Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	**)**	
	)	
2022 Quadrennial Regulatory Review –	**)**	MB Docket No. 22-459
Review of the Commission's Broadcast	**)**	
Ownership Rules and Other Rules Adopted	**)**	
Pursuant to Section 202 of the	**)**	
Telecommunications Act of 1996	**)**	

COMMENTS OF FREE PRESS

S. Derek Turner, Senior Advisor
Matthew F. Wood, VP of Policy
Free Press
1025 Connecticut Avenue, NW
Suite 1110
Washington, DC 20036
202-265-1490

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EXECUTIVE SUMMARY

This proceeding once again brings into focus the failure that is the Commission's relentless policy of broadcast media ownership deregulation stretching back more than two decades now. The Commission has failed to achieve the agency's goals and Congress's statutory mandates, in large part because it has often shown total fealty to the broadcast industry's policy arguments equating its own financial interests with the public's interest.

But despite this record of failure, the Commission is now moving forward with plans to give the industry a green light to monopolize the public airwaves. While the public has already lost so much from years of rampant consolidation, there's still more to lose. The few remaining broadcast media ownership rules are the only barrier to the formation of local media monopolies. If the Commission further weakens or eliminates these rules, it will irrevocably harm broadcast competition, localism, and diversity.

Local broadcasting is unique among all forms of media. While anyone can—with relatively minimal investment—start an online publication or internet broadcasting station, accessing the public airwaves requires government approval. And while there's no inherent limit to the number of online media outlets, there is a finite number of broadcast licenses. This scarcity, broadcasting's pervasiveness, and the central fact that a federal government agency alone determines who can use these airwaves to speak, means that by definition a broadcast license holder's speech is privileged above that of other speakers. This scarcity and pervasiveness do not justify Brendan Carr's censorship urges, but do require regulation that maximizes the number of unique license holders. That is the central purpose of the Commission's local broadcast ownership limits.

The Commission's ownership policies are its tool for promoting the Communications Act's goals of broadcast competition, localism, and diversity. This standard is rightly different from and far more rigorous than the one at the center of an antitrust inquiry, which is concerned with price and market power alone. Yet despite this clear public interest-based need for the Commission to foster local broadcasting markets that are more competitive and certainly more diverse than any other commercial market, local broadcasting markets are already highly concentrated. They have concentration levels well above what U.S. antitrust regulators view as creating monopoly market power. Free Press's analysis indicates that concentration levels in nearly every single local broadcast TV market are already far-past the line that the DOJ and FTC draw to prevent "presumptively unlawful" mergers.

And while the economic data demonstrates the folly in the Commission allowing any more consolidation of the local broadcast TV market, the agency's job goes well beyond antitrust economics. The marketplace of ideas is fundamentally different from the marketplace for goods and services. Elimination of the few remaining ownership limits would impart devastating consequences on the public's welfare and ultimately democracy itself. The local news market that would result from further weakening or eliminating the few remaining local media ownership rules would not produce journalism in service of democratic values, such as having an informed electorate and robust debate on issues of local and national importance.

These concerns and predictions are not hypothetical. Empirical evidence demonstrates that two-plus decades of FCC-enabled consolidation undermined competition, localism, and diversity in broadcasting. Conglomerates that face reduced local competition operate on a slash-and-burn model. Therefore it is totally unsurprising that the number of stations producing original local news has declined since 1996, when the modern broadcast consolidation era began.

This evidence also confirms that conglomerates acted on their economic incentives to favor national content over local journalism. In these comments we discuss a few of the numerous studies empirically demonstrating these harms, such as studies finding that stations acquired by Sinclair reduce local coverage in favor of national coverage, and a study that shows how Nexstar is the worse offender when it comes to substituting original news reporting for repackaged and repurposed content duplicated across its consolidated station portfolio. We also discuss qualitative research that shows how years of conglomerate operation have decimated newsroom morale, with the public ultimately suffering from this ceaseless pursuit of profit growth above all other concerns.

The evidence shows that broadcast consolidation harms both viewpoint diversity and racial, ethnic, and gender ownership diversity. Though the law requires the Commission to structure its policies to ensure that the diversity of the stewards of the public airwaves reflects the nation's diversity, the data shows that the Commission's policies have failed to achieve this goal. There can be no doubt that elimination of the few remaining ownership rules would further undermine this Commission and Congressional objective.

Now is not the time for more media consolidation. We are already in the midst of a wave of consolidation that unfortunately faces no formal roadblock in the FCC's rules. The Eighth Circuit's vacatur of the rule prohibiting top four-ranked television duopolies, which took effect in October, created an ongoing competition-killing deal frenzy. That will radically alter the local broadcasting markets, with significant negative impacts on localism and diversity. It is simply premature and irresponsible for the Commission to further alter these market dynamics by eliminating the local TV multiple ownership rule and dual network ban.

And there's absolutely no legitimate public interest rationale for further local media consolidation. Broadcast television firms are in great financial health. Broadcast giants claim that allowing them to monopolize the public airwaves would deal a blow to the continued growth of Big Tech. But this notion is an absurd attempt to hide the reality that the main way broadcast conglomerates can continue to earn outsized profits is by eliminating their actual in-market competitors. Eliminating their actual competition would enable broadcast conglomerates to further reduce spending on local news production, and give them more market power to raise the prices they charge advertisers for airtime. More consolidation would also enhance broadcast conglomerates' market power they've already abused to extract excessive retransmission consent payments from pay-TV distributors and their weary customers.

In sum, further consolidation is not necessary to preserve or promote the production of quality local news, and would in fact further undermine it. The Commission should retain its remaining rules, because more consolidation is counter to the public interest, and will cause further harm to competition, localism, and diversity.

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I. Introduction.

There can be no doubt: The Commission's two-plus decade policy of unthinking broadcast media ownership deregulation has failed to achieve the agency's goals and Congress's statutory mandates.

The Commission has failed to promote meaningful competition. Local broadcast markets are highly concentrated. This gives broadcast conglomerates the market power to force consumers to endure increasingly lengthy advertising blocks, and to extract economic rents from the local companies who purchase that sponsorship time. The concentration also gives broadcast television stations the market power to reduce their investment in original news coverage, and impose retransmission consent payment increases well in excess of the rate of inflation. Market entry by new firms is all but unheard of, and the Commission's continued willful ignorance of how broadcast conglomerates use shell companies to evade the local multiple ownership rule has ensured that the supply of licenses available to potential new entrants is nonexistent. This in turn has robbed the public of much needed competition in local news markets. The same news is duplicated word-for-word across multiple stations, as the number of newsrooms and broadcast journalists continues to shrink while broadcast conglomerate profits and stock prices soar. As TV conglomerates consolidated, they gained massive market power that enabled them to command exorbitant annual increases in retransmission consent payments from pay-TV providers, money that came from consumers who had no choice but to hand it over if they wanted to access basic cable programming due to the *de facto* tying of local TV and cable channels in the basic bundle.

The Commission's deregulatory policies have failed to preserve, much less promote localism. Numerous empirical studies demonstrate that as station groups became larger, both in terms of their national footprint as well as the number of stations they controlled within their existing local markets, these firms maximized profits by increasing national content at the expense of time previously allocated to local journalism. They piped in content produced in distant markets. They also closed newsrooms, laid off experienced journalists, and generally ran newsroom morale into the ground.

And the Commission's deregulatory policies have failed to preserve or promote viewpoint or ownership diversity. Deregulated conglomerates formed duopolies and so-called "news sharing" arrangements that, by design, reduced viewpoint diversity via the closure of independent newsrooms. The reduction in the number of independent owners further heightened economic incentives for conglomerates to produce homogenized news broadcasts. The Commission's deregulatory policies also failed to promote meaningful increases in the diversity of license holders. Women own just ten percent of all commercial broadcast licenses, and the level of broadcast media ownership by people of color is even lower.

Despite this record of abject failure, this Chairman is determined to push through a radical agenda to eliminate what few policies remain to prevent complete monopolization of this country's local broadcast media. Though the *Notice* feigns seeking public input on the continued need for ownership limits,[1] this Chairman has already and repeatedly shown he is willing to use the Commission's licensing authority as a political tool.[2] We expect the same when it comes to

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[1] *In the Matter of 2022 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. 22-459, Notice of Proposed Rulemaking, FCC 25-64 (rel. Sept. 30, 2025) ("*Notice*").

[2] *See, e.g.*, Office of Commissioner Anna M. Gomez, "Commissioner Gomez on Unprecedented FCC Approval of Paramount Transaction," Press Release (July 24, 2025) ("In an unprecedented move, this once-independent FCC used its vast power to pressure Paramount to broker a private legal settlement and further erode press freedom. Once again, this agency is undermining legitimate efforts to combat discrimination and expand opportunity by overstepping its authority and intervening in employment matters reserved for other government entities with proper jurisdiction on these issues. Even more alarming, it is now imposing never-before-seen controls over newsroom decisions and editorial judgment, in direct violation of the First

this Quadrennial Review. Nevertheless, we believe the facts and the law are clear: elimination of the remaining media ownership rules will cause irreparable harm to the public interest, decimating what little competition, localism, and diversity remain in the U.S. broadcast markets.

II. The Few Remaining Broadcast Media Ownership Rules Are the Only Barrier to The Formation of Local Media Monopolies. Further Weakening or Eliminating These Rules Will Irrevocably Harm Competition, Localism, and Diversity.

A. Broadcast Spectrum is a Scarce Public Resource that Privileges License Holders' Speech Above That of Other Speakers.

Local broadcasting is unique among all forms of media. While anyone can—with relatively minimal investment—start an online publication or internet broadcasting station, accessing the public airwaves requires government approval. And while an online media outlet's customer base must first subscribe to and pay for internet access, the public only needs a radio or television antenna to access broadcast media. An internet media outlet seeking to reach a local audience is subject to opaque algorithms controlled by big tech gatekeepers that continually sort through a near-infinite supply of content. But broadcasters are easily found as one of a few spots on a dial gatekept only by the Commission itself.

What's more, while there's no inherent limit to the number of online media outlets, there is a finite number of broadcast licenses. This is because the physical transmission medium for broadcasting—electromagnetic spectrum—is a finite and incredibly scarce resource. Therefore this scarcity, broadcasting's pervasiveness,[3] and the central fact that a federal government agency

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Amendment and the law. . . . The Paramount payout and this reckless approval have emboldened those who believe the government can—and should—abuse its power to extract financial and ideological concessions, demand favored treatment, and secure positive media coverage. It is a dark chapter in a long and growing record of abuse that threatens press freedom in this country.").

[3] In *Pacifica*, the Supreme Court noted that broadcast regulation is justified because of the medium's two distinct features: broadcasting is "uniquely pervasive" with broadcast signals reaching into private domiciles; and "broadcasting is uniquely accessible to children," with

alone determines who can use these airwaves to speak, means that by definition a broadcast license holder's speech is privileged above that of other speakers. This scarcity and pervasiveness justifies government regulation;[4] in particular it justifies and <u>requires</u> regulation that maximizes the number of unique license holders. This is well-established jurisprudence. In *Red Lion*, the Court held that "differences in the characteristics of new media justify differences in the First Amendment standards applied to them."[5] Scarcity justified differential treatment for broadcasting because "[w]here there are substantially more individuals who want to broadcast than there are frequencies to allocate, it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish."[6]

Nothing about the growth of online media has changed this reality. Broadcast TV licenses remain incredibly scarce, and broadcast TV continues to have an outsized impact on democracy, even in the digital content age.[7] Broadcast license holders still have a unique legal obligation to

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broadcasters largely unable to age-gate specific programs. *FCC v. Pacifica Found.*, 438 U.S. 726, 748–49 (1978).

[4] *See Nat'l Broad. Co., Inc. v. United States*, 319 U.S. 190, 226 (1943).

[5] *Red Lion Broad. Co., Inc. v. FCC*, 395 U.S. 367, 386 (1969).

[6] *Id*. at 389.

[7] *See, e.g.*, Matthew S. Levendusky, "How Does Local TV News Change Viewers' Attitudes? The Case of Sinclair Broadcasting," 39 *Political Communication* 1 (2021) ("Using data on Sinclair's acquisition of local TV stations between 2008 and 2018, I show that living in an area with a Sinclair-owned TV station lowers viewers' approval of President Obama during his tenure in office, and makes viewers less likely to vote for the Democratic nominee for president."); Antonela Miho, "Small Screen, Big Echo? Political Persuasion of Local TV News: Evidence from Sinclair," SSRN (last revised Feb. 6, 2025) ("Using an event study methodology estimated through a two way fixed effect model, I argue that the within county evolution of electoral outcomes would have been the same, absent the change in Sinclair's content. I find that the county-level response to Sinclair bias on electoral outcomes is heterogeneous across time. Exposure to the change in biased content since 2004 corresponds to a 2.5% point increase in the Republican presidential two party vote share during the 2012 election, an effect that doubles during the 2016/2020 election, in addition to Republican gains in Congress in that same period.").

serve the public interest, convenience and necessity. While broadcast lobbyists often complain about these special obligations and the specific limits on local broadcast ownership, they conveniently forget to mention in the same breath the special privileges and unique benefits conveyed by their exclusive license to speak on local broadcast spectrum.

That is why the law—the Communications Act of 1934 (the "Act"), as amended by the Telecommunications Act of 1996 (the "Telecom Act of 1996") and by the Consolidated Appropriations Act of 2004 ("CAA")[8]—all require the FCC to pursue the goals of competition <u>in broadcasting</u> (not merely audio, video, or written content more broadly), and to promote localism, diversity of opinion, and diversity of ownership in broadcasting as well.[9] Broadcasting remains a fundamentally distinct form of media, in terms of the information market in which it resides and in legal terms too.

In sum, broadcast TV licenses are a special class of spectrum licenses.[10] As with all such licenses, there tend to be far fewer licenses than potential speakers wishing to access these public

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

[9] *FCC v. Consumers' Rsch*., 145 S. Ct. 2482, 2507 (2025) ("For we have long held that 'the words "public interest" in a regulatory statute' do not encompass 'the general public welfare' but rather 'take meaning from the purposes of the regulatory legislation.'" (citing *NAACP v. FPC*, 425 U.S. 662, 669 (1976) and *N.Y. Cent. Sec. Corp. v. United States*, 287 U.S. 12, 24–25 (1932)).

[10] Broadcast license holders are not common carriers, unlike Commercial Mobile Radio Service spectrum license holders. The latter transmit the speech of others, and are prohibited by law from unjust or unreasonable discrimination, and from giving "any undue or unreasonable preference or advantage to any particular person."47 U.S.C. § 202(a). Thus, common carriers are important <u>mediums</u> that carry the public's speech. In contrast, broadcasters use the public airwaves to transmit <u>their own</u> First Amendment-protected speech. When they are granted exclusive access to this portion of the public airwaves for this purpose, they are privileged, which comes with the price of acting in the public interest. This exclusive license distinguishes broadcast TV firms from both common carriers and other media firms. *See, e.g*., Written Testimony of Matthew F. Wood, Policy Director, Free Press and the Free Press Action Fund, before the Congress of the United States House of Representatives Committee on Energy and Commerce, Subcommittee on Communications and Technology, "From Core to Edge: Perspective on Internet Prioritization," at 29–30 (Apr. 17, 2018).

airwaves. This scarcity, and the potential "tragedy of the commons" it creates, serve as the original impetus of the "public interest, convenience, and necessity" language in the Act.[11] The Commission's local multiple-ownership policies, the dual network rule, and Congress's statutory limitation on a broadcast TV licenseholder's national reach are the last line of defense in balancing the public's interest with the business interests and narrow political interests of for-profit broadcasting conglomerates.

B. While the Act Requires More Than Antitrust Standards to Promote a Vibrant Marketplace of Ideas at the Local Level, the Fact that Local Broadcast Markets Are Already Highly Concentrated Makes This Exceedingly Difficult to Achieve.

The Commission's ownership policies are its tool for promoting the Act's goals of competition, localism, and diversity. This standard is rightly different from and <u>far more</u> rigorous than the one at the center of an antitrust inquiry, which is concerned with price and market power alone. As the court in *Prometheus I* noted, "[t]he Commission ensures that license transfers serve public goals of diversity, competition, and localism, while the antitrust authorities have a different purpose: ensuring that merging companies do not raise prices above competitive levels."[12]

Yet despite this clear public interest-based need for local broadcasting markets that are more competitive and certainly more diverse than any other commercial market, local broadcasting markets are already highly concentrated—with concentration levels well above

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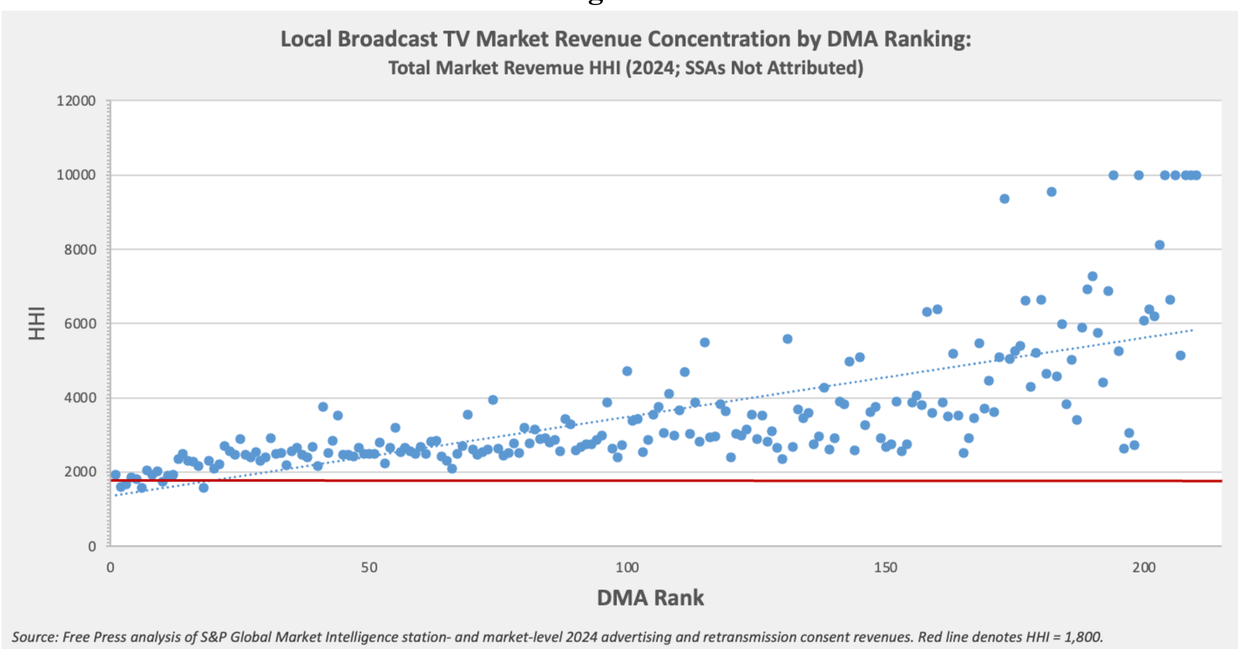
[11] 47 U.S.C. § 309(a). *See* Stuart A. Shorenstein & Lorna Veraldi, "Defining the Public Interest in Terms of Regulatory Necessity," 17 J. Civ. Rts. & Econ. Dev. 45, 46 (2003) (recounting a report from Newton Minow concerning an interview with Sen. Clarence Dill, leading sponsor of the Radio Act of 1927: "[Sen. Dill] and his colleagues . . . knew they had to have some legal standard with which to award licenses to some people while rejecting others, because there were not enough channels to go around. 'A young man on the committee staff had worked at the Interstate Commerce Commission for several years,' Dill recalled, 'and he said, "Well, how about 'public interest, convenience and necessity'? That's what we used there." That sounded pretty good, so we decided we would use it, too.'").

[12] *Prometheus Radio Project v. FCC*, 373 F.3d 372, 414 (3d Cir. 2004) ("*Prometheus I*").

what the Department of Justice ("DOJ") and Federal Trade Commission ("FTC") view as creating monopoly market power.[13] An analysis of local broadcast TV total market revenues (meaning combined advertising and retransmission consent revenues) at the end of 2024 indicates that 205 of the 210 Designated Market Areas ("DMAs") at that time exceeded this DOJ/FTC threshold for "highly concentrated" markets (see Figure 1).

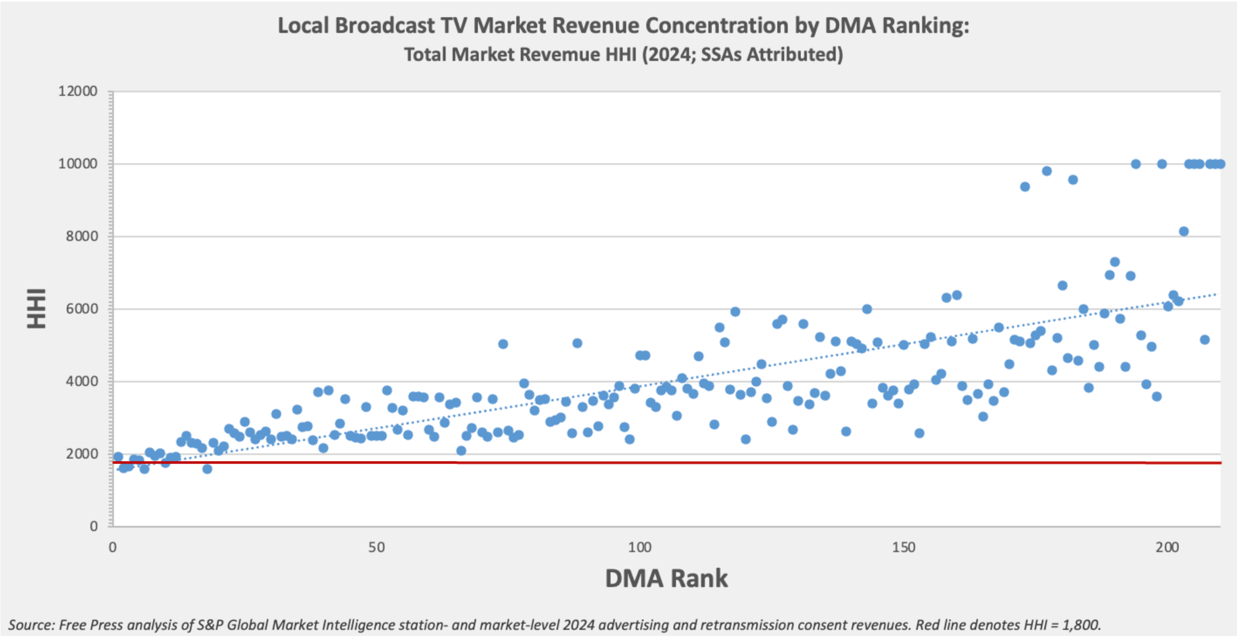
If we attribute revenues of stations that are operated by another in-market licensee (those stations in so-called "sidecar" or "shell" company arrangements) to the actual sidecar stations' operators, the level of market concentration is even higher (see Figure 2).

Figure 1:



[13] U.S. Department of Justice and Federal Trade Commission, Merger Guidelines (2023) ("Merger Guidelines"). The Merger Guidelines presume that mergers resulting in an HHI above 1,800 (the threshold for a "highly concentrated market"), with an increase of 100 points or more, would "substantially lessen competition or tend to create a monopoly." Also "a merger that creates a firm with a share over thirty percent is also presumed to substantially lessen competition or tend to create a monopoly if it also involves an increase in HHI of more than 100 points."

Figure 2:



These absurdly high levels of market concentration based on total market revenues includes all stations in a given DMA, even though many of those do not air or produce original local news. We unfortunately do not have access to comprehensive audience measurement data or advertising revenue data for local news dayparts. However, we are certain that such data would reflect a far higher level of concentration of the local TV news viewing audience and the local TV news advertising market. Indeed, if we analyze retransmission consent revenues (a slightly closer proxy for those stations that do air news because such stations will tend to command higher retrans rates and the bulk of the retrans revenues in a market), we observe even higher levels of market concentration, with every single DMA exceeding the DOJ and FTC Merger Guidelines' "highly concentrated" HHI threshold of 1,800 points. Under any metric, there can be no doubt that local TV market concentration is already above the point that raises serious competitive concerns.[14]

[14] Indeed, our HHI analysis is for a product market that is far broader than the one that the Department of Justice has historically identified as a relevant product market when reviewing local broadcast TV mergers. The DOJ has identified "the licensing of Big 4 television

And these competitive concerns are not hypothetical. As we see in Figure 3 below, broadcast TV chains have been able to extract from pay-TV distributors average annual increases in retransmission consent payments that far exceed the 3 percent rate of general economic inflation. These increases are passed along to pay-TV subscribers, who are forced to purchase every single local broadcast TV station whether or not they watch a single second of a given station's programming.

Figure 3:

Compound Annual Growth Rate of Per-Subscriber Retrans Fees on a Station Basis	
Company	CAGR (Q1 2016–Q1 2025)
Nexstar	21%
E.W. Scripps	19%
Sinclair	19%
Gray Television	18%
Tegna	17%
Comcast/NBC	17%
Disney/ABC	14%
Fox	13%
Paramount/CBS	12%
Entravision	12%
TelevisaUnivision	5%
CPI-U	3%

Source: Free Press analysis of S&P Global Market Intelligence and Bureau of Labor Statistics data

Empirical research also demonstrates that recent waves of consolidation in the local broadcast TV markets have conferred meaningful market power on broadcasters, in a manner that violates the so-called "hypothetical monopolist" test used by courts to adjudicate allegations of monopoly.[15] A 2024 econometric study revealed that "conglomerate owners consistently increase advertising duration during local newscasts" after acquiring stations, often above a 5

retransmission consent [as] a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. § 18." *See U.S. v. Nexstar Media Group Inc. and Tribune Media Company*, Complaint, United States District Court for the District of Columbia, Case 1:19-cv-02295, at 7, ¶ 24 (filed July 31, 2019).

[15] *See, e.g.*, *FTC v. Penn State Hershey Med. Ctr.*, 838 F.3d 327, 338 (3d Cir. 2016).

percent increase in time devoted to advertisements,[16] with no significant loss of viewers.[17] Because advertising time is a useful proxy for price in an otherwise zero-price market (users "pay" by bearing the nuisance of ads), this ability for conglomerates to increase the ad load by 5 percent or more without a similar proportional loss of viewers (and without a proportional loss in profits either, as observed from firms' SEC filings) satisfies the "small by significant and non-transitory increase in price" test (the "SSNIP" test). This indicates that the local TV news market is a unique and relevant product market for antitrust purposes, distinct from some kind of larger market for advertising-supported content. It also indicates that the large local broadcast TV conglomerates demonstrably possess monopoly power in this local TV news market.

It is therefore very alarming that Chairman Carr said in this proceeding that the Commission "intend[s] to take a fresh approach to competition by examining the broader media marketplace, rather than treating broadcast radio and television as isolated markets."[18] Based on years of DOJ precedent, which is in turn based on rigorous economic analysis, these <u>are</u> – <u>empirically</u> – isolated product markets. And broadcast services are not just isolated, they are special. As noted above, broadcasters have not only special duties, but special privileges too. For

[16] *See* Gregory Martin *et al.*, "Media Consolidation," Kilts Center at Chicago Booth Marketing Data Center Paper, at 1 (May 28, 2024) ("Martin 2024 Study"). The study's authors also noted that this market power to fill more of the news broadcasts' time with advertisements is a unilateral effect, not a coordinated effect. *Id.* at 33 ("The more consistent effect of consolidation is on the advertising side of the business, where large conglomerate owners are able to expand the volume of advertising sales relative to independent owners and smaller groups."). For a detailed explanation of unilateral and coordinated market effects, *see* David T. Scheffman and Mary Coleman, "Quantitative Analyses of Potential Competitive Effects from a Merger," U.S. Department of Justice (June 9, 2003).

[17] *Id.* at 4 ("After Sinclair acquires a station, we estimate no effect on news ratings or log impressions. . . . We interpret these results as suggesting limited viewer responsiveness following conglomerate acquisitions. This is an important result, as lower viewer sensitivity to changes in content implies weaker constraints on owners' interference with editorial decisions, whether for purely economic or for political motives.").

[18] *Notice*, Statement of Chairman Brendan Carr.

all of these reasons, the Commission's public interest mandate requires and necessitates that its review of broadcast ownership rules and license transfer applications goes beyond mere economic antitrust jurisprudence.

For while the economic data alone strongly demonstrates the folly in the Commission allowing any more consolidation of the local broadcast TV market, the agency's job goes well beyond antitrust economics. The marketplace of ideas is fundamentally different from the marketplace for goods and services. The local news market that would result from further weakening or elimination of the few remaining local media ownership rules would not produce journalism in service of democratic values, such as having an informed electorate and robust debate on issues of local and national importance. What's more, without a cap on the number of stations a single entity can own in a single DMA, and without the dual network rule, the local television market would almost certainly collapse into a rigid duopoly in the largest markets and pure monopoly in less populated ones. This would impart devastating consequences on the public's welfare and ultimately democracy itself.[19] Broadcast TV news firms, particularly those that are publicly traded conglomerates, have a strong incentive to maximize short-term profits. In today's already highly concentrated media market, that incentive already disfavors the production of impactful local journalism and favors instead cheap sensationalistic content produced at the lowest possible cost.[20]

[19] *See infra* Section II.C.

[20] Recent survey-based research from the Shorenstein Center at Harvard's Kennedy School illustrates the real-world consequences of these economic incentives. *See* Thomas E. Patterson, "Can They Do Good and Still Do Well? Local TV Stations and Communities' Information Needs" at 11 (June 2025) ("Shorenstein Center Study") ("A second news director worried that they understood only part of their community. 'We have thorough research that provides clear direction to what television news viewers want to see in our newscasts,' he said. 'But we have very little research focused on people who have elected not to watch television news. I worry that we're steering our content to the "choir" and not the congregation.'").

First Amendment jurisprudence for decades has supported the premise that media policy is about more than economics[21] and concerns both the preservation of robust debate[22] and the airing of a diversity of views[23] on a broad swath of issues.[24] The uniqueness and civic importance of local news requires policymakers to consider both the potential short-term <u>and</u> long-term effects of consolidation. Long-term effects include the neglect of certain issues, as well as increased vulnerability to government censorship.[25] But the short-term and transitory effects are equally dangerous to democracy. Local TV news is a critical source of information for voters as they solidify their opinions in the final weeks of an election.[26] What stories a licensee chooses to emphasize and explain at a substantive level, and what PAC attack ads it chooses to accept,

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[21] *See, e.g.*, *Associated Press v. United States*, 326 U.S. 1, 20 (1945) ("It would be strange indeed, however, if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom.The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society."); *Fox Television Stations, Inc., v. FCC*, 280 F.3d 1027, 1047 (D.C. Cir. 2002) ("An industry with a larger number of owners may well be less efficient than a more concentrated industry. Both consumer satisfaction and potential operating cost savings may be sacrificed as a result of the Rule. But that is not to say the Rule is unreasonable because the Congress may, in the regulation of broadcasting, constitutionally pursue values other than efficiency—including in particular diversity in programming, for which diversity of ownership is perhaps an aspirational but surely not an irrational proxy.").

[22] *See, e.g.*, *Red Lion*, 395 U.S. at 390 ("It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee."); Turner Broad. Sys., Inc. v. FCC, 512 U.S. 622, 638–39 (1994) ("Turner I").

[23] *See, e.g.*, *Associated Press*, 326 U.S. at 20.

[24] *See, e.g.*, *Red Lion*, 395 U.S. at 390.

[25] While the potential for government censorship of private news media previously seemed like a distant memory from the 1918 Sedition Act (repealed in 1920), the Carr FCC's intrusion into broadcast licensees' editorial decisions marks a return to this unthinkable practice.

[26] *See, e.g.*, TVB, "The 2024 Voter Funnel Study," (2025) ("80% of respondents took some action after seeing/hearing a TV ad, including word of mouth, online use and even voting!").

reject, or fact-check, can determine electoral outcomes.[27] This necessitates a more careful regulatory approach for broadcast television ownership than a general antitrust framework alone.

Balancing a license holder's economic interest and the public's interest (while maintaining the critical firewall that keeps government from interfering with a license holder's editorial choices) requires structural ownership limits. Market forces alone in a scarce physical medium simply will not result in "the widest possible dissemination of information from diverse and antagonistic sources [that] is essential to the welfare of the public."[28] Indeed, the Supreme Court articulated this "positive vision" of the First Amendment[29] in *Red Lion*, where it ruled that "[i]t is the right of the viewers and listeners, not the right of the broadcasters, which is paramount . . . . It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here."[30] As the high court said, "the 'public interest' in broadcasting clearly encompasses the presentation of vigorous debate of controversial issues of importance and concern to the public."[31]

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[27] While it is rare, broadcast stations have rejected PAC ads in the past. *See, e.g.*, Scott Finn, "Should TV Stations Refuse To Air Political Ads That Make False Claims?," *NPR* (Oct. 3, 2012) (noting several instances of broadcast stations refusing to air PAC ads); Timothy Karr, Free Press, "Left in the Dark: Local Election Coverage in the Age of Big-Money Politics" at 7 (Sept. 2012) ("Broadcasters in the markets that we studied devoted little to no airtime to segments that fact-checked the claims made in political ads. They spent no time investigating the organizations that funded the ads.").

[28] *Associated Press*, 326 U.S. at 20.

[29] SAGE Encyclopedia of Journalism 1277–79 (Gregory A. Borchard, ed., Sage Publications 2d ed. 2022) ("A positive First Amendment approach insists that the government should have a more active role in promoting a better speech environment for citizens so that a healthier democracy can flourish . . . . Undergirding the vision of a positive First Amendment is the belief that media should represent a diversity of voices and viewpoints—and that government, backed by the First Amendment, should mandate access and create infrastructure that allows for multiple voices. From this view, the First Amendment permits the government to enact policies that ensure public access to important information and to media systems.").

[30] *Red Lion*, 395 U.S. at 390.

[31] *Id*. at 385.

Limits on media ownership are therefore based on the notion that "diversification of mass media ownership serves the public interest by promoting diversity of program and service viewpoints, as well as by preventing undue concentration of economic power."[32] Furthermore, as the Commission has rightly reasoned in the past, "the greater the diversity of ownership . . . the less chance there is that a single person or group can have an inordinate effect, in a political, editorial, or similar programming sense, on public opinion at the regional level."[33]

In sum, the Commission's ownership policies are chiefly concerned with promoting competition, localism, and diversity <u>in broadcasting</u>.[34] Economic concentration is only one of several dangers that the Communications Act as amended and the Commission's rules intend to avoid.[35] Were the Commission to solely focus on economic concerns, there's absolutely a strong case that local TV markets are already highly uncompetitive in a way that is harming viewers and also harming firms that purchase local TV spot advertising time. But the Commission's public interest analysis must also be concerned with broadcasters' unique role in producing local content, as well as the impact that further concentration would have on ownership and viewpoint diversity. Local news, produced with the benefit of licenses to use scarce public spectrum, must be free from government interference and censorship by this Commission; but it simply will not be produced in adequate levels in the absence of structural safeguards and ownership limits.

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[32] *FCC v. Nat'l Citizens Comm. for Broad.*, 436 U.S. 775, 780 (1978); *see also Prometheus I*, 373 F.3d at 383 (citing *Nat'l Citizens Comm. for Broad.*, 436 U.S. at 780).

[33] *Sinclair Broad. Grp., Inc. v. FCC*, 284 F.3d 148, 160 (D.C. Cir. 2002) (internal quotations and citations omitted).

[34] *See 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules*, MB Docket 02-277, Report and Order, 18 FCC Rcd 13620, ¶ 17 (2003) ("We identified diversity, competition, and localism as longstanding goals that would continue to be core agency objectives in this area.").

[35] The Commission's concern about economic concentration of broadcast TV licenses is usually based also on how this market power would impact the balance between broadcasters and multichannel video program distributors in their carriage negotiations.

C. The Commission's Primary Duty is Promoting Localism in Broadcasting. Empirical Evidence Demonstrates that Two Decades of Consolidation Undermined Localism in Favor of Nationally Focused Content. Eliminating the Remaining Rule that Prohibits Triopolies Will Further Accelerate This Damaging Trend.

1. Empirical Evidence Confirms That Conglomerates Act on their Economic Incentives to Favor National Content Over Local Journalism.

The physical realities of over-the-air transmission make broadcasting a local medium. Because of this, U.S. policy has long focused on ensuring that broadcasting serves the diverse needs of local communities.[36] The Commission, Congress, and the Supreme Court have over the years noted the importance of local broadcast stations serving local communities, "as an outlet for local self-expression."[37] As the Court explained in *Turner I*, "Congress designed this system of allocation to afford each community of appreciable size an over-the-air source of information and an outlet for exchange on matters of local concern. . . . [T]he importance of local broadcasting 'can scarcely be exaggerated, for broadcasting is demonstrably a principal source of information and entertainment for a great part of the nation's population.'"[38]

Nothing about the march of media technology into the internet and streaming era has diminished the importance of local broadcasting. Nor have these technological and market developments undermined the ability of local broadcast conglomerates to earn healthy profits. Thus it remains true that "the people as a whole retain their interest in free speech by radio and their collective right to have the medium function consistently with the ends and purposes of the First Amendment."[39] And it should be exceedingly clear that national conglomerates have every

[36] Localism as a core public policy goal has roots in the 1927 Radio Act. *See, e.g.*, Philip Napoli, Foundations of Communications Policy: Principles and Process in the Regulation of Electronic Media 203 (2001).

[37] *United States v. Sw. Cable Co.*, 392 U.S. 157, 174 (1968) (quoting H.R. Rep. No. 1559, 87th Cong., 2d Sess., 3).

[38] *Turner I*, 512 U.S. at 663 (quoting *U.S. v. Sw. Cable*, 392 U.S. at 177).

[39] *Red Lion*, 395 U.S. at 390.

incentive to cut back on local coverage, local facilities, and local reporters, in favor of national and generic coverage they can produce more cheaply and in centralized fashion. This was the direct result of, and primary purpose for, these conglomerates growing their national reach and reducing the number of competitors they face in their local markets.

The D.C. Circuit in *Sinclair* highlighted the necessity of the Commission's focus on localism in promoting the public interest.[40] The growth of online media has not made localism in broadcasting any less important; in fact, America's growing diversity makes localism more important than ever. We elect our state and federal representatives on a local basis. And many of the public policies that impact families and small businesses—such as education, policing policy, and zoning regulations—are predominantly made at the local level. The need for quality local news and civic information goes well beyond electoral impacts. Localism impacts the criminal and civil justice systems. Juries are locally selected, and they make impactful decisions on a variety of civic issues. These decisions involve juries relying on local standards, which are likely impacted over time by local broadcast TV media. And the behavior and choices of civic employees, namely police, are also influenced by the coverage choices made by local TV news companies.

But no matter how much lip service they may pay to localism, national broadcast chains have strong financial and political incentives to promote the <u>widest</u> distribution of their own news and vertical network programming irrespective of the tastes of one or more particular local cities.[41] And this disfavoring of local content has serious real-world consequences.

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[40] 284 F.3d at 160.

[41] *See, e.g.*, Martin 2024 Study, *supra* note 16 at 11 ("Importantly, economies of scale of this form are not neutral with respect to topic: the more locally-tailored the topic, the more geographically limited is its appeal to viewers, and hence the smaller are the potential scale economies. The application of this principle to political coverage is clear: production-cost scale economies should favor coverage of politics at the national level and disfavor coverage of local-

Sinclair offers a prime example of how this incentive translates in the increasingly concentrated local TV market.[42] There are numerous studies empirically demonstrating that stations acquired by Sinclair reduce local coverage in favor of national coverage. For example, a recent study in the American Economic Journal found that after Sinclair acquires a station it "reduces coverage of local events in favor of a national focus."[43] More granularly, the authors found that "Sinclair ownership decreases news coverage of local crime" relative to the level prior to Sinclair acquisition,[44] while Sinclair's coverage of non-local crime did not change.[45] This research also found that "[a]fter Sinclair acquires a station, coverage of police misconduct declines, and mentions of drugs and immigrants in the context of crime increase."[46]

The authors of this study found that Sinclair's station acquisition had important societal consequences, as "municipalities that experience the change in news coverage [as a result of Sinclair's post-acquisition change in local crime coverage] have lower violent crime clearance rates relative to municipalities that do not."[47] The researchers concluded that "from the policy perspective, the fact that ownership-induced changes impact real-world outcomes suggests that increasing ownership concentration, a trend that characterizes not only the local TV industry but

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or state-level political issues and politicians. However, the principle is also likely to apply more generally to any locally-tailored coverage.") (internal citations omitted).

[42] *See, e.g.*, Jacey Fortin & Jonah Engel Bromwich, "Sinclair Made Dozens of Local News Anchors Recite the Same Script," *N.Y. Times* (Apr. 2, 2018).

[43] Nicola Mastrorocco and Arianna Ornaghi, "Who Watches the Watchmen? Local News and Police Behavior in the United States," 17 *American Economic Journal: Economic Policy* 285, 286 (2025).

[44] *Id.* at 285.

[45] *Id.* at 287.

[46] *Id.* at 287; *see also id.* at 313 ("We find that ownership matters for content: Once acquired by Sinclair, TV stations decrease news coverage of local crime. The police respond to this change in media content: Municipalities that experience a decline in news coverage of local crime have lower violent crime clearance rates relative to municipalities that do not.").

[47] *Id.* at 285.

also other media types such as newspapers, might have tangible externalities."[48] And so, as they reasoned: "[N]ews nationalization might impact not only voters, as has been widely documented, but also public officials such as police officers, thus having tangible externalities for local governments across the board . . . [Therefore] media mergers should probably be evaluated with not only a focus on consumer welfare but also taking into account these downstream consequences."[49]

Other studies have similar findings. For example, a 2024 study found that "[b]efore Sinclair acquires a station, coverage of local events is flat. After Sinclair acquires a station, however, there is an almost immediate decline in the mentions of local places by show. The effect becomes larger over time, and by the third year after the acquisition it corresponds to around 25% of the baseline mean."[50] The authors reasoned that "Sinclair's decrease in local news coverage is consistent with both non-market objectives and economies of scale in news production leading to news nationalization."[51] The study concluded with the observation that "restrictions on concentration at the local level (i.e., within media market) appear to be important in limiting impacts on knowledge and should not be undermined."[52] A 2019 study of the impact of Sinclair station acquisition made similar findings and reached identical conclusions about the importance of local media ownership limits to localism and societal outcomes.[53]

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[48] *Id.* at 288 (internal citations omitted).

[49] *Id.* at 313–314 (internal citations omitted).

[50] Martin 2024 Study, *supra* note 16 at 19.

[51] *Id*. at 29.

[52] *Id*. at 34.

[53] *See* Gregory J. Martin and Joshua McCrain, "Local News and National Politics," 113 *American Political Science Review* 372, 373 (2019) ("Martin and McCrain 2019 Study") ("Using a differences-in-differences design that compares the Sinclair-acquired stations with other stations operating in the same markets, we find that the acquisition led to a roughly three percentage point increase in the share of programming devoted to coverage of national politics, a

Let us be clear here: Sinclair and any other broadcast license holders have a First Amendment right to make these choices about how to cover these stories, or not cover them. Chairman Carr and President Trump above him have completely discarded these constitutional principles, instead bullying the press for more favorable treatment and government control of the media.[54] But while Chairman Carr shockingly muses about imposing a "course correction" on broadcasters for stories he happens to dislike,[55] the Commission should have no role in dictating content. Yet no broadcast conglomerate has a First Amendment right to <u>monopolize</u> government-granted broadcast television spectrum at the local or national level. Free Press has often noted such broadcasters' failures to preserve local control or cover local stories in our media ownership filings and petitions to this agency. But that coverage resulting from media concentration is not the legal issue when it comes to the Commission's ownership rules and license transfer decisions. It is the Commission's failure to ensure a diversity of competing voices and broadcast choices at the local level in the communities of license companies serve.

The broadcasting industry's push now to eliminate the last vestiges of the local and national multiple ownership rules is allegedly motivated by potential "synergies" achieved from economies of scale. But the synergies gained from the marginal benefit of further consolidating the already consolidated back-office functions of local stations are not material enough to justify

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roughly 25% increase relative to the average level in the sample. Furthermore, this increase came largely at the expense of coverage of local politics."). The researchers concluded that "[t]he news content that would be provided by a TV industry consisting of a handful of national conglomerates would look very different than that provided by one comprising numerous single-market operators, even holding measures of market-level concentration fixed. . . The current trends toward national consolidation in TV and other media ownership have worrying implications for the performance of local governments and for mass polarization.").

[54] *See* Nora Benavidez, Free Press, "Chokehold: Donald Trump's War on Free Speech & the Need for Systemic Resistance" (Dec. 2025).

[55] *See* Geoff Bennet and Karina Cuevas, "FCC chairman says network oversight offers a needed 'course correction,'" *PBS News Hour* (July 31, 2025).

the premiums these firms will have to pay to acquire smaller station groups. So, as we noted above and discuss further in the section that follows, additional "synergies" in the form of continued newsroom cuts and reduction in journalistic output are assured as well.

But that's not the only place larger broadcast conglomerates hope to find additional revenues thanks to even more concentration. They will also look to take advantage of yet another increase in their bargaining power in negotiations outside of their stations, not in their newsroom employment practices alone. <u>This is especially the case now that the Commission's rules no longer prohibit top four-ranked duopolies</u>. The economic benefit of forming triopolies will primarily be achieved through the exercise of market power when setting advertising rates and retransmission consent payments.

In sum, the evidence strongly suggests that as station groups become larger, both nationally and within existing markets, firms act rationally to maximize profits by increasing national content at the expense of time previously allocated to local journalism. Furthermore, firms act rationally to maximize profits by increasing the proportion of a news broadcast devoted to advertisements, a unilateral economic effect that imposes a cost on viewers but that does not reduce the conglomerates' profits.

2. The Number of Stations Producing Original Local News Has Declined Since 1996.

Perhaps the most damning evidence against the national broadcast ownership groups' push to eliminate the last of the local multiple ownership rules—all in the name of "saving local news"—is the fact that the number of broadcast TV stations producing original local news has declined along with the accelerated consolidation following the changes to broadcast ownership limits specified in and precipitated by the Telecom Act of 1996. Dr. Bob Papper is a Professor of Broadcast and Digital Journalism at Syracuse University. On behalf of the Radio and Television

Digital News Association ("RTDNA"), he has conducted an annual survey of U.S. broadcast station news directors since 1995. As a part of this research, Dr. Papper has also conducted an annual census of <u>all</u> U.S. broadcast television stations to determine if they aired <u>any</u> local news, and if so, whether it was produced by the station itself or originated from a different station.

This RTDNA research shows that despite <u>massive</u> increases in revenues and profits (nominal and inflation-adjusted),[56] the number of local TV stations <u>originating</u> news declined from 746 in 1996 down to 695 in 2025.[57] Meanwhile, the number of stations not originating, but rather receiving and airing local news originated by another station, increased from 18 in 1995 to 422 in 2025 (see Figure 4).[58]

These trends clearly reflect that as broadcast TV ownership further consolidated—with broadcasters claiming that these deals would not only bolster the bottom line but would bolster local news production too—original and locally originated news production declined. The number of original local news-producing stations declined, while firms simply re-aired existing production on stations that either never had any local news to begin with (usually the UPN, WB, MyNetworkTV or CW affiliate in a duopoly with a Big 4 affiliate) or on stations that formerly produced their own local news. Far from super-charging investments in newsrooms, RTDNA's data also shows that TV newsroom employment has been essentially flat during this extended

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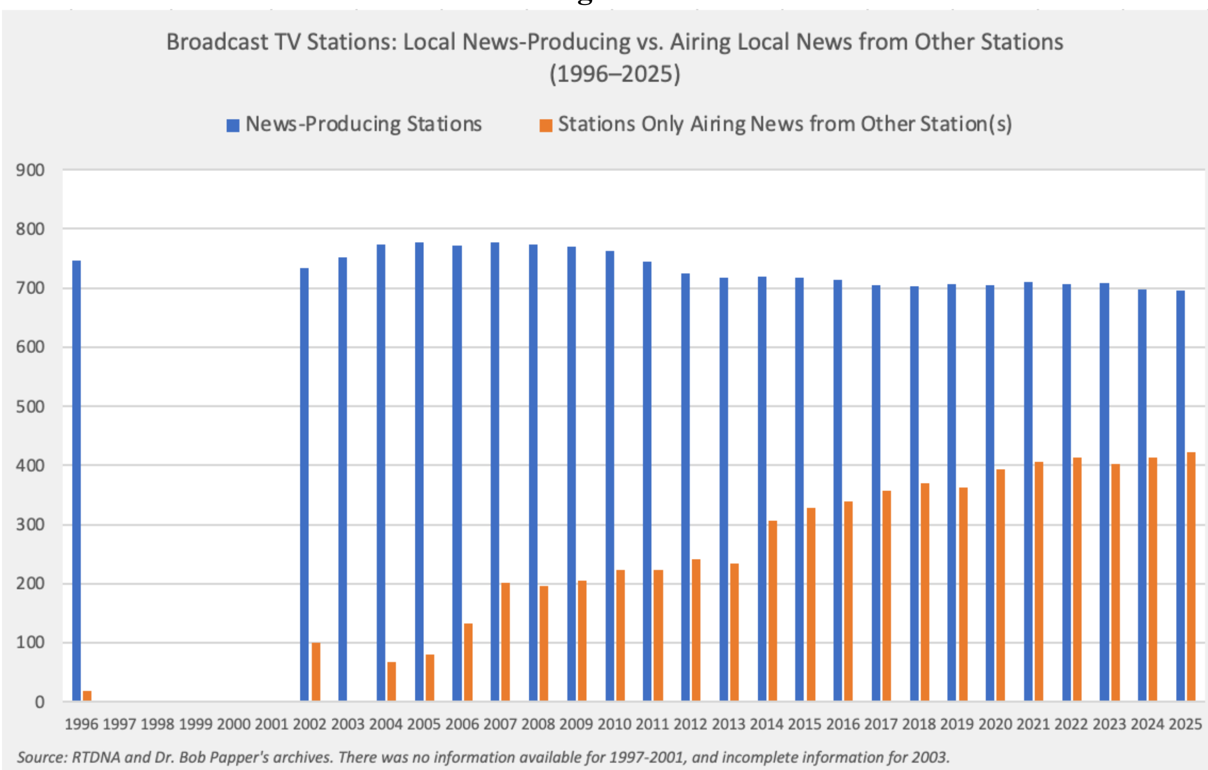
[56] For a full discussion of the broadcast TV industry's financial performance during the past three decades, *see* Comments of Free Press, *In the Matter of Amendment of Section 73.3555(e) of the Commission's Rules*, *National Television Multiple Ownership Rule*, MB Docket No. 17-318, at 77–88 (filed Aug. 4, 2025) ("Free Press National Cap Comments").

[57] *See* Bob Papper, Michael Gerhard & Joe Misiewicz, "Another Growth Year for News and Staff," RTNDA (June 1997); *see also* Bob Papper, Keren Henderson & Tim Mirabito, "Amount of local news stays steady – for a change," RTDNA (June 21, 2025).

[58] Free Press compiled these data directly from RTDNA research and Dr. Papper's archive, available at https://bobpapper.com/clients/.

consolidation wave, at approximately 28,000 jobs both in 2012 and in 2024.[59] Stations that previously added to competition, diversity of opinion, and localism completely lost original local news. These are the "synergies" that the Commission should expect if it eliminates its only remaining rule preventing local broadcast media monopolies.

Figure 4:



3. Evidence from Inside Local TV Newsrooms Demonstrates How Consolidation Undermines the Public Interest and Creates a Race to the Bottom.

The 2025 Shorenstein Center Study surveying local TV news directors and station general managers should serve as a canary in the coalmine for the Commission as it contemplates unleashing another massive wave of media consolidation. Though the industry's CEOs and lobbyists like to pat themselves on the back, morale inside newsrooms is bad, and there is a widely held perception among newsroom staff that the quality of local TV news is in

[59] *See* Free Press National Cap Comments at 71–72.

decline. When asked about their perception of the trend in the quality of news in their local market area, "sixty percent said the quality has declined, with a quarter of them categorizing the decline as very substantial."[60]

This is the reality inside newsrooms after two decades of consolidation. Economies of scale make broadcast chain CEOs more money,[61] but at the expense of competition, localism, and diversity in local news and content. And as the Shorenstein Center Study demonstrates, consolidation exacts a steep personal cost from working journalists, threatening the future of the profession as younger generations perceive it as a dead-end. As the study's author Thomas Patterson notes, "a widely expressed view among respondents was that their station's reporting is declining in quality, partly from thinly stretched staff, partly from the departure of talented journalists, and partly from inadequately trained entry-level journalists."[62] These responses center on the connection between adequate staffing and training, something that station owners might be able to address with investment. Indeed, when local news directors were asked whether an "increase in broadcast staff" would "improve their 'ability to better serve audiences' information needs,'" an overwhelming majority (66%) agreed that such an increase in staffing would be "important" or "very important" to that effort.[63] But these local TV news directors

[60] Shorenstein Center Study at 7.

[61] *See, e.g*., Tom Stephenson, "The Life and Times of a Media Magnate," *D Mag.* (June 8, 2020) ("The Nexstar CEO is proud to say, 'I want my commission salespeople to be the highest-paid people in town.' He'd like to be paid more, too. In the last two years, shareholders have, by the slimmest of margins, rejected multimillion-dollar compensation packages for the CEO. 'I guess if they felt they wanted to vote with their feet, they wouldn't own the shares. But that doesn't seem to be what's happening,' Sook says. 'So, yeah, it's a point of frustration for me, because the performance has been there.'"). Sook eventually got what he wanted. According to SEC filings, his total annual compensation between 2020 and 2024 ranged from $21 million to $39.3 million.

[62] Shorenstein Center Study at 17.

[63] *Id.*

aren't counting on their corporate offices to actually put resources behind broadcast lobby sloganeering about investing more in local news. "When these respondents were then asked about the likelihood that their station would be able to increase its broadcast staff, only 8 percent deemed it 'very likely' while 33 percent judged it 'somewhat likely.'"[64]

The Shorenstein Center Study also provides evidence beyond forward-looking survey responses that rising profits do not mean station group owners invest more in their local TV news stations. Though one assistant news director reported that "[o]ur ownership . . . proves that good journalism can be good business," others weren't so upbeat. One respondent said "[w]e are chronically short-staffed. Ownership groups for decades have been extracting more output from fewer staff with less money."[65] That respondent lamented how staffing cuts had become untenable, stating "[w]e're getting ever closer to the point of simply being unable to get newscasts on the air because we just don't have the people to do it."[66] Another respondent reflected, "[o]ur corporate ownership cares more about making money than serving our community."[67] Echoing this sentiment, a respondent told Shorenstein Center researchers, "[o]ur station's primary function has become generating cash for the corporation."[68] There were many more responses in this vein.[69]

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[64] *Id.*

[65] *Id.* at 27 (emphasis added).

[66] *Id.*

[67] *Id.*

[68] *Id.* at 28.

[69] *Id.* at 27–28. Other quotes include: "Local news needs investment from ownership, not just to increase content and coverage, but for staff. The current staff is spread too thin."; "Corporate ownership groups need reasonable profit margins but their response is always 'we need to operate lean' or 'the money isn't there this year.'"; and "Corporate owners need to prioritize paying news staff higher salaries. We are losing too many good young journalists to jobs outside of broadcast news."

Local TV newsroom staff already perceive their salaries as abysmally low.[70] A 2024 RTDNA study found high levels of newsroom employee burnout, particularly as stations looking to cut costs rely on journalists to be "multi-media journalists" who handle all aspects of story production.[71] Any Commission rulings leading to yet another massive wave of local and national consolidation would only worsen this situation, as consolidation of the market into the hands of fewer and fewer owners would increase these firms' monopsony power over labor. This would reduce the quality and expertise of newsroom labor forces over time (as staff retire, leave for other careers, or eschew the career altogether), further harming the public interest. The staff that remain will become more overworked, forced to take on more duties that take them away from the core task of reporting.

When corporate chain owners cut staff to boost profits, it should not be surprising that this has an impact on the scope and quality of news coverage. However, consolidation also reduces the market incentives for local TV news stations to differentiate their product through editorial decisions too. When station owners face little competition locally and nationally, they are incentivized to produce homogenized content.[72] And because every potential viewer has a limited amount of time in the day to devote to media, this homogenization favors chasing ratings through shock, fear, and sensationalism, as well as through repetitive emphasis on weather

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[70] *Id*. at 10 ("TV station stations worry about their ability to attract and retain talented staff. Local TV news has one of the lowest salary levels for college graduates of any profession, a problem of growing concern for local stations.").

[71] Bob Papper & Keren Henderson, "Local TV news staffing rises despite burnout challenges" at 4, RTDNA (May 21, 2024) ("For the second year in a row, the survey asked whether news directors had seen more evidence of staff burnout than in the past. Staff burnout continues to be a growing problem, with nearly two-thirds (62.9%) of news directors agreeing. In the top 25 markets, the percentage is lower at 52%, as well as in the smallest markets at 54.5%. Nevertheless, all market sizes are over 50%, with markets 26 to 100 surpassing 70%.").

[72] *See, e.g.*, Anna Kerkhof, "Advertising and Content Differentiation: Evidence from YouTube," CESifo Working Paper No. 8697 (Oct. 2022).

updates and breaking news stories.[73] While these may be of interest to people, they do not adequately serve the public's democratic information needs.[74]

These economic consequences of consolidation are seen in the Shorenstein Center Study, which found that that only 12 percent of news directors report their stations have a "heavy" emphasis on "local government and issues," versus 35 percent saying they have a heavy "emphasis on breaking news (such as crime and accidents)."[75] Only 32 percent of respondents said their station had a reporter assigned full-time to cover local government.[76] This de-emphasis on local government reporting is nothing new; it's been the defining trend of the consolidation era.[77] But it can continue to decline. Indeed, there are station directors that would like to use

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[73] *See, e.g.*, Karen Slattery *et. al.*, "Shifts in Public Affairs Reporting on the Network Evening News: A Move Toward the Sensational," 45 *Journal of Broadcasting and Electronic Media* 290 (2001); Karen Slattery, "Sensationalism Versus Moral Life: Making the Distinction," 9 *Journal of Mass Media Ethics* 5 (1994).

[74] Shorenstein Center Study at 19 ("News is inherently a construct, shaped by subjective judgments about what is important on any given day. Certain events virtually command attention, but they are uncommon. News outlets have choices when deciding on the day's lineup of stories. News directors will weigh perceived relevance, interest, and impact in making these choices but there are no objective criteria. As a result, the 'news' is not a mirror of the community but a curated narrative that amplifies certain topics while downplaying or ignoring others. Local TV news has traditionally prioritized weather, crime, and breaking stories, assuming they capture and hold viewer attention. Crime stories particularly elicit emotional responses like concern for personal safety, which can strengthen viewer engagement. This focus has, over time, shaped audience expectations, with viewers now seeking out this content, thereby reinforcing its demand.").

[75] *Id.* at 12.

[76] *Id.* at 13.

[77] *Id.* ("In general, when examined through the lens of the priority assigned to specific topics, the emphasis aligns with what we found when comparing the relative importance of breaking news versus coverage of local governance and issues. The emphasis also aligns with a longer-term tendency in local TV news. The movement away from coverage of local government to breaking news is more than two decades old, illustrated by the shift away from assigning a full-time reporter to cover city hall. When we asked respondents whether their station had a reporter assigned full-time to cover local government, only 32 percent said it did.").

existing staff to do more "community" reporting.[78] But the study found that "staff size was unrelated to the use of community journalism, suggesting it is less an issue of resources than of editorial interest."[79] In other words, stations are not investing enough in news, but the market incentives of consolidation can also impact what type of news they invest in too.

D. Research Demonstrates That Broadcast Consolidation Harms Diversity.

1. Large National Chains Achieve Their Post-Consolidation Synergies by Replacing Original Local News with Duplicated and Out-of-Market Programming.

The common refrain from the broadcast TV chains and their lobby is that consolidation is in the public interest because an increase in local news follows,[80] or that without consolidation,

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[78] *Id.* at 21–22 ("Among the hallmarks of newspaper reporting at its peak was a commitment to types of journalism – enterprise, community, and investigative reporting – that go beyond the straightforward reports of the day's events. Enterprise journalism involves stories that reporters pursue independently without relying on external prompts like press releases or news conferences. Community journalism focuses on covering local neighborhoods and groups, while investigative reporting seeks to uncover developments that are not readily evident. . . . Enterprise reporting and community journalism go beyond standard news, providing stories and amplifying voices that help the audience to be more aware and connected to their community. By emphasizing these forms of journalism, while being mindful of their community's diversity, TV outlets can ensure that local narratives are aired. Investigative reporting is equally important but more challenging, given the substantial reporting resources typically required to thoroughly investigate alleged wrongdoing.").

[79] *Id*. at 22.

[80] *See, e.g.*, Ted Johnson, "Broadcast TV Lobby Praises FCC Chairman For Deregulatory Push, Even As He Also Investigates Some Of Their Members," *Deadline* (July 29, 2025). Broadcasters point to the increase in hours of local news. But as we discuss below, a closer look at the actual content of these broadcasts shows that these increased hours are simply repeated stories. What's more, local stations bring in more advertising revenue during local news dayparts, even when running repeat news, than they would by running syndicated programming, because syndicated deals usually involve a split of ad revenues with the syndicator. *See, e.g.*, "Competition in Television and Digital Advertising," Transcript of Proceedings at the Public Workshop Held by the Antitrust Division of the United States Department of Justice (May 2-3, 2019) (reporting Gray Media co-CEO Pat LaPlatney explaining that "there are three types of ad inventory. There's network, like primetime[;] local news and local programming where the broadcaster owns and sells all of the inventory. And then, there's syndicated programs, syndicated inventory where the inventory is divided between the syndicator and the station.").

local news will decline.[81] But this is nonsensical, and belied by all available evidence. Companies seek to maximize profit to generate greater returns for shareholders. The trickle-down notion that more revenues will inexorably lead to more spending is fanciful and false. Firms maximize returns by minimizing costs and increasing revenue. Cost-cutting economics at local TV stations favor practices such as cutting staff, "sharing" and repeating news across commonly controlled stations, making greater use of social media clips in the news instead of original reporting, emphasizing partisan and sensationalistic content, substituting local coverage with national content, and investing less in investigative journalism or other public interest journalism with high positive externalities because that is expensive to produce and attracts fewer viewers than infotainment fare does.[82]

[81] Broadcast companies often equate their own financial fortunes with the fortunes of journalism itself, which they claim can only be saved by blessing their monopolization of all local news markets. *See, e.g.*, Hank Price, "The Reality Of Local TV Station Consolidation," *TV News Check* (June 27, 2025) ("By reducing the number of owners, the theory is that combined stations will be able to increase advertising rates, reduce expenses and become much more profitable than single stations are today."); Mike Reynolds, "Nexstar eyes station expansion amid expected deregulation after US election," *S&P Glob. Market Intel.* (Nov. 8, 2024) ("Sook also advocated for the preservation of local journalism, stating the industry needs strong companies that compete on a level playing field for viewers and advertisers on every screen in the US, not just some of them. He said that while 'Big Tech has unfettered access,' broadcast is kept to a 39% ownership cap. 'We're not allowed to reach every television home in America with our local station footprint. To preserve that last mile, we think the Republic has a vested interest in maintaining a free and independent press,' he said, adding that the company sees 'broadcast journalism remaining or becoming that last bastion of a free and independent press at the local level.'").

[82] *See* Martin and McCrain 2019 Study, *supra* note 53 at 372 ("We investigate whether this trend is demand- or supply-driven, exploiting a recent wave of local television station acquisitions by a conglomerate owner. Using extensive data on local news programming and viewership, we find that the ownership change led to (1) substantial increases in coverage of national politics at the expense of local politics, (2) a significant rightward shift in the ideological slant of coverage, and (3) a small decrease in viewership, all relative to the changes at other news programs airing in the same media markets. These results suggest a substantial supply-side role in the trends toward nationalization and polarization of politics news, with negative implications for accountability of local elected officials and mass polarization."); *see also* Price, supra note 81 ("As we have seen so often, expense cuts will be the primary goal of most companies. For some owners, expense cuts may be their only priority. Because payroll is the largest expense for any

These are the real-world consequences of consolidation, and they must factor into the Commission's public interest analysis. The gating factor cannot simply be whether "consolidation increase[s] profits," as that likely outcome is self-evident from broadcasters' push to consolidate. The question that is unique to the Commission's task is: will these rule changes improve incentives that lead to license holder actions serving the public interest? It is clear from thirty years of non-stop consolidation that shareholder interests cannot, and do not, map cleanly onto the public interest. Indeed, in the short term (which is the horizon of most C-suite executives at publicly-traded companies),[83] the corporate interest and the public interest are orthogonal at best and diametrically opposed all too often.

The goal of localism is inseparable from the other pillar of American broadcast policy: diversity. Diversity does not just mean programming from different corporate producers; it requires diversity in the content and viewpoint of broadcast programming.[84] Thus, ten or even twenty newscasts that all serve up the same duplicated, superficial, if-it-bleeds-it-leads soundbites do not constitute diversity. Serving local interests is meaningless if the diverse elements in a community— cultural, social, and political—are not represented on the airwaves.

And recent evidence demonstrates clearly that large broadcast chains prioritize increasing their own profits over increasing localism and diversity. The Shorenstein Center Study discussed in the previous section "asked respondents to indicate the degree to which their stations relied on

television station, eliminating staff will top the list of cuts . . . . News product will, of course, be impacted. As we have seen in the past, an owner with two major stations in the same market will likely eliminate the entire staff of whichever station is weaker. In many cases one newscast will then be simulcast on both stations . . . . However Top 4 consolidation is achieved, we also know that after reducing expenses, many companies will then continue to do business as usual.").

[83] Dennis Carey, Brian Dumaine, Michael Useem & Rodney Zemmel, "Why CEOs Should Push Back Against Short-Termism," *Harv. Bus. Rev*. (May 31, 2018).

[84] *Red Lion*, 395 U.S. at 389–95.

content from outside sources, such as their network, management group, or other providers," and found that those who indicated that they rely on such content "quite a bit" or "a lot" were "typically part of a large ownership group."[85] These stations in "large ownership groups" were significantly more likely to rely on third-party content to fill their newscasts than either network O&O stations or independently owned stations.[86]

A recent University of Delaware study provides a detailed look into the extent of this type of "news sharing."[87] The researchers constructed a database of transcripts from the local news broadcasts of 861 stations in all 210 U.S. television markets, encompassing a three-month period in the fall of 2019.[88] The authors "employed automated text reuse methods to measure the extent to which local broadcast station pairs duplicated (exact text reuse) each other's news content."[89] And their standard for duplication was very conservative. Duplication required "50% of the broadcast news content (excluding sports, weather and commercials) of a station pair" to be a match.[90]

The study first classified stations into those that "originated local news" and those that "only presented news," or so-called "non-originators," based on RTDNA's 2019 census.[91] The

[85] Shorenstein Center Study at 13 ("Seventeen percent of respondents stated that 'not much' of their content came from these sources, while 51 percent said their stations used only 'some' outside content. However, the 28 percent of stations relying 'quite a bit' on externally provided material and the 6 percent relying on it 'a lot' were typically part of a large ownership group.").

[86] *Id*. ("In contrast, only 26 percent of the Network Owned-and-Operated stations (O&Os) and 19 percent of independently owned stations claimed to rely 'quite a bit' or 'a lot' on outside-produced content.").

[87] Danilo Yanich & Benjamin E. Bagozzi, "Reusing the News: Duplication of Local Content," University of Delaware (May 2025) ("Yanich 2025 Study").

[88] *Id*. at 2. The authors chose a time window "before the COVID pandemic so that coverage was not affected by a single overwhelming story."

[89] *Id.*

[90] *Id*.

[91] *Id*. at 10.

data indicated that "three quarters of the stations (n=647) were originators with the remaining one quarter (n=214) being non-originators."[92] After a rigorous analysis of the database transcripts, the researchers found "96 duplicating station pairs involving 182 unique stations (some stations had multiple arrangements)." Over half of these duplicating station pairs (52%) were stations in a so-called "shared services agreement" ("SSA").[93] Though the prevalence of duplication was not linear with market size, overall the researchers found that "smaller DMAs had higher proportions of duplicating station pairs than did larger markets."[94] The prevalence of duplication was high, with the authors reporting that "across all station pairs, the average proportion of duplicated content was 69 percent, with a range of 51 to 96 percent."[95]

Notably, the authors found that "just four station groups controlled over half (53%) of the duplicating station pairs."[96] And the largest U.S. broadcast chain "Nexstar was the most active controller of duplicating station pairs (22%)."[97]

The study's authors ended their report with "the inescapable conclusion" that "ownership—or more accurately control—matters in the production of local television news. The

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[92] *Id.*

[93] For a history of the use and prevalence of SSAs and other operational arrangements that big chains have used to evade the local multiple ownership rules, *see* S. Derek Turner, Free Press "Cease to Resist: How the FCC's Failure to Enforce Its Rules Created a New Wave of Media Consolidation" (Mar. 2014).

[94] Yanich 2025 Study at 10, 25 ("The top 100 DMAs . . . accounted for 40 percent of the duplicating stations with the highest proportion in DMA Group 1 [markets 1-25] (14%) and lowest in DMA Group 4 [markets 76-100] (7%). However, the two DMA Groups that represent the smallest television markets (DMA Groups 5 [markets 101-150] and 6 [markets 151-210]) . . . accounted for 60 percent of the duplicating station pairs (28% and 32% for DMA Groups 5 and 6, respectively). Clearly, duplicating station pairs were a substantial feature in the smallest television markets across the country.").

[95] *Id*. at 26.

[96] *Id.* at 3.

[97] *Id.*

control of television stations that is derived from duopolies, service agreements, and common ownership often results in duplicated content that serves the calculus of the economies of scale. We should not be surprised by that finding, because the system is designed that way . . . . Text reuse—the duplication of the exact same material across news broadcasts—is a direct and unambiguous form of the achievement of economies of scale. The station group bears the cost of production of the story once and sells it to advertisers multiple times. As fewer station groups control more of the local television ecosystem, accomplishing that duplication becomes easier. And all the incentives for it are clear. Our analysis shows that those incentives are significantly utilized."[98]

We note that this study was conducted when the Commission's rule prohibiting top four-ranked duopolies was still in place. Though this rule was often routinely evaded by large conglomerates using SSAs and other operating agreements, not all national firms formed virtual duopolies or triopolies using these tactics. However, following the Eighth Circuit's vacatur of the top four-ranked duopoly rule in July 2025,[99] there is no longer even a weak case-by-case review barrier preventing these duopolies in every single DMA. The Commission now faces a deluge of license transfer applications that, if approved, will result in the formation of two top-four duopolies in numerous markets (see Section III below for further details). Thus, the near future for residents of many DMAs is one that will bring far more news duplication than even the level observed in the University of Delaware study.

And that's the *status quo*. If the Commission eliminates the remaining local multiple ownership rule, it will lead to local TV news monopolies all across the United States. Indeed, the

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[98] *Id*. at 57.

[99] *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828, 839–40 (8th Cir. 2025).

Commission has an application before it that would do precisely that in numerous markets.[100] Even if some markets do not become absolute local TV news monopolies, the reduction of the number of independent owners and increase in duplicating pairs will undoubtedly lead to a more homogenized local TV news market. Economic theory and empirical evidence suggests that in markets like local television, where prices are fixed (*i.e.*, there's no monetary difference incurred for watching one station versus another) and competition is limited (*i.e.*, unlike online, there are only a small number of firms in a given local TV market), firms will attempt to capture market share by moving closer to their competitors. But when there is a much larger number of available choices to consumers (in this case, viewers who pay primarily by sitting through ads), producers will be incentivized to differentiate.[101] Therefore, if the Commission is serious about promoting viewpoint diversity, particularly in light of the vacatur of the rule prohibiting top four-ranked duopolies, it should maintain the local multiple ownership rule and decline to grant any waivers of this rule that would result in the formation of local TV triopolies.

2. The Commission's Policies Have Failed to Promote Meaningful Increases in the Racial, Ethnic and Gender Diversity of Broadcast Licensees. Elimination of the Local Television Multiple Ownership Rule and Weakening or Elimination of the Local Radio Multiple Rule Will Further Undermine this Commission Objective.

Historically, women and members of racial and ethnic minority groups have been under-represented in broadcast ownership due to a host of factors—including the unfortunate fact many licenses were originally awarded decades ago when the nation lived under an official segregationist regime. The FCC, beginning with its *1978 Statement of Policy on Minority*

[100] *Media Bureau Establishes Pleading Cycle for Applications to Transfer Control of TEGNA Inc. to Nexstar Media Inc.*, MB Docket No. 25-331, Public Notice, DA 25-1000 (rel. Dec. 1, 2025).

[101] *Supra* note 72.

Ownership of Broadcasting Facilities, has repeatedly pledged to remedy this sorry history.[102] Congress also has recognized the poor state of diverse ownership. The Telecom Act of 1996 contains specific language aimed at increasing diversity and ownership of broadcast licenses and other important communications mediums by women and members of minority groups.[103] The provisions in Section 257 of the Act, for example, require the FCC to eliminate "market entry barriers for entrepreneurs and other small businesses" and to do so by "favoring diversity of media voices."[104] Section 309 directs the Commission to avoid "excessive concentration of licenses" by "disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women."[105]

[102] Federal Communications Commission, *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979, 980 n. 8 (1978).

[103] 47 U.S.C. §§ 257, 309(j).

[104] *Id.* § 257(a), (b). Section 257 is contained within Title II of the Communications Act and thus does not directly encompass broadcast services. However, the Commission has interpreted some aspects of the language of Section 257 to apply to broadcast licensing. In 1998, the Commission stated that "[w]hile telecommunications and information services are not defined by the 1996 Act to encompass broadcasting, Section 257(b) directs the Commission to 'promote the policies and purposes of this Act favoring diversity of media voices' in carrying out its responsibilities under Section 257 and, in its Policy Statement implementing Section 257, the Commission discussed market entry barriers in the mass media services." *See 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications Rules, and Processes – Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, MM Docket No. 98-43, Report and Order, 13 FCC Rcd 23056, 23099 (1998) ("*Form 323 Order*").

[105] 47 U.S.C. § 309(j)(3)(B).

The FCC initially appeared to take this mandate seriously.[106] But the last two decades or more of the agency's conduct and decisionmaking in this area ranged from outright inattention[107] to botched tallies,[108] then implementing fig-leaf policies that were never going to make any meaningful progress.[109] Unfortunately, the results demonstrate that the Commission has never made a serious and consistent effort to address this aspect of broadcast ownership diversity. Even more sadly, the Commission and current Chair seem bent on continuing to ignore these problems in this proceeding, instead of addressing them as Congress directed and as the Commission's longtime policy goals suggest.

When Free Press conducted the first ever comprehensive and accurate assessments of Form 323 data in 2006 and 2007, we found that people of color owned 3.3 percent of full-power commercial TV licenses and 7.7 percent of full-power commercial radio licenses, while women owned 5 percent and 6 percent of these licenses respectively.[110] As of 2023 (the latest period

[106] In 1997, the Commission completed a proceeding required by the Telecom Act of 1996, which identified barriers to entry for small businesses (interpreted to include minority- and women-owned entities), and set forth the agency's plan for eliminating these barriers. *See In the Matter of Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses*, GN Docket No. 96-113, Report, 12 FCC Rcd 16802 (1997). In 1998, the Commission further demonstrated its seriousness by taking a crucial first step to determine the actual state of ownership of broadcast radio and television stations by members of different demographic groups. *See Form 323 Order*, *supra* note 104.

[107] *See* S. Derek Turner and Mark N. Cooper, Free Press, "Out of The Picture 2007: Minority & Female TV Station Ownership in the United States Current Status, Comparative Statistical Analysis & the Effects of FCC Policy and Media Consolidation" (Oct. 2007) ("Out of the Picture"); S. Derek Turner, Free Press, "Off The Dial: Female and Minority Radio Station Ownership in the United States–How FCC Policy and Media Consolidation Diminished Diversity on the Public Airwaves–Review of Current Status and Comparative Statistical Analysis" (June 2007) ("Off The Dial").

[108] Out of the Picture at 8–11.

[109] *In the Matter of Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, MB Docket 17-289, Report and Order, 33 FCC Rcd 7911 (2018) ("*Radio Incubator Order*").

[110] *See* Out of the Picture and Off the Dial, *supra* note 107.

when FCC data is available) people of color owned 9 percent of full-power commercial TV licenses and 10 percent of full-power commercial radio licenses, while women owned 10 percent of each type of license.

While these increases indicate <u>some</u> progress, the country has become much more diverse during this period, yet these ownership levels remain wildly disproportionate to the population's overall diversity. The Eighth Circuit's vacatur and the Commission's push to eliminate the remaining ownership limits is making it exceedingly difficult for smaller owners to justify staying in this market, and smaller owners are disproportionately more likely to own one or a handful of FCC licensed stations instead of large station groups. Indeed, the largest Black-owned broadcast TV chain, Allen Media, announced in July it would put its full-power commercial TV stations up for sale,[111] later reaching a deal to sell ten of these stations to Gray Media.[112] Allen's sale to Gray would have not been permitted in six of those ten DMAs under the rule prohibiting top four-ranked duopolies and/or are not permitted under the remaining local multiple ownership rule.[113]

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[111] *See* Mark K. Miller, "Allen Media Group Retains Moelis To Sell Its TV Stations," *TV News Check* (June 2, 2025).

[112] *See* Mark K. Miller, "Gray Media To Purchase Allen Media Stations In 10 Markets," *TV News Check* (Aug. 8, 2025).

[113] In the Huntsville-Decatur (Florence) DMA, Allen Media is selling WAAY (ABC) to Gray Media, which currently owns that market's NBC and Telemundo affiliates. In the Montgomery DMA, Allen Media is selling WCOV (FOX) to Gray Media, which currently owns that market's NBC affiliate. WYIC (Cozi TV) and WALE-LD (Weather) are not included in the deal, though they share facilities with WCOV. In the Evansville DMA, Allen Media is selling WEVV (CBS, Fox, MyNetwork TV) to Gray Media, which currently owns the market's NBC affiliate. In the Ft. Wayne DMA, Allen Media is selling WFFT (FOX) to Gray Media, which currently owns the market's ABC and CW affiliates. In the Rockford, Illinois DMA, Allen Media is selling WREX (NBC) to Gray Media, which currently owns the market's CBS and CW affiliates. In the Paducah-Cape Girardeau-Harrisburg DMA, Allen Media is selling WSIL (ABC) and its full-time satellite KPOB to Gray Media, which currently owns the market's CBS and Telemundo affiliates.

Finally, though our comment focuses mostly on the local television market, the Commission's potential move to loosen or outright eliminate the local broadcast radio multiple ownership rule would also deal a devastating blow to radio ownership diversity. And doing so would directly undermine the Commission's only proactive ownership diversity policy, the 2018 Radio Incubator Rule.[114] That rule relied on the carrot of a waiver of the Commission's local radio multiple ownership rule. Without any rule left though, conglomerate radio owners would no longer need to bother incubating a small, socially disadvantaged business owner; they could simply buy up as many radio stations as they desire.

III. Vacatur of the Rule Prohibiting Top Four-Ranked Duopolies Rule Has Unleashed A Wave of Local Broadcast TV Market Consolidation That Will Radically Alter the Competition Dynamics in Local Markets, With Significant Impacts to Localism and Diversity. It is Premature to Further Alter these Market Dynamics by Eliminating the Local TV Multiple Ownership and Dual Network Rules.

As noted above, in July of 2025 the Eighth Circuit vacated the Commission's rule that prohibited companies from forming duopolies of top four-ranked stations in a DMA, unless a case-by-case review determined that a particular such combination was in the public interest.[115] The mandate for this vacatur went into effect on October 21, 2025.[116] Thus there is now no longer even a weak case-by-case review barrier preventing companies from forming these duopolies in every single DMA. The Commission now faces a deluge of license transfer

[114] *See Radio Incubator Order*, *supra* note 109 ¶¶ 11–12 ("[I]f an incumbent broadcaster successfully incubates a new, small entrant as part of the incubator program, it will be eligible to receive a waiver of the Local Radio Ownership Rule following the conclusion of the qualifying incubation relationship. . . . [F]or entities with already limited capital resources and operational experience, we conclude that radio is a significantly more accessible entry point into the broadcasting industry than television.").

[115] *Zimmer v. FCC*, 145 F.4th at 839–40.

[116] *See Media Bureau Establishes Pleading Cycle for Three Sets of Assignment Applications to Gray Television Licensee, LLC, From Subsidiaries of (1) Sagamorehill Broadcasting II, LLC; (2) Block Communications, Inc.; and (3) Allen Media, LLC*, Public Notice, DA 25-876 (rel. Sept. 22, 2025).

applications that, if approved, will result in the formation of two top-four duopolies in numerous markets. Nexstar, Gray, Sinclair, and E.W. Scripps have each reached agreements to acquire licenses that will form multiple top four-ranked duopolies, with some markets set to see the formation of triopolies and quadopolies. Sinclair is acquiring the licenses to several stations it already operates, and for which it owns the non-license assets, now that it no longer needs to maintain the farce that its sidecar subsidiaries are completely autonomous entities.

Though there's no rule stopping the formation of these top four-ranked duopolies, the formation of triopolies and quadopolies remains prohibited, and each of these will require the Commission to waive its Local Broadcast Television Multiple Ownership Rule. Given the statements of the current Chairman,[117] we fully expect the Commission to grant every waiver request, evidence and arguments be damned. But given that the Commission on paper maintains its commitments to promoting competition, localism, and diversity, it would be capricious for it to rush to eliminate the remaining local multiple ownership rule, as well as the Dual Network Rule.[118] The consolidation begotten by vacatur of the top four-ranked duopoly rule will drastically alter local market competition, as the top conglomerates race to form pairs of top four duopolies.

This pending next wave of consolidation will have a substantial impact on localism and diversity. It is therefore premature for the Commission to further alter these market dynamics by

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[117] *Supra* note 18.

[118] It is unfathomable that the Commission would even entertain the prospect of eliminating the Dual Network Rule. None of the parent companies of the ABC, CBS, FOX or NBC national networks have indicated they desire such a rule change, and any such mergers would constitute a blatant violation of the Clayton Act. From the local affiliates' perspective, such combinations would put them in a highly disadvantaged position relative to where they are today, especially given that 2026 is set to be one of the biggest years in recent history in terms of the number of local affiliate agreements up for renewal. *See* Peter Leitzinger, "Broadcast affiliate database: 2026 setting up to be a big year for renewals," S&P Global Market Intelligence (Nov. 5, 2025).

making any further changes in this current Quadrennial Review. This is also especially true given the likelihood that this Commission will attempt to unlawfully modify, eliminate, or waive the National Multiple Ownership Rule ("national cap"), in a proceeding that is currently under way.[119] The responsible and reasonable course of action for the Commission would be to maintain the remaining ownership rules (and deny all requests for waivers of those rules) while it studies the impact of the elimination of the top four-ranked duopoly rule and awaits the eventual court decision on any decision to alter the national cap. We fully expect that any appeal of a national cap change attempted by the Commission alone will remind the agency that Congress took away its authority to modify, eliminate, or waive the 39 percent reach value Congress established. The next statutorily required Quadrennial Review is slated for 2026, and that proceeding would be a better venue to address the supposed need for, and the actual recklessness of, further media ownership deregulation.

IV. Broadcast Television Companies Are in Great Financial Health and Further Consolidation Is Not Necessary to Preserve or Promote Local TV News.

The subtext of the *Notice*'s questions around the potential elimination of the remaining local broadcast ownership rules is largely an economic pleading: that complete removal of ownership limitations—including the national cap at issue in a different docket but excluded by Congress from consideration in the Quadrennial Review—is necessary to preserve localism, because without further consolidation the local news business becomes uneconomical.[120] But the evidence strongly suggests a different conclusion.[121] Despite massive change in the overall

[119] *Media Bureau Seeks to Refresh the Record in the National Television Multiple Ownership Rule Proceeding*, MB Docket No. 17-318, Public Notice, DA 25-530 (rel. June 18, 2025).

[120] *See generally Notice* ¶¶ 24–31.

[121] For a detailed review of the local broadcast TV industry's financial performance and future prospects, *see* Free Press National Cap Comments at 52–91.

information markets in the internet era, broadcast TV stations are doing well financially. FCC policies that promote competition, diversity, and localism by preventing broadcast monopolies are not—and have never been—in conflict with the economic necessities of this for-profit industry.

Unlike the local newspaper industry, or even the online content industries, the local broadcast TV industry is thriving financially. The industry's total inflation-adjusted revenues during 2024 were nearly 60 percent higher than their "Great Recession" lows in 2009.[122] This economic recovery, which took place during the era of an online video content boom, was largely due to massive increases in revenues from retransmission consent payments and political advertising.[123] If we compare two national election years (2008 and 2024) we see a remarkable inflation-adjusted increase in retrans revenues of nearly 2,000 percent.[124] While the outsized inflation following the pandemic slowed this meteoric rise, this only appears to be a lull. A recent forecast by S&P Global suggests retrans revenues (which include carriage payments made not only by traditional cable and satellite pay-TV but also by virtual MVPD distributors to local TV stations) will rise at a compound annual growth rate of 2.2 percent between 2025 and 2030.[125] Though not the exponential growth of the late-aughts to early 2010s, this expected growth is above the Federal Reserve's two-percent inflation target.

The fact is that while under the national ownership cap as well as the local ownership rules at issue here, broadcast TV firms have in many cases outperformed the broader market and

[122] *Id.* at 73, Figure 5.

[123] Inflation-adjusted political ad revenues for the U.S. local TV industry increased 437 percent between 2009 and 2024. *See, e.g.*, Justin Nielson, "Complete picture of US TV station industry revenues, 2009–2030," *S&P Global Market Intelligence* (July 29, 2025) ("S&P Global Complete picture").

[124] Free Press National Cap Comments at 74, Figure 6.

[125] S&P Global Complete picture, *supra* note 123.

other advertising-supported companies on metrics like return on capital, profit margins, and stock price.[126] This historical financial performance shows that these caps are not a barrier to continued financial prosperity. That is especially true looking ahead, as local TV companies have many new revenue-generating opportunities to pursue outside of national and local consolidation.[127] Broadcast TV executives have told Wall Street analysts and their own investors to expect continued healthy local advertising and retransmission consent payment growth thanks to strong viewer demand for live sports and local news.[128] And broadcasters expect the new ATSC 3.0 transmission technology to further enhance their bottom line.[129]

In short, there's simply no legitimate financial or economic rationale for elimination of the remaining local ownership rules. Local broadcast television news firms are now permitted to form top four duopolies. Allowing them to acquire even more in-market stations will only increase their market power and their ability to extract monopoly rents from advertisers and pay-TV distributors, all while lessening localism, diversity, and competition that benefits local viewers and community members writ large.

V. Conclusion

For the foregoing reasons, the Commission should retain—and not modify—the local TV multiple ownership rule, the dual network rule, and the radio ownership rules. Rushing towards more consolidation is counter to the public interest, and will cause further harm to broadcast competition, localism, and diversity.

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[126] Free Press National Cap Comments at 77–85.

[127] *Id*. at 88–93.

[128] *Id.* at 88–91.

[129] *Id*. at 92.

Respectfully Submitted,

S. Derek Turner
Matthew F. Wood
Free Press
1025 Connecticut Avenue, NW
Suite 1110
Washington, DC 20036
202-265-1490

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