the brokered station's programming; (2) the number of employees at the brokering station significantly outnumber those at the brokered station; (3) the stations share some physical facilities; (4) the stations engage in joint promotional activities; (5) the stations share financial risk and reward⁵⁹; (6) there is a Local News Service agreement in the local market; and (7) the brokering station maintains an option to purchase the licensee's station.⁶⁰

The tests proposed by UCC *et al.* identify many of the qualities of an agreement which, on their own or compounded by other factors, work to subvert the FCC's localism, competition, and diversity goals. These bright-line tests provide objective and measurable criteria that would allow the FCC to make sure such arrangements are consistent with the public interest without unduly constraining the activities of stations involved. We urge the FCC to consider these or similar proposals as a means of addressing the increasing problem of covert consolidation.

CONCLUSION

The Commission's media ownership limits, when enforced, safeguard the values upon which this country was founded. Civic participation and a functioning democracy are predicated on a diverse and robust media that represents the greatest number of antagonistic voices possible and reflects the nuanced viewpoints and backgrounds of all who call this country home. Free Press urges the Commission to address the diversity issues remanded by the Third Circuit and under no circumstances to relax any media ownership rules at least until it has studied the impact of those rules on diverse ownership. Finally, the Commission should adopt Shared Service

⁵⁹ This factor would cover a brokering station that secures financing for the brokered station's purchase of the license and non-license assets.

⁶⁰ *Id.* at Section I(C)(2).

Agreement attribution policies that ensure broadcasters cannot continue to evade the local television ownership rules and the public interest goals of localism, competition, and diversity.

Respectfully Submitted,

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APPENDIX

Markets with one or more operational outsourcing agreements (DMA 1 to 50)

Market Rank	Market	Markets Where OSA is Used to Evade Multiple Ownership Rule (8 voices test)	Markets Where OSA is Used to Evade Multiple Ownership Rule (Top-4 Ranked)	Market Where OSA is Used to Evade Newspaper-Broadcast Cross-Ownership Rule
1	New York, NY			
2	Los Angeles, CA			
4	Philadelphia, PA			
6	San Francisco-Oakland-San Jose, CA			
7	Boston, MA (Manchester, NH)			
8	Washington, DC (Hagerstown, MD)			
9	Atlanta, GA			
10	Houston, TX			
13	Phoenix (Prescott), AZ			✓
14	Tampa-St. Petersburg (Sarasota), FL			
17	Denver, CO			
19	Orlando-Daytona Beach-Melbourne, FL			
21	St. Louis, MO	✓	✓	
22	Portland, OR	✓		
27	Baltimore, MD	✓		
29	Nashville, TN			
32	Columbus, OH	✓	✓	
33	Salt Lake City, UT			
35	Cincinnati, OH	✓		
36	San Antonio, TX		✓	
37	Greenville-Spartanburg, SC-Asheville, NC-Anderson, SC	✓		
38	West Palm Beach-Ft. Pierce, FL	✓		
40	Las Vegas, NV			
42	Birmingham (Anniston and Tuscaloosa), AL	✓		
43	Harrisburg-Lancaster-Lebanon-York, PA	✓	✓	
44	Norfolk-Portsmouth-Newport News, VA			✓
45	Austin, TX	✓		
47	Albuquerque-Santa Fe, NM			
48	Louisville, KY	✓		✓
50	Jacksonville, FL	✓	✓	

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Markets with one or more operational outsourcing agreements (DMA 51 to 100)

Market Rank	Market	Markets Where OSA is Used to Evade Multiple Ownership Rule (8 voices test)	Markets Where OSA is Used to Evade Multiple Ownership Rule (Top-4 Ranked)	Market Where OSA is Used to Evade Newspaper-Broadcast Cross-Ownership Rule
53	Providence, RI-New Bedford, MA	✓	✓	
54	Wilkes Barre-Scranton-Hazleton, PA	✓	✓	✓
55	Fresno-Visalia, CA	✓	✓	
56	Little Rock-Pine Bluff, AR	✓	✓	
57	Richmond-Petersburg, VA	✓		
58	Albany-Schenectady-Troy, NY	✓	✓	
60	Mobile, AL-Pensacola (Ft. Walton Beach), FL		✓	
62	Ft. Myers-Naples, FL	✓	✓	
63	Dayton, OH	✓	✓	
65	Charleston-Huntington, WV	✓	✓	
66	Wichita-Hutchinson, KS Plus	✓		
67	Flint-Saginaw-Bay City, MI	✓	✓	
70	Tucson (Sierra Vista), AZ	✓	✓	✓
71	Honolulu, HI		✓	
74	Springfield, MO	✓	✓	
75	Omaha, NE	✓		
76	Toledo, OH	✓	✓	
78	Rochester, NY	✓	✓	
80	Portland-Auburn, ME	✓	✓	
81	Paducah, KY-Cape Girardeau, MO-Harrisburg, IL	✓		
82	Shreveport, LA	✓	✓	
83	Champaign & Springfield-Decatur, IL	✓	✓	
84	Syracuse, NY	✓		
87	Chattanooga, TN	✓		
90	Cedar Rapids-Waterloo-Iowa City & Dubuque, IA		✓	
92	Savannah, GA	✓	✓	
93	Jackson, MS	✓	✓	
94	Baton Rouge, LA	✓	✓	
96	Tri-Cities, TN-VA	✓	✓	
97	Burlington, VT-Plattsburgh, NY	✓	✓	
98	Charleston, SC	✓	✓	
100	Greenville-New Bern-Washington, NC	✓	✓	

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Markets with one or more operational outsourcing agreements (DMA 101 to 150)

Market Rank	Market	Markets Where OSA is Used to Evade Multiple Ownership Rule (8 voices test)	Markets Where OSA is Used to Evade Multiple Ownership Rule (Top-4 Ranked)	Market Where OSA is Used to Evade Newspaper-Broadcast Cross-Ownership Rule
101	Ft. Smith-Fayetteville-Springdale-Rogers, AR	✓	✓	
102	Johnstown-Altoona-State College, PA	✓	✓	
103	Myrtle Beach-Florence, SC	✓	✓	
104	Evansville, IN	✓	✓	
105	Lincoln & Hastings-Kearney, NE	✓	✓	
106	Tallahassee, FL-Thomasville, GA	✓	✓	
107	Tyler-Longview(Lufkin & Nacogdoches), TX	✓	✓	
108	Reno, NV	✓	✓	
109	Ft. Wayne, IN	✓	✓	
110	Youngstown, OH	✓	✓	
113	Augusta, GA-Aiken, SC	✓	✓	
115	Lansing, MI	✓		
116	Peoria-Bloomington, IL	✓	✓	
117	Fargo-Valley City, ND	✓	✓	
118	Montgomery-Selma, AL	✓	✓	
119	Traverse City-Cadillac, MI	✓	✓	
121	Eugene, OR	✓	✓	
122	Santa Barbara-Santa Maria-San Luis Obispo, CA	✓	✓	
125	Monterey-Salinas, CA	✓		
127	Columbus, GA (Opelika, AL)	✓	✓	
129	Corpus Christi, TX	✓		
130	Amarillo, TX	✓	✓	
131	Chico-Redding, CA	✓	✓	
132	Wilmington, NC	✓	✓	
133	Columbus-Tupelo-West Point-Houston, MS	✓	✓	
135	Rockford, IL	✓	✓	
136	Topeka, KS	✓	✓	
137	Monroe, LA-El Dorado, AR	✓	✓	
139	Duluth, MN-Superior, WI	✓	✓	
140	Medford-Klamath Falls, OR	✓	✓	
141	Beaumont-Port Arthur, TX	✓	✓	
142	Lubbock, TX	✓	✓	
143	Wichita Falls, TX & Lawton, OK	✓	✓	
145	Anchorage, AK	✓	✓	
146	Erie, PA	✓	✓	
147	Sioux City, IA	✓	✓	
149	Joplin, MO-Pittsburg, KS	✓	✓	

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Markets with one or more operational outsourcing agreements (DMA 151 to 210)

Market Rank	Market	Markets Where OSA is Used to Evade Multiple Ownership Rule (8 voices test)	Markets Where OSA is Used to Evade Multiple Ownership Rule (Top-4 Ranked)	Market Where OSA is Used to Evade Newspaper-Broadcast Cross-Ownership Rule
151	Minot-Bismarck-Dickinson (Williston), ND	✓		
152	Odessa-Midland, TX	✓	✓	
153	Rochester, MN-Mason City, IA-Austin, MN	✓	✓	
154	Terre Haute, IN	✓	✓	
157	Binghamton, NY	✓	✓	
162	Idaho Falls-Pocatello, ID (Jackson, WY)	✓	✓	
163	Gainesville, FL	✓	✓	
164	Abilene-Sweetwater, TX	✓	✓	
165	Yuma, AZ-El Centro, CA	✓		
168	Billings, MT	✓	✓	
172	Utica, NY	✓	✓	
185	Grand Junction-Montrose, CO	✓	✓	
188	Greenwood-Greenville, MS	✓	✓	
194	Eureka, CA	✓	✓	
196	San Angelo, TX	✓	✓	
200	Ottumwa, IA-Kirksville, MO	✓		
202	Fairbanks, AK	✓	✓	
204	Victoria, TX	✓	✓	
206	Helena, MT	✓		