

## **Opening Remarks by Commissioner Kevin J. Martin**

Forum On Media Ownership

Columbia Law School, Kernochan Center for Law, Media, and the Arts, School

January 16, 2003

Good morning, and thank you for inviting me to participate in this discussion. I believe there is a tremendous benefit to getting outside the “Beltway” and actually talking to and, more importantly, hearing from citizens around the country, as well as members of the industry, to get your thoughts on the subject of media ownership.

I understand many of you here today are concerned about the consolidation that has occurred in the media to date, as well as what could occur in the future. I share your concerns. Every one of us is dependent on the media – it’s how we get our news, information, and entertainment. Indeed, the opportunity to express diverse viewpoints lies at the heart of our democratic system. The decisions the FCC makes with respect to media ownership will be important to sustaining that opportunity and our democracy, and they will affect each of us on a daily, personal basis.

Our media ownership rules may even have an impact on some of the FCC’s other responsibilities and obligations. For example, there seems to be an increasing concern about the rise of coarse television programming today. I wonder if this trend is related to some of the concerns about media concentration. Are executives more willing to put on questionable programming when they know they won’t see you and your family at the local grocery store tonight, at the game on Saturday, or at church on Sunday? Commissioner Copps, in particular, deserves credit for raising these questions and keeping us mindful of these concerns.

The existing media ownership rules were crafted to promote three principles: competition, diversity, and localism. While the media marketplace may have changed since those rules were first adopted, our need to promote these core values has not. I remain committed to doing everything I can to ensure that the FCC adopts ownership rules that protect competition, diversity, and localism in today’s media environment.

I recognize, however, that Congress instructed us to review our media ownership rules every two years to make sure they are still necessary. It is our fulfillment of this mandate that brings us together today. As we debate these rules, we must do so mindful of recent court action. As you know, the courts have been looking at our rules with increasing scrutiny, striking the rules down when the Commission has not adequately justified their retention. In fact, the D.C. Circuit has struck the last five media ownership rules it has reviewed.<sup>1</sup> In most of these cases, the court expressly chastised the Commission for failing to consider the plethora of new voices out there today.

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<sup>1</sup> These are the cable/broadcast cross-ownership rule, the national television limit, the local television limit, the cable horizontal limit, and the cable channel occupancy limit.

With these recent cases in mind, the Chairman should be commended, not condemned, for initiating our proceeding and attempting to justify our rules. Without his actions, his leadership, and our deliberative process, we could have been left with no rules at all. This is because the courts have insisted that we recognize that the media landscape has changed dramatically since most of the broadcast ownership rules were first enacted.

The number of broadcast networks has doubled. And we now have *non*-broadcast networks; there are 230 national cable programming networks and more than 50 premium networks that regularly rival the broadcast networks in audience share. Their success, naturally, is due to the introduction and widespread popularity of multichannel video programming distributors. Indeed, today over 85% of households receive their video programming via satellite or cable. Finally, the advent of the Internet has dramatically changed how people send and receive information. It now represents a significant outlet for diverse views, as well as an important source of news and information to consumers.

One rule in particular has not been reviewed since these changes have taken place: the prohibition against owning a newspaper and broadcast station in the same market. Today, newspapers are treated differently from all other forms of business that disperse information – they alone are *prohibited* from ownership of a broadcast station, even in the largest markets. Even two broadcast television stations are generally permitted to combine in large markets.

The Commission stated seven years ago (and several times since) that this rule might need modifying. But after three notices, it has yet to act. At a minimum, I think we should act now to provide broadcast stations and newspapers the same opportunity to combine that two television stations now have in the largest markets, as long as a significant number of independent voices remain in the marketplace.

On the other hand, the introduction of new voices into the marketplace does not mean that all of our limits need to be relaxed, or that consolidation is not a concern. Indeed, I believe that the FCC needs to be mindful of unintended consequences from any changes in our rules. For example, many people have expressed concern about the increased consolidation that has occurred in local radio. Some of this consolidation may actually be due to the Commission's definition of a market rather than the numerical limits set by Congress.

For instance, there are towns in Texas in which one company owns 7 of the 8 stations licensed to that town. But to be able to own seven stations in a market, Congress said there should be at least 30 other stations. Yet, the owner purchased the 7 stations in compliance with our rules because too often our rules treat small towns like big markets. The problem lies in the FCC's definition of a "market," and in an obscure counting method for determining how many stations in a market one entity owns. We have raised both these issues in the current proceeding, and we need to take this opportunity to address them.

Clearly, there are no easy answers to the task we confront. And we are fully aware of how central the decisions we make will be to the lives of many of you. Thus, I welcome your insights, and look forward to hearing from you, both today and in the months to come.