Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Applications to Transfer Control of Tegna Inc. to Nexstar Media Inc.	)	MB Docket No. 25-331
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EMERGENCY PETITION FOR STAY AND INJUNCTION PENDING APPEAL OF BROADBAND COMMUNICATIONS ASSOCIATION OF PENNSYLVANIA; BROADBAND COMMUNICATIONS ASSOCIATION OF WASHINGTON; INDIANA CABLE AND BROADBAND ASSOCIATION; MISSISSIPPI INTERNET AND TELEVISION; TENNESSEE CABLE & BROADBAND ASSOCIATION; VCTA – BROADBAND ASSOCIATION OF VIRGINIA; DIRECTV, LLC; NEWSMAX MEDIA INC; PUBLIC KNOWLEDGE; COMMUNICATIONS WORKERS OF AMERICA; UNITED CHURCH OF CHRIST MEDIA JUSTICE MINISTRY, INC.; AND FREE PRESS

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INTRODUCTION

The Media Bureau's ("Bureau") approval order ("Order")[1] paves the way for Nexstar Media Group Inc. ("Nexstar") (the nation's largest television-station conglomerate) to acquire the broadcast licenses currently held by TEGNA Inc. ("TEGNA," with Nexstar, the "Applicants") (the third largest by national reach) as part of a $6.2 billion merger (the "Transaction"). New Nexstar will control 265 full-power stations (259 with illusory "divestitures" two years hence that may never materialize) spread over 132 media markets, reaching nearly every corner of the country and over 80 percent of U.S. households. To say that the merger will "adversely affect" Petitioners would be a massive understatement: Everyone (including the Applicants themselves) agrees that the new company will exert its newfound

[1] *Applications for Consent to the Transfer of Control of TEGNA Inc. to Nexstar Media Inc.*, Memorandum Opinion and Order, MB Docket No. 25-331, DA 26-267 (MB Mar. 19, 2026) ("Order").

leverage to demand ever-higher fees from multichannel video programming distributors ("MVPDs") wishing to carry Nexstar/TEGNA stations, which, in turn, will translate into higher prices for millions of MVPD subscribers. And the merger will further harm the public interest with imminent cuts to journalists and other workers employed by these stations across the country, and decreased competition and viewpoint diversity in news these stations produce. The Order took effect upon publication on March 19, 2026, and the merger closed immediately thereafter. Concurrently with this petition, Petitioners have also filed an emergency application for review of the Order.[2] Petitioners respectfully request that, pursuant to its authority under Section 10(d) of the Administrative Procedure Act, the Commission stay the effectiveness of the Bureau's Order pending Commission issuance of a ruling on this application for review and enjoin the Applicants from taking steps towards integration of the two companies.[3] **Petitioners further request that the Commission rule on this stay petition within twenty-four (24) hours—i.e., by 3:00 PM on March 21, 2026—to allow Petitioners time to seek a stay in the court of appeals, if necessary, in order to preserve their right to effective judicial review of this FCC action.**[4]

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[2] Emergency Application for Review of the Broadband Communications Association of Pennsylvania, Broadband Communications Association of Washington, Indiana Cable and Broadband Association, Mississippi Internet and Television, Tennessee Cable & Broadband Association, and VCTA – Broadband Association of Virginia, DIRECTV, LLC; Newsmax Media Inc.; Public Knowledge; Communications Workers of America; United Church of Christ Media Justice Ministry, Inc.; and Free Press, MB Docket No. 25-331 (filed Mar. 20, 2026) ("Application for Review").

[3] *See* 5 U.S.C. § 705 ("When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review."); *Targeting and Eliminating Unlawful Text Messages; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Advanced Methods to Target and Eliminate Unlawful Robocalls*, Order, 40 FCC Rcd. 1054 ¶ 1 (CGB 2025) (granting a petition for stay of the effective date of certain rules "find[ing] that justice requires postponement of the effective date pending judicial review of the adopted rule."). More generally, the Commission can issue an administrative stay on its own motion and has when warranted. *See*, *e.g.*, *Bloomberg L.P., Complainant v. Comcast Cable Communications, LLC, Defendant*, Memorandum Opinion and Order, 27 FCC Rcd. 9488 ¶ 11 (2012) (finding "that the novelty and importance of the issues presented warrant an administrative stay of certain aspects of the *Neighborhood Order* to provide the Commission an opportunity to resolve the issues on review").

[4] Twenty-four hours is a reasonable period of time for Commission action and will ensure that Petitioners can pursue their statutory rights to effective judicial review of the Order. When, as here, an agency's "actions suggest the

Petitioners' challenges to the Order satisfy the Commission's criteria for a stay, which track the factors applied by federal courts.[5] First and foremost, Petitioners' challenge is overwhelmingly likely to succeed on the merits. For the reasons set forth in Petitioners' application for review, the Bureau's Order exceeds its delegated authority, violates Section 629 of the 2004 Consolidated Appropriations Act ("2004 CAA"), contradicts established precedent, and ignores substantial record evidence.

While this was all highlighted in the record, the Bureau still issued its Order without even designating the Transaction for a hearing, which is the absolute *least* it should have done given the multiple "substantial and material question[s]" about whether this merger serves "the public interest."[6] Notably, even though the record—and the Applicants' own public statements to Wall Street investors—clearly show that consumers' monthly TV bills will increase substantially as a result of this merger, the Bureau determined that these affordability concerns were not important enough to probe more carefully in a fact-finding hearing. Nor did it adequately address other substantial and material facts in the record, including the likelihood of harms to broadcast journalism and relevant workforces and the unlikelihood of the Applicants' claimed public interest benefits coming to fruition.

[agency] has made up its mind," the agency cannot "seek[] to avoid judicial review by holding out a vague prospect of reconsideration." *Friedman v. FAA*, 841 F.3d 537, 543 (D.C. Cir. 2016). When both President Trump and Chairman Carr, in reference to this Transaction, have specifically urged to "GET TH[E] DEAL DONE!", any attempt to "ignore[] the ticking clock" and keep Petitioners "in a holding pattern" can only be understood as "a constructive denial" of their application and stay petition. *Id.* at 541-42; *see also* Donald J. Trump (@realDonaldTrump), Truth Social (Feb. 7, 2026, 10:25 AM), https://tinyurl.com/3cp7ufhj; Brendan Carr (@BrendanCarrFCC), X (Feb. 7, 2026, 2:20 PM), https://tinyurl.com/yu4da25r. The fact that Nexstar and TEGNA closed contemporaneous with the Bureau's Order makes it crystal clear that the parties and the Bureau were working hand-in-glove to try to insulate the Order from judicial review.

[5] *See, e.g.*, *Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadband Industries*, Order Denying Stay Request, 4 FCC Rcd. 6476 ¶ 6 (1989).

[6] 47 U.S.C. § 309(d)(2).

The remaining stay factors confirm the need for a stay. Notwithstanding the legal infirmities of the Bureau's Order, Nexstar and TEGNA closed immediately upon its release.[7] As the record makes clear, the Transaction will irreparably harm Petitioners and the public interest in the form of higher retransmission consent fees, higher consumer prices, subscriber losses for MVPDs, loss of jobs and negotiating power for broadcast workers and journalists, and the concentration of control over high-value news, sports, and emergency programming to 80 percent of American households in the hands of one company. To protect the public interest, the Commission should grant a stay immediately and enjoin the Applicants from taking steps towards integration of the two companies.

BACKGROUND

Procedurally, broadcast television licenses can only be transferred "upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby."[8] If "the Commission for any reason is unable to make" that public-interest finding, or "[i]f a substantial and material question of fact is presented," "it shall formally designate the application for hearing."[9] The Commission has in turn delegated its authority to "[p]rocess applications for . . . transfer" to the Media Bureau, subject to certain "reserv[ations],"[10]—among other things, the Commission reserved for itself the authority to decide "[m]atters that present novel questions of law, fact or policy that cannot be resolved under

[7] Press Release, Nexstar, Nexstar Media Group, Inc., Closes Acquisition of TEGNA Inc. (Mar. 19, 2026), https://www.nexstar.tv/ntam/.

[8] 47 U.S.C. § 310(d).

[9] *Id.* § 309(d)(2), (e).

[10] 47 C.F.R. § 0.61(a), (k).

existing precedents and guidelines."[11] Thus, the Bureau cannot "decide issues of first impression."[12]

Substantively, in 1985, the Commission exercised its general rulemaking and licensing authority to set the National Television Ownership Rule's national audience reach limitation (the "National Cap" or "Cap") at 25 percent. Afterwards, Congress in the Telecommunications Act of 1996 directed the Commission to increase the National Cap to 35 percent.[13] In the years following the 1996 Act, Congress shared control with the Commission over the National Cap, directing the Commission to include the National Cap in its periodic review process.[14] However, in the 2004 CAA, Congress set the National Cap to 39 percent and codified a slew of new provisions making express and repeated references to that "39 percent national audience reach limitation."[15] Specifically, Congress:

> (1) specified that "[a] person or entity that exceeds the 39 percent national audience reach limitation for television stations . . . through grant, transfer, or assignment of an additional license for a commercial television broadcast station" would have no more than two years to come into compliance;
>
> (2) made clear that the Commission's forbearance authority "shall not apply to any person or entity that exceeds the 39 percent national audience reach limitation for television stations"; and

[11] *Id.* § 0.283(c).

[12] *Blanca Tel. Co. Seeking Relief from Demand for Repayment of a Universal Serv. Fund Debt*, Memorandum Opinion and Order and Order on Reconsideration, 32 FCC Rcd. 10594 ¶ 42 n.120 (2017) ("*Blanca Telephone Co. Order*").

[13] Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(c), 110 Stat. 56, 111 ("1996 Act").

[14] *See id.* § 202(g); *Fox Television Stations v. FCC*, 293 F.3d 537, 540 (D.C. Cir. 2002); S. Rep. No. 104-230 at 164 (1996) (underscoring the periodic-review process as the exclusive mechanism for revising ownership rules going forward).

[15] Consolidated Appropriations Act of 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3, 99-100 ("2004 CAA").

(3) specified that the Commission's periodic review of ownership rules "does not apply to any rules relating to the 39 percent national audience reach limitation."[16]

While the Commission asserted in its *UHF Elimination Order* that it retained "authority to modify the national audience reach cap"[17] that order was reversed on reconsideration, the question was reopened in late 2017, and the question remains open today in the Commission's pending rulemaking on this very question.[18]

The Commission also has authority to set restrictions "as public convenience, interest, or necessity requires" with respect to local broadcast ownership limits.[19] Pursuant to this authority, the Commission has promulgated the Local Television Ownership Rule (the "Duopoly Rule"), which "prohibits an entity from owning more than two full-power television stations in the same geographic market."[20] To receive a waiver of the rule, applicants must "plead with particularity" specific "facts,"[21] "demonstrat[ing] why its case is significantly different from the many other station combinations across the country that are similarly situated,"[22] and why "deviation better serves the public interest."[23] Moreover, "[s]ettled Commission precedent establishes that, in

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[16] *Id.*

[17] *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, Report and Order, 31 FCC Rcd. 10213 ¶ 21 (2016) ("*UHF Elimination Order*").

[18] *See Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, Order on Reconsideration, 32 FCC Rcd. 3390 ¶ 17 (2017); *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, Notice of Proposed Rulemaking, 32 FCC Rcd. 10785 (2017); *Media Bureau Seeks to Refresh the Record in the National Television Multiple Ownership Rule Proceeding*, Public Notice, 40 FCC Rcd. 4159 (2025).

[19] 47 U.S.C. §§ 154(i), 303(r).

[20] *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828, 841 (8th Cir. 2025).

[21] *Application of Maurice Rosenfield, Lois F. Rosenfield, Harold A. Weiss, Robert G. Weiss, and Devoe, Shadur, Plotkin, Krupp & Miller, A Copartnership, D.B.A. WAIT RADIO, Chicago, Ill.*, Memorandum Opinion and Order, 22 F.C.C.2d 934 ¶ 9 (1970).

[22] *Benedek License Corp.*, Letter, 13 FCC Rcd. 18913 (MMB 1998).

[23] *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008); *see also Hull Broad., Inc.*, Order, 19 FCC Rcd. 16710 ¶ 3 & n.7 (EB 2004) ("[R]esolution of this broad policy dispute properly belongs in a rule making proceeding, not a waiver request.").

considering a request to waive the duopoly rule, the agency's overriding goal is to determine whether a waiver is in the public interest, including whether it is consistent with the duopoly rule's goals of promoting economic competition and diversification of viewpoints."[24] By contrast, the Commission has never waived the National Cap. Rather, *in every prior case* where a proposed license transfer would result in a violation of the Cap, the FCC has conditioned approval on mandatory divestitures to bring the new entity under the Cap, consistent with the requirements of the 2004 CAA.[25] The handful of divestitures that the Applicants have committed to make—all in markets where they would have triopolies or duopolies—do not affect the combined company's national reach in violation of the Cap.

In November 2025, Nexstar and TEGNA jointly filed an application with the FCC to transfer TEGNA's broadcast licenses to Nexstar. The application acknowledged that the combined entity would run afoul of the FCC's broadcast ownership rules—in particular, the entity would reach roughly 80 percent of American households and own three or more full power stations in 23 media markets not subject to existing waivers—but argued that "[t]hose rules are in a state of flux and, to the extent not finally resolved during the pendency of the Applications, the applicants seek waiver of those rules that are pertinent."[26] Petitioners, including MVPDs in markets where Nexstar and/or TEGNA currently operate separate stations as well as other communications companies, labor unions, and public interest organizations, filed petitions asking the Commission both to designate the Transaction for a hearing and to deny the

[24] *Busse Broad. Corp. v. FCC*, 87 F.3d 1456, 1464 (D.C. Cir. 1996) (collecting FCC precedent).

[25] *See, e.g.*, *Applications for Consent to Transfer Control of License Subsidiaries of Media General, Inc., from Shareholders of Media General, Inc., to Nexstar Media Group, Inc.*, Memorandum Opinion and Order, 32 FCC Rcd. 183 ¶ 1 (MB 2017); *Tribune Media Company (Transferor) and Nexstar Media Group, Inc. (Transferee), et al.*, Memorandum Opinion and Order, 34 FCC Rcd. 8436 ¶ 8 (2019).

[26] Applications of Nexstar Media Inc. and TEGNA Inc., FCC File Nos. 0000280646, et seq., Comprehensive Exhibit at 3 (filed Nov. 18, 2025).

applications.[27] Nexstar and TEGNA filed a consolidated opposition on January 15, 2026.[28] Petitioners replied on January 26, 2026.[29] The Commission referred the Transaction to the Bureau, which granted the transfer applications and denied Petitioners' petitions to deny in the Order. Petitioners now submit this emergency petition for stay along with an accompanying emergency application of review of the Order.

DISCUSSION

Under Commission precedent, petitioners must show that (1) they are likely to prevail on the merits; (2) they will suffer irreparable harm if the stay is not granted; (3) other interested parties will not be substantially harmed if the stay is granted; and (4) the public interest favors granting a stay.[30] Petitioners readily satisfy all four criteria.

I. PETITIONERS ARE LIKELY TO PREVAIL ON THE MERITS

A. Waiving the National Cap Violates the 2004 CAA and Commission Rules, and Is Arbitrary and Capricious

1. The Commission lacks authority to waive the National Cap.

The Commission "has no authority to waive" requirements mandated by statute, unless Congress expressly gives the Commission that authority.[31] As the Petitioners emphasized in

[27] *See, e.g.*, Petition to Deny of the Broadband Communications Association of Pennsylvania, Broadband Communications Association of Washington, Indiana Cable and Broadband Association, Mississippi Cable Telecommunications Association, Tennessee Cable & Broadband Association, and VCTA – Broadband Association of Virginia, MB Docket No. 25-331 (filed Dec. 31, 2025) ("Petition to Deny of State Cable Petitioners"). Unless otherwise noted, all citations to petitions to deny, replies, comments, reply comments, or ex parte letters included herein are to those filed in response to the Transaction in MB Docket No. 25-331.

[28] Consolidated Opposition to Petitions to Deny and Comments of TEGNA Inc. and Nexstar Media Inc., MB Docket No. 25-331 (filed Jan. 15, 2026) ("Opposition").

[29] Reply of State Cable Petitioners.

[30] *Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries*, Order Denying Stay Request, 4 FCC Rcd. 6476 ¶ 6 (1989) (citing *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958); *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 842, 843-44 (D.C. Cir. 1977)).

[31] *Johnston Broad. Co. v. FCC*, 175 F.2d 351, 354-55 (D.C. Cir. 1949); *accord Nat'l Ass'n of Broads. v. FCC*, 569 F.3d 416, 426 (D.C. Cir. 2009).

their petitions to deny, replies, and application for review, Congress established the National Cap at 39 percent in the 2004 CAA *in direct response to the FCC's attempt to aggressively raise the Cap to 45 percent*, and made repeated references to the 39 percent Cap in the statute.[32] It is "hard to imagine a statutory term less ambiguous than . . . precise numerical thresholds."[33] As Petitioners explain in their application for review, the CAA's removal of the Cap from the Commission's periodic review process and inclusion of a divestiture provision further signal Congress's intent to remove the Cap from Commission discretion.[34] Likewise, Congress singled out the Commission's only mechanism for setting aside statutory requirements—the Commission's forbearance authority under 47 U.S.C. § 160—and made clear that it "shall not apply to any person or entity that exceeds the 39 percent national audience reach limitation."[35] The Bureau's interpretation cannot withstand scrutiny when it "would render" Congress's rejection of the Commission's attempt to raise the Cap to 45 percent "a largely meaningless exercise."[36]

The statutory history of the 2004 CAA confirms the logic of this construction of the statute. Congress's decision to remove the National Cap from the periodic review process was a direct response to the D.C. Circuit's 2002 *Fox Television* decisions, which concluded that the Commission retained authority to modify the Cap because the Cap remained within the ambit of the Commission's Section 202(h) review process.[37] *The D.C. Circuit articulated that, to*

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[32] *See* 2004 CAA § 629; *see also* Petition to Deny of State Cable Petitioners at 11; Reply of State Cable Petitioners at 9-10; Application for Review at 1-2.

[33] *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 326 (2014).

[34] Application for Review at 2-5.

[35] 2004 CAA § 629(2).

[36] *Rumsfeld v. Forum for Acad. and Inst. Rts.*, 547 U.S. 47, 57-58 (2006).

[37] *See Fox Television Stations v. FCC*, 280 F.3d 1027, 1043 (D.C. Cir. 2002); *opinion modified on reh'g* 293 F.3d 537 (D.C. Cir. 2002).

reassert control over the Cap, Congress could take the Cap out of the Section 202(h) review process, which is exactly what it did in the 2004 CAA.[38] "Congress is presumed to be aware of an administrative or judicial interpretation of a statute," and just as it presumably "adopt[s] that interpretation when it re-enacts a statute without change,"[39] it equally intends any "amendment to have real and substantial effect."[40]

Accordingly, until now, the Commission has never waived, nor sought to raise the National Cap in the aftermath of the 2004 CAA. Rather, when presented with proposed transactions that would exceed the Cap, it has *always* required divestitures. At the very least, the Commission would need to provide a very good explanation for "discover[ing]" "an unheralded power" to waive the Cap and allow Nexstar to reach (and control what gets reported to) 80 percent of American households.[41] As further discussed below, that is not something the Bureau is empowered to do on delegated authority, and even if it were, it has not come close to providing the requisite explanation for waiving the Cap. Its Order plainly violates the 2004 CAA, and is otherwise arbitrary and capricious.[42]

2. The Media Bureau lacks authority over novel questions of law and policy.

Even assuming *arguendo* that the full Commission might have authority to modify the National Cap, it is still improper for the Bureau to do so, because FCC regulations deny the Bureau authority over "novel questions of law, fact or policy that cannot be resolved under

[38] *Fox Television Stations*, 293 F.3d at 540 ("Had the Congress wished to insulate the [National Cap] from review under § 202(h), it need only have enshrined the 35% cap in the statute itself.").

[39] *Public Citizen, Inc. v. FAA*, 988 F.2d 186, 194 (D.C. Cir. 1993).

[40] *Stone v. INS*, 514 U.S. 386, 397 (1995).

[41] *Util. Air Reg. Grp.*, 573 U.S. at 324; *see also Biden v. Nebraska*, 600 U.S. 477, 519 (2023) (Barrett, J., concurring) ("A longstanding 'want of assertion of power by those who presumably would be alert to exercise it' may provide some clue that the power was never conferred.").

[42] *See Encino Motorcars v. Navarro*, 579 U.S. 211, 221-22 (2016).

existing precedents and guidelines."[43] Here, the Bureau purported to resolve two novel questions with respect to the Cap: (1) the question of whether the Commission has authority to waive the National Cap; and (2) the question of when such a waiver would be in the public interest. As noted above, the Commission has launched a rulemaking to consider the specific question of whether it has the authority to adjust the National Cap, and it has never waived the Cap, let alone articulated a standard for doing so.[44] If that does not constitute an "issue[ ] of first impression," it is hard to imagine what would.[45] Even assuming the Commission had previously and conclusively determined that it has authority to waive or otherwise change the National Cap (which, as explained above and in the accompanying application for review, it has not), it has never actually decided whether doing so would be in the public interest. The Bureau's Order prejudges that public interest question in its waiver grant, far exceeding its delegated authority to act on matters "which are minor or routine or settled in nature."[46] And the divestitures the Applicants have committed to make are illusory, and, in any event, would do nothing to bring the combined company under the Cap.

The Bureau's failure to "refer" the application "to the Commission en banc for disposition" thus supplies an independent reason to set aside the Order.[47] The unacknowledged change in position from prior orders requiring divestiture supplies another reason.[48] "An agency

[43] 47 C.F.R. § 0.283(c); *see also* 47 C.F.R. § 0.5(c) (limiting the scope of delegated authority under the Communications Act to "matters which are *minor* or *routine* or *settled in nature.*") (emphases added).

[44] *See supra* p. 6.

[45] *Blanca Telephone Co. Order* ¶ 42 n.120 (2017).

[46] 47 C.F.R. § 0.5(c).

[47] 47 C.F.R. § 0.283.

[48] *See Encino Motorcars*, 579 U.S. at 221-22.

is bound by its own regulations," and because the Bureau lacked any precedent to guide its grant of the requested waiver, purporting to do so was arbitrary and capricious.[49]

B. Waiving the Duopoly Rule Exceeds the Bureau's Authority and Is Arbitrary and Capricious

The Order is equally novel—and arbitrary and capricious—in granting a near-wholesale waiver of the Duopoly Rule in 21 markets across the country.

In the past, the Commission has refused to waive its rules absent specific facts and special circumstances showing that "deviation better serves the public interest" in the particular markets at issue.[50] Here, by contrast, Nexstar and TEGNA requested—and the Bureau granted—a wholesale waiver of the Duopoly Rule without any particularized consideration of the markets at issue or demonstration of special circumstances; instead, it simply deemed the rules at odds with the current media landscape. These are the same rote arguments that the broadcast industry has made in the pending Quadrennial Review, and do not qualify as special circumstances warranting massive waivers. The Bureau's grant of these unprecedented waivers thus not only exceeded the Bureau's delegated authority, but also violated "hornbook administrative law that an agency need not—indeed should not—entertain a challenge to a regulation, adopted pursuant to notice and comment, in an adjudication or licensing proceeding."[51]

While the Applicants committed to divest six stations, those commitments are illusory. First, they can exploit the benefits of consolidation for those stations (in several cases triopolies)

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[49] *Nat'l Environ. Dev. Ass'n v. EPA*, 752 F.3d 999, 1009 (D.C. Cir. 2014).

[50] *NetworkIP*, 548 F.3d at 127.

[51] *Trib. Co. v. FCC*, 133 F.3d 61, 69 (D.C. Cir. 1998). *See also* Application for Review at 10-11; *accord* Letter from David J. Brown, Chief, Video Division, Media Bureau, FCC to Sinclair, Inc., Cunningham Broadcasting Corporation and KMTR Television, LLC, and DIRECTV, LLC, LMS File Nos. 0000276551 & 0000276767 et al., at 9 & n.61 (Feb. 3, 2026) (citing *Community Television of S. Cal. v. Gottfried*, 459 U.S. 499, 511 (1983) ("[A] rulemaking is generally a better, fairer, and more effective method of implementing a new industry-wide policy than is the uneven application of conditions in isolated [adjudicatory] proceedings.") (internal quotations omitted)).

for the better part of the next two years.[52] Second, if they are ultimately required to divest them at all (which the Order and Nexstar's commitment letter expressly leaves in doubt),[53] they can simply divest the stations to sidecars, and as with WPIX, seek to reacquire them at some future date.

Administrative law also directs that "an agency is under an obligation to follow, distinguish, or overrule its own precedent."[54] The Commission "may not act out of unbridled discretion or whim in granting waivers any more than in any other aspect of its regulatory function."[55] "Sound administrative procedure contemplates" "limited waivers or exceptions granted pursuant to an appropriate general standard"; indeed, that "is the very stuff of the rule of law."[56] Here, the Bureau did not mention (let alone distinguish or overrule) precedent requiring it "to determine whether" waiving the Duopoly Rule "promot[es] economic competition and diversification of viewpoints" in the specific market at issue.[57] Unreasoned blanket waivers bucking Commission precedent are the height of arbitrary and capricious decisionmaking.

C. Granting the Applications Without Designating Them for a Hearing Violates Congressional Mandates and Is Arbitrary and Capricious

Before granting an application to transfer licenses, Congress requires the Commission to hold a hearing "[i]f a substantial and material question of fact is presented or if the Commission for any reason is unable to find that grant of the application would be consistent" with the public

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[52] The Order's statement that "competition will not be *unduly* harmed during the period of common ownership" is cold comfort while consumers incur the costs of rising fees, increased blackouts, and job cuts. Order ¶ 55 (emphasis added).

[53] *Id.*

[54] *Steger v. Dep't of Def.*, 717 F.2d 1402, 1406 (1983).

[55] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

[56] *Id.*

[57] *Busse Broad. Corp.*, 87 F.3d at 1464.

interest.[58] Here, the Bureau ignored the "statutory mandate and the decisions of [the D.C. Circuit] establishing an analytic procedure for evaluating petitions for evidentiary hearings,"[59] as well as established Commission and Bureau precedent granting hearings in similar transactions.[60] This is both *ultra vires* and arbitrary and capricious.

As Petitioners outlined in the record, there are myriad reasons why transferring TEGNA's licenses to Nexstar would be *prima facie* inconsistent with the public interest, and also presented a number of "substantial and material facts" for the Commission's careful consideration and analysis. For example:

- Allowing any one entity to control dissemination of high-value news, sports, and emergency programming with this level of concentration at both the national and local levels would be devastating for competition, localism, and viewpoint diversity.[61]

- When Nexstar sought to acquire Tribune Media Company in 2019, the Department of Justice's Antitrust Division conditioned approval on Nexstar divesting particular stations, and further prohibited Nexstar from reacquiring those stations for 10 years. Nexstar subsequently sold 11 of those stations to TEGNA, and now seeks to reacquire them only six years later.[62]

- As recently as 2024, the Commission unanimously found that Nexstar's *de facto* control over a station it does not formally own put it in "willful" violation of the National Cap. The Commission did not contemplate waiving the Cap; it forced Nexstar to choose between renouncing control over the other stations or undertaking divestitures to "remedy its noncompliance with the National Ownership Cap."[63] The

[58] 47 U.S.C. § 309(d)(2); *see Astroline Comm'cns Co. v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988) (noting that "in evaluating a request for an evidentiary hearing . . . the Commission must . . . assum[e] that" facts set forth in a petition to deny are true).

[59] *Astroline Comm'cns Co.*, 857 F.2d at 1573.

[60] *See, e.g.*, *Applications of Tribune Media Co. (Transferor) and Sinclair Broadcast Group, Inc. (Transferee) For Transfer of Control of Tribune Media Co. and Certain Subsidiaries, WDCW(TV), et al.*, Hearing Designation Order, 33 FCC Rcd. 6830 (2018) ("*Sinclair/Tribune HDO*"); *Applications of SGCI Holdings III LLC; TEGNA, Inc.; and CMG Media Corporation*, Hearing Designation Order, 38 FCC Rcd. 1282 (MB 2023).

[61] *See* Petition to Deny of State Cable Petitioners at 5.

[62] *See id.* at 32-33.

[63] *See id.* at 25 (citing *Mission Broadcasting, Inc., Licensee of Station WPIX, New York, NY*, Notice of Apparent Liability for Forfeiture, 39 FCC Rcd. 3676 ¶ 21 (2024)). The Applicants' failure to disclose the decision also

> Bureau's Order not only amounts to a reversal of that 2024 position, but the Bureau also rejected Petitioners' request for a hearing "without elaboration."[64]

Despite the submission of these substantial and material facts into the record, and the extensive evidence showing why this merger cannot reasonably be found to be in the public interest, the Bureau never even issued a request for additional information from the Applicants (a fairly standard practice in large controversial mergers with substantial records).[65] Nor did it order a hearing as required by § 309(d)(2). Notably, despite extensive record evidence on how the merger will increase consumers' monthly video bills, at a time when every policymaker's central concern is affordable pricing, the Bureau refused to follow the statute and order a hearing to probe further into that important issue. Instead, it approved the merger after the FCC received orders from the President. As Petitioners argue in their application for review, the Commission must reverse the Order because it conflicts with established precedent holding that expanding Nexstar's national reach would be contrary to the public interest.

II. THE REMAINING FACTORS DECISIVELY SUPPORT A STAY

The remaining factors likewise support a stay. Petitioners will face serious and irreparable injury if the Order is not stayed; and the balance of harms and the public interest favors a stay, especially now that the Applicants have closed the merger.

"[A]n irreversible" event "that frustrates later appellate review" "is a quintessential type of 'irreparable' injury."[66] Both the D.C. Circuit and the Supreme Court have recognized that

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warranted a formal hearing consistent with the *Sinclair/Tribune HDO*. *See* Petition to Deny of State Cable Petitioners at 10, 33-34; *Sinclair/Tribune HDO* ¶ 17.

[64] *See Astroline Comm'cns Co.*, 857 F.2d at 1570.

[65] *See, e.g.*, *Sinclair/Tribune HDO* ¶ 5 ("On September 13, 2017, the Media Bureau issued a Request for Information (Information Request) to the Applicants. Sinclair responded to the Information Request on October 5, 2017. Thereafter, the Bureau announced an additional opportunity for comment on October 18, 2017.").

[66] *In re Al Baluchi*, 952 F.3d 363, 368 (D.C. Cir. 2020).

corporate mergers amply fit this standard.[67] This is especially true here, where Congress gave Petitioners a "right to appeal" the Bureau's Order.[68] This appeal would be frustrated if it does not happen before TEGNA "complete[ly] disappear[s]" into Nexstar, leaving courts with potentially no effective relief to grant.[69]

As the FCC record shows, Nexstar will shortly implement its "consolidation playbook" of increasing the retransmission consent rates of the acquired stations through "after-acquired station" clauses to Nexstar's industry-leading retransmission consent rates. And the combined company would use its newfound increased leverage to drive prices even higher as contracts come up for renewal.[70] It bears emphasis that the Applicants' commitment regarding retransmission consent pricing places no restriction on Nexstar's ability to immediately raise the current rates for TEGNA stations to the higher Nexstar rates, nor does it place any restrictions on raising rates further in subsequent renewals.[71] These associated harms are indeed irreparable: Beyond the monetary costs to both MVPDs and consumers, a spike in fees harms MVPDs' goodwill with their customers, leading them to drop MVPD service and forcing smaller MVPDs

[67] *See, e.g.*, *FTC v. Dean Foods Co.*, 384 U.S. 597, 606 n.5 (1966) ("[W]here businesses have been merged or purchased and closed out it is commonly impossible to turn back the clock."); *Am Mail Line Ltd. v. FMC*, 503 F.2d 157, 170 (D.C. Cir. 1974) (recognizing "the problems inherent in unscrambling a merger once it has been consummated").

[68] 47 U.S.C. § 402(b).

[69] *United States v. Phila. Nat'l Bank*, 374 U.S. 321, 336 n.13 (1963).

[70] *See* Petition to Deny of State Cable Petitioners at 4; *id.*, Declaration of Joe Lorah ¶ 7 ("Lorah Decl."), Declaration of Paul Beaudry ¶ 7 ("Beaudry Decl."), Declaration of Jack Capparell ¶ 7 ("Capparell Decl."); Petition to Deny of DIRECTV, App. D, Declaration of Rob Thun ¶ 13 ("Thun Decl."). The Order capriciously rejects several proposed conditions that would have helped mitigate affordability concerns. *See* Letter from Todd Eachus, President, Broadband Communications Association of Pennsylvania et al., to Marlene H. Dortch, Secretary, FCC (filed Mar. 9, 2026); Letter from Michael Nilsson, Counsel to DIRECTV, to Marlene H. Dortch, Secretary, FCC (filed Mar. 2, 2026); Letter from Cristina Chou, VP of Government Affairs, Optimum Communications, to Marlene H. Dortch, Secretary, FCC (filed Mar. 2, 2026); Letter from Eric E. Breisach, Counsel to Cincinnati Bell Extended Territories LLC dba altafiber and Hawaiian Telcom Services Company, Inc., to Marlene H. Dortch, Secretary, FCC (filed Feb. 20, 2026).

[71] Order ¶ 75. Extending expiring agreements (at increased rates) to November 30, 2026 only increases the combined company's blackout leverage given that this date falls in the middle of the NFL season.

to exit the market entirely.[72] Furthermore, should Petitioners refuse to accede to these extreme price increases, Nexstar would be able to simultaneously black out local stations, which would not only harm Petitioners' reputation with their customers, but also impact consumers' access to high-value news, sports, and emergency programming.[73] These very dynamics are increasingly driving cable operators and other MVPDs to exit the video programming distribution market altogether; consummation of this Transaction will only accelerate this trend.[74] In such circumstances, Petitioners have a commonsense need for a stay that preserves the status quo.

Workers at Nexstar and TEGNA would also face immediate harms if the Transaction is allowed to close. Nexstar has concrete plans for personnel cuts through consolidation of operations within overlapping markets[75] and has publicly stated its intention to do so.[76] Nexstar's localism commitments promise only modest and time-limited increases in total "local" programming *but notably omit any commitment not to duplicate such programming across stations*.[77] The Transaction would also increase Nexstar's market power over broadcast workers

[72] *See* Petition to Deny of State Cable Petitioners at 4-5; *id.*, Lorah Decl. ¶ 13, Beaudry Decl. ¶ 13, Capparell Decl. ¶ 13. Without a stay, petitioners will not be able to obtain meaningful review of the harms to workers, local news production, and local TV spot advertising caused by consummation of the Transaction. *See* Petition to Deny of Public Interest Petitioners at 27-28, 41-47, 51-66, 68-143.

[73] *See* Petition to Deny of State Cable Petitioners at 4-5; *id.*, Lorah Decl. ¶ 10, Beaudry Decl. ¶ 1, Capparell Decl. ¶ 10; Petition to Deny of DIRECTV, App. D, Thun Decl. ¶ 11.

[74] *See* Petition to Deny of State Cable Petitioners at 4-5; *id.* Lorah Decl. ¶ 13; Beaudry Decl. ¶ 13; Capparell Decl. ¶ 13; *see also* Reply Comments of NTCA – The Rural Broadband Association at 3, 7.

[75] *See* Petition to Deny of Public Interest Petitioners at 55-59 ("One [union] member observed that part-time employees at their location already have been laid off, they presume in anticipation of this proposed Transaction."). *See generally* Letter from Michael Nilsson and Annick M. Banoun, Counsel to DIRECTV, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 22-459 (Feb. 20, 2026) (compiling evidence that, in markets where broadcasters hold a duopoly, triopoly, or quadropoly today, they have consolidated news operations and offered the same local news on multiple stations).

[76] *See* Nexstar Media Group, Inc., Q3 2025 Earnings Call Transcript (Nov. 6, 2025) ("[T]here is obviously the . . . 35 of 51 markets that are the overlap markets that we can really operate two stations off of one infrastructure. . . . [T]hat is an area where there's a significant portion of those synergies coming out of that. . . . We did a very deep analysis in terms of looking at line by line, person by person, what these costs could be."); Petition to Deny of State Cable Petitioners at 50-51.

[77] Order ¶ 82.

nationally and in multiple local markets, harming labor unions that represent workers in the industry and diminishing their bargaining power.[78] A stay is all the more necessary when the Applicants already closed the transaction, despite the significant legal infirmities of the Bureau's Order.

The Applicants cannot plausibly claim such harms from a stay. Their prompt closing upon the Bureau's approval of the Transaction was based purely on a desire to avoid judicial review, not on any contractual need to close immediately. *In this regard, the Applicants' merger agreement contemplated closure by August 18, 2026 with a possible extension to November 18, 2026.*[79] It also bears emphasis that the Order was issued in record time (a little over 100 days) for a transaction of this size and controversy compared to the time for FCC review of other similar transactions, which have consistently taken 200, 300, or even more days to complete.[80] And in a further departure from past practice, the Bureau made no requests for further information from the parties to investigate the factual basis for waivers or the harms pleaded on the record. Applicants had no reasonable expectation to receive approval so quickly and thus would face no practical or contractual harm from a stay.

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[78] *See* Petition to Deny of Public Interest Petitioners at 64-66, App. C, Declaration of Charlie Braico, Declaration of Jon Schleuss.

[79] Agreement and Plan of Merger, dated as of August 18, 2025, by and among Nexstar Media Group, Inc., Teton Merger Sub, Inc. and TEGNA Inc. § 8.1(b) (defining the "Outside Date" as "5:00 p.m. Eastern Time, on August 18, 2026").

[80] *See, e.g.*, Skydance Media and Paramount Global, MB Docket No. 24-275, https://www.fcc.gov/transaction/skydance-paramount (approved on Day 251); Nexstar and Tribune, MB Docket No. 19-30, https://www.fcc.gov/transaction/nexstar-tribune (approved on Day 210); Standard General and TEGNA, MB Docket 22-162 (designated for hearing on Day 309), https://www.fcc.gov/transaction/standard-general-tegna; Nexstar and Media General, MB Docket No.16-57, https://www.fcc.gov/transaction/nexstar-media-general (approved on Day 329).

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Commission stay the effectiveness of the Order pending full Commission review of the emergency application for review and enjoin the Applicants from taking steps towards integration of the two companies. **If the Commission has not ruled on this stay petition within twenty-four (24) hours—i.e., by 3:00 PM on March 21, 2026—Petitioners will conclude that the agency has "denied the motion or failed to afford the relief requested."[81] and seek an emergency stay from the DC Circuit.**[82]

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[81] Fed. R. App. P. 18(a).

[82] *Id.*

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March 20, 2026

CERTIFICATE OF SERVICE

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