S. Hrg. 119–498

WE INTERRUPT THIS PROGRAM: MEDIA OWNERSHIP IN THE DIGITAL AGE

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED NINETEENTH CONGRESS

SECOND SESSION

FEBRUARY 10, 2026

Printed for the use of the Committee on Commerce, Science, and Transportation

Available online: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

64–348 PDF WASHINGTON : 2026

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINETEENTH CONGRESS

SECOND SESSION

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WE INTERRUPT THIS PROGRAM: MEDIA OWNERSHIP IN THE DIGITAL AGE

TUESDAY, FEBRUARY 10, 2026

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:20 a.m., in room SR–253, Russell Senate Office Building, Hon. Ted Cruz, Chairman of the Committee, presiding.

Present: Senators Cruz [presiding], Fischer, Moran, Young, Moreno, Capito, Cantwell, Klobuchar, Markey, Rosen, Luján, and Kim.

OPENING STATEMENT OF HON. TED CRUZ, U.S. SENATOR FROM TEXAS

The CHAIRMAN. Good morning. We interrupt this program for a Senate Commerce Committee hearing on media ownership in the digital age.

For over a century, broadcast media stood at the epicenter of America historical and cultural life. It brought the Nation classics like "I Love Lucy" and shaped the music landscape with Elvis or The Beatles on "The Ed Sullivan Show." Twitter being what it is, I watched The Beatles on "The Ed Sullivan Show" yesterday, and, wow, they were young. It showed Americans the realities of war, the wonder of the Apollo 11 moon landing, and the defining political moments of their time, from the Nixon-JFK debate to President Reagan's clarion call to "tear down this wall." Through these shared viewing experiences, broadcasters helped to embed iconic moments in the collective American consciousness.

The media's power to frame events and shape public perception is substantial. So, it is understandable why Congress placed limits on broadcast media ownership intended to prevent a monopoly on programming and viewpoints. Indeed, for much of the last century, holding a broadcast license was often called a license to print money. With limited competition, station owners commanded massive audiences and steady profits, but that era has passed. Cable and satellite ushered in 24/7 news, while the Internet and mobile technologies unleashed a wave of streaming services, news and entertainment sites, and social media flooding Americans' screens with endless content and fragmenting what were previously universal audiences.

Today, broadcasters are fighting to stay competitive against media and tech company with national and often global reach. This raises an important question: are longstanding broadcast media ownership rules still relevant in the digital age, and if so, to what extent? In recent years some of these rules have been rolled back or eliminated. Whether more reform is needed or if today's status quo remains sound policy is what we will explore today.

In the Telecommunications Act of 1996, Congress anticipated the rise of today's competitive market by directing the FCC to periodically review its broadcast ownership rules with an eye toward deregulation. That's what statute says right now. Every 4 years, the FCC was to decide whether to repeal or modify any regulation that no longer served the public interest. One rule, however, was deliberately set out: the national TV audience reach cap. In 2004, Congress specifically directed the FCC to set this cap at 39 percent of U.S. television households, and it has remained at the same level for 22 years.

Now, as several major mergers loom, the FCC is considering lifting or eliminating this cap. Some argue that lifting the cap will allow broadcasters to scale, to invest more in local news outlets across the country, and to better compete with deep-pocketed tech companies. Others say lifting the cap will consolidate viewpoints and hand control over to newsrooms in New York and Hollywood, choking out local views, but more fundamental than the optimal policy is the law. It may be the case that the FCC cannot modify the 39-percent cap because Congress set that number in statute. I look forward to hearing these perspectives and more today.

If there's one thing that's clear, it's this: current media ownership rules were written in a vastly different technological age. The days when broadcasters built a uniform global village across America's living rooms is over as media has splintered into thousands of websites, TikTok accounts, podcasts, and other form of content, each catering to its own niche audience. Yet even in this fragmented landscape, the media's ability to shape national discourse remains incredibly powerful, making questions about market concentration as important as ever. This hearing is designed to inform Congress in answering these questions: should Congress revisit underlying statutes, and does the FCC have appropriate authority or flexibility to address today's evolving media landscape? I'm grateful to our witnesses for being here today to help us in this effort, and I now turn to Ranking Member Cantwell.

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Mr. Chairman, and thank you for calling the hearing and the witnesses to be here today. This is a subject that, generally, I would say I care a lot about, and I do think that today we'll get into a pretty big debate about the amount of digital content now in advertising and controlling that market. I also think we'll hear a lot about why it's not a good idea for consumers to have so much content behind paywalls and them not being able to access it. I think the first two witnesses will agree on that. I'm not sure they're going to agree on other things, but they are going to agree there.

This past Sunday, more than 100 million Americans watched the Super Bowl. Obviously, I'm very happy about my state of Washington and the Seattle Seahawks bringing home a second Lombardi Trophy. Right now millions——

The CHAIRMAN. On the over-under on whether you'd make it a minute before saying that. I had it—I had the under.

[Laughter.]

The CHAIRMAN. Congratulations.

[Laughter.]

Senator CANTWELL. Thank you.

Senator KLOBUCHAR. And you did it with the former Vikings quarterback to add to our pain. To add to our pain.

[Laughter.]

Senator CANTWELL. I want to say there was a lot of people helping the Seahawks——

[Laughter.]

Senator CANTWELL.—a lot of Texans, a lot of—great job by your former quarterback, yes.

So, but right now, millions are also turning to the Olympics and watching that, and this brings communities together, this brings fans together, it brings our country together. But, Mr. Chairman, as the media landscapes become more fragmented every year, those shared experiences are becoming rarer. And as I said earlier, my concern about how much is being eaten up by tech companies in the broadcast model and how much is being put behind a paywall is very concerning.

That is why several years ago, as Ranking Member of the Committee, we put out a Local Journalism Report, basically, America's most trusted news source, and that is why my focus is what are we going to do to help keep that? From the report, it says modern economic literature views this through the lens of, "information economics" or asymmetrical information, which is now recognized as the basic tenet of economics. Basically, what we're saying is if you don't have a lot of competition on information, you're not going to get perfect information. You're going to get distorted information. So, as the report says, in terms of economists across the political spectrum agree that increased reporting on local conditions leads to fairer prices for goods, a decline in local journalism, and ensuring decreases in available information result in market inefficiencies. So, today I'm here to fight for local journalism.

If the Nexstar-TEGNA deal goes through, a single company will control 265 stations, capable of reaching 80 percent of all the television households, more than double the current cap. And for nearly half of their audience, 100 million people, Nexstar would own two or more stations in a media market. Now, that concerns me. To me, that is not more local voices, that is fewer, so I want to see how we are going to deal with this kind of situation. We've invited Mr. Waldman, who in his testimony says that roughly 40 local journalists for every 100,000 Americans. Today, that number is eight. That was in 2002. That number is now down to eight.

So, the decline is not just limited to small outlets. Just this week, we saw a massive layoff at *The Washington Post.* This includes cutting over half the journalists covering local D.C. news. So, if flagship national institutions are struggling, imagine the pressure on small local stations and newspapers, so creating, in my opinion, the need for more stability and accountability, not less competition. So, the important thing that we are here today to talk about is that local news is quite literally, in my opinion, the seed—corn seed, if you will, for AI. You can't have perfect information if journalists aren't creating it, but yet we know that AI is consolidating that data and all of that information. And if before they weren't compensating for that, now they certainly are perpetrating a business model that will make that even less clear.

Mr. Waldman describes we are in a vicious cycle. Less local news makes AI less accurate, and it makes local news less viable, so we have to fix this. So, that is why I introduced the bipartisan COPIED Act with Senator Blackburn to stop AI companies from using journalist content without their consent, why we support—and Mr. Waldman and I were just discussing—tax credit where states are using tax credits for local journalism as we have proposed. And AI companies should want a format where you are creating content and that that content is accurate and competitive in a nature that makes U.S. stack AI information more accurate than other countries. That, to me, seems the goal.

So, changes to the cap do not address the real structural problem, and they risk reducing the diversity of local voices without solving the underlying problems of economics. So, I look forward to hearing from our witnesses about the solutions that will help us grow local journalism for the future. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Now I'd like to introduce our witnesses for today. Our first witness is my friend Chris Ruddy, Chief Executive Officer of Newsmax, an American conservative news media organization. Our second witness is Curtis LeGeyt, President and Chief Executive Officer of the National Association of Broadcasters, where he advocates on behalf of America's television and radio broadcasters. Our third witness is Thomas Johnson, Partner and Co-Chair of the Issues and Appeals Practice at Wiley Rein LLP. He previously served as General Counsel at the Federal Communications Commission. Our final witness is Steve Waldman, Founder and President of Rebuild Local News, a nonprofit focused on vitalizing local news across America.

Mr. Ruddy, we'll start with you.

STATEMENT OF CHRIS RUDDY, CHIEF EXECUTIVE OFFICER, NEWSMAX MEDIA

Mr. RUDDY. Mr. Chairman, Ranking Member Cantwell, and the members of the Committee, my name is Chris Ruddy. I'm the CEO of Newsmax Media. Thank you for inviting me to testify about the important issue of broadcast media ownership.

Newsmax reaches more than 50 million Americans regularly. We're a significant player in cable TV with the Nation's fourth highest rated cable news channel. Forbes has described us as a "news powerhouse." Our success is remarkable because the regulatory framework of the FCC favors media conglomerates and effectively blocks independent voices both from the right and the left. There are 50 top cable channels in America. Newsmax is the only one operated by an independent media company. Every other channel is owned or created by a conglomerate. Newsmax's success proves the system is broken and that this poses risks to competition, consumers, and even our democracy. We need more independent media. We need more competition, not less.

Newsmax does not hold any broadcast licenses, but we are directly affected by TV consolidation. Large station groups hold enormous leverage over paid TV operators through retransmission fees, better known as retrans fees. These station groups can dictate prices and even determine what networks cable operators must carry. Nexstar provides a clear example. It owns about 200 stations today, many ABC-, CBS-, and NBC-affiliated ones. If cable operators want to carry those stations, they have to pay Nexstar very high retrans fees. If they refuse, Nexstar can pull the plug, go dark, leaving viewers without the programming. Nexstar also insists that operators carry its cable channel, NewsNation. Last year, Newsmax delivered 5 times the rating of NewsNation, yet operators were forced not only to carry NewsNation, but to pay license fees higher than that paid to Newsmax.

Clearly, Nexstar's market leverage—you talked, Senator Cantwell, about the 80-percent reach they have—suppresses competition and harms consumers. The national television ownership cap was meant to protect against such abuses. In 1996, Congress established this cap into law, and, later, the cap was moved up to 39 percent. Only Congress may change the cap. Nevertheless, the FCC subverted the law by using the so-called UHF discount. Today, UFA—UHF stations reach a hundred percent of households, and no discount should be applied. Yet Nexstar used the discount to acquire Tribune and expand its national reach to 70 percent of U.S. households a few years ago, way above the 39-percent cap. They're not satisfied with that, and now they want 80-percent reach, and the industry—broadcast industry wants to replicate Nexstar's model in the pursuit of power and money to the detriment of the public interest.

President Reagan first adopted the cap because it was dangerous to allow big networks to own stations in every market across the country. At that time, he set it at 25 percent, but since then, a bipartisan consensus developed that the public is best served by limiting TV ownership and preserving competition. This is why so many from both the left and the right oppose lifting the cap. CPAC, the National Religious Broadcasters, OAN, ZOA, and others have urged the FCC and Congress to keep the cap at 39 percent.

Local TV is critical in providing community news. With the collapse of newspapers, television stands alone as the primary source of local reporting. Big Tech does hardly any local news reporting. The TVB, Pew, and Knight studies all found that local broadcast news is the number one source for Americans seeking local news. Raising the cap means that two or three corporations will eventually own most stations in the Nation and control almost all local news. This is why consolidation and the Nexstar deal is so dangerous.

Consolidation is also about big money. Today, a broadcast license, as the senator said, is a license to mint money. It's still true. Owning more licenses means more leverage over cable operators, more retrans fees, and bigger profits. We know that station groups cut costs by consolidating newsrooms and they—and reduced competition at the local level allows them to raise advertising rates.

Retrans fees are significant, and they account for more than 50 percent of broadcast revenues. Since 2010, retrans fees have risen more than 2,000 percent. Two thousand percent. If milk prices had risen at the same rate, a half a gallon of milk today would cost almost $40.

Consolidation has been unbelievably profitable for Nexstar. Its EBITDA grew from $300 million in 2015 to close to $2 billion in 2024, almost a 500-percent increase. Sinclair, Scripps, and TEGNA show similarly strong profits. It is undeniable the FCC has already given Nexstar an excessive concentration of broadcast licenses. Now they want even more? The next year—the Nexstar deal works for Wall Street, but it doesn't work for Main Street. We see this as consumers pay for consolidation as their cable bills skyrocket. The affordability crisis, this is a contributor. National and local consolidation is not good. Just look at radio consolidation which the FCC and Congress passed in the—supported in the past.

Today, three companies control all major radio licenses, they've gutted local program, and they're all in financial trouble. I am told the FCC is racing to approve the Nexstar deal and will attempt to bypass the public process with a stealth approval at the bureau level. I urge Congress to insist that that consolidation decisions of this importance be voted on by the full Commission, not by bureaucrats in secret. The TV industry is too important to be handed over to a small number of conglomerates. Congress set the cap. Only Congress should change it after careful review. Newsmax stands ready to participate in that process. Thank you.

[The prepared statement of Mr. Ruddy follows:]

PREPARED STATEMENT OF CHRIS RUDDY, CHIEF EXECUTIVE OFFICER, NEWSMAX MEDIA

Mr. Chairman, Ranking Member Cantwell, and Members of the Committee:

My name is Chris Ruddy. I am the founder and Chief Executive Officer of Newsmax Media, Inc. Thank you for inviting me to testify today on the important issue of broadcast media ownership.

Newsmax reaches more than 50 million Americans on a regular basis through our television channels, websites, social media, and other platforms. *Forbes* has described Newsmax as a "news powerhouse," and the Reuters Institute recently ranked Newsmax among the top 12 news brands in the United States.

We have also become a significant—and to many, surprising—player in cable television. When we launched the Newsmax cable channel in 2014, few predicted our success, and many predicted our failure.

Yet today, I appear before you as the CEO of the Nation's fourth-highest-rated cable news channel. In 2025, Newsmax ranked # 7 among all cable channels, according to Nielsen.

Our success is remarkable precisely because the current regulatory framework at the FCC and across the Federal Government overwhelmingly favors large media conglomerates and effectively blocks independent media voices—whether from the right or the left.

Of the top 50 cable channels, Newsmax is the only one that is owned and operated by an independent media company. Every other channel in the top 50 is owned by, created by, or affiliated with a major media conglomerate or broadcast network.

Think about that. In the greatest country in the world, there is only one independently owned media company in the top 50 cable channels—and that company is Newsmax.

Newsmax's singular success does not prove the system works. It proves the system is broken—and that this broken system poses serious risks to free enterprise, competition, and ultimately our democracy.

Newsmax owns a cable network and does not hold any broadcast television licenses. Yet we are directly affected by broadcast ownership consolidation because large station groups wield enormous leverage over cable and pay-TV operators through retransmission consent fees—commonly known as retrans fees. These station groups have the power to dictate what cable channels are carried on cable systems.

We see this clearly with Nexstar, which owns an enormous number of ABC, CBS, and NBC stations. If cable operators want access to those local stations, they must pay Nexstar high retrans fees. If they refuse, Nexstar can—and does—pull its stations, leaving viewers in the dark.

Nexstar also insists that cable operators carry its little-watched cable news channel, NewsNation. Last year, Newsmax delivered at least five times the ratings of NewsNation, yet cable operators were forced not only to carry NewsNation, but to pay license fees significantly higher than those paid to Newsmax.

We hear a great deal about the free market. But this is not the free market. This is market leverage and manipulation used to harm consumers and suppress competition—specifically competition from independent voices like Newsmax.

The Committee is now reviewing the national television ownership cap, a rule that remains one of the last meaningful protections for competition and diversity in the broadcast and cable ecosystem.

Congress established the national ownership cap in Section 202(c)(1)(B) of the Telecommunications Act of 1996. When the FCC later attempted to raise that cap, Congress responded decisively. In the Consolidated Appropriations Act of 2004, Congress set the cap at 39 percent and explicitly stripped the FCC of any authority to alter the cap. Only Congress—not the FCC—has the authority to change it.[i] [ii]

Nevertheless, the FCC subverted congressional intent by reviving the so-called UHF discount, claiming UHF stations reach only half the households in a market. In reality, UHF stations today reach 100 percent of households.

This regulatory sleight of hand allowed Nexstar, in 2019, to acquire Tribune Media's stations and expand its national reach to approximately 70 percent of the U.S. television market—in clear violation of the law.

The broadcast industry has watched Nexstar's success and now seeks to replicate it in a relentless pursuit of power and profit, to the detriment of the public interest.

The national ownership cap was first instituted at the FCC under President Ronald Reagan, who understood the danger of allowing major networks—ABC, CBS, and NBC—to own stations in every market. At that time, the cap was set at 25 percent.

Over the years, under pressure from the broadcast industry—not the public—the cap was gradually raised to 39 percent, where it remains today.

President Reagan intuitively understood that if major networks controlled stations in every market—especially in swing states—they could easily influence political outcomes. That would not be good for the country, and it certainly would not be good for Republicans.

Over time, Democrats and Republicans alike reached a bipartisan consensus that the public interest is best served by limiting national ownership and preserving competitive, locally owned television markets.

That principle remains valid today. Despite the rise of Big Tech and other media platforms, local television stations continue to play a critical role in providing community news.

With the collapse of local newspapers and the gutting of local radio due to prior consolidation, television now stands largely alone as the primary source of local news.

Multiple studies confirm this reality:

- A TVB study found that local broadcast news is the number-one source of news overall, with 9 out of 10 Americans watching at least once a week.
- A Knight Foundation study reached the same conclusion.
- A Pew Research study found that 66 percent of Americans closely follow local television news.

Some argue that Big Tech fills the local news void. It does not. Big Tech does not generally produce original local reporting. Most of the local news stories appearing in my online news feeds originate with local television stations.

When you raise the national ownership cap, you are effectively saying that two or three corporations should eventually own most or all television stations in America—and by extension, control local news. That is what consolidation truly means.

Lifting the cap is also about big money.

[i] *https://acrobat.adobe.com/id/urn:aaid:sc:US:ae417844-f51a-4992-a4f8-4f84f51347c5*
[ii] *https://www.fcc.gov/ecfs/document/1103066222175/1*

No one on Main Street walks up to a Senator and says, "Please lift the cap so ABC can make a few more billion dollars this year."

Make no mistake: a single broadcast television license is a license to mint money. Even today, stations can be enormously valuable without airing much programming at all, because businesses will pay fortunes simply to acquire the license.

It is understandable that license holders want to own more licenses. More licenses mean more leverage, more retrans fees, and higher profits.

By cutting costs—especially local news operations—and syndicating programming across multiple markets, large station groups can further boost profits. Less competition also allows them to raise advertising rates, both locally and nationally.

Then there is the real windfall: retransmission fees. Today, retrans fees account for more than 50 percent of broadcast television revenues on average, and for some large groups, as much as 70 percent.

The more highly-rated network affiliates a company owns, the more leverage it has to demand higher retrans fees from cable operators.

Nexstar is again instructive. In 2010, it was a modest Texas-based station group. After the FCC opened the door to consolidation through waivers and the UHF discount, Nexstar embarked on a massive acquisition spree. Today, it owns over 200 stations across 116 markets.

Since 2010, retrans fees across the television industry have risen by over 2,000 percent. If the price of a gallon of milk had increased at the same rate, it would cost more than $69 today.

This consolidation has been extraordinarily profitable. In 2015, Nexstar reported EBITDA of $302 million. By 2024, EBITDA had grown to $1.8 billion—an increase of nearly 500 percent.[iii]

Despite frequent claims of financial distress, major broadcasters' financial results tell a different story. Sinclair, Scripps, and Tegna have all recorded double-digit profit gains over the past decade and all show healthy EBITDA profits.[iv]

I have no personal animus toward Nexstar or other broadcasters. Nexstar's CEO, Perry Sook, is clearly a talented businessman who has delivered strong returns for shareholders.

My concern is that the FCC has allowed an excessive concentration of media power over a limited number of public broadcast licenses—licenses that are supposed to be operated in the public interest, with an emphasis on competition, localism, and diversity of viewpoints.

By failing to uphold its mandate and by ignoring clear congressional law, the FCC has harmed consumers and the public.

Cable bills have risen by approximately 100 percent over the past decade, driven largely by soaring retrans fees and forced bundling. If the FCC continues to undermine the law, consumers will pay the price.

You will hear claims that broadcasters are suffering and need relief through consolidation. The truth is that these companies are quite profitable—but they took on massive debt betting that the cap would be eliminated.

Now, as they refinance that debt at higher interest rates, they seek regulatory relief to protect their margins.

We have seen this movie before with radio consolidation following the Telecommunications Act of 1996. Today, three conglomerates control most major radio licenses, local programming has been hollowed out, and those companies are burdened by unsustainable debt.

The television industry's messaging has become extreme—claiming consolidation somehow saves local news by cutting it, branding critics as radicals, and insisting that allowing two or three companies to own most stations is "deregulation" and "competition."

We know that after Nexstar merged with Tribune, profits surged while employment dropped from 16,193 employees to 12,142—a 25 percent decrease—in just one year. In 14 markets, Nexstar now operates two highly rated stations but has combined their local newsrooms to cut costs.

In its proposed merger with Tegna, Nexstar projects more than $300 million in immediate cost savings, including $135 million from increased retrans fees and $165 million from local station savings—typically that's achieved through newsroom consolidation.

I am a common-sense conservative and a believer in free markets. But when the government grants a limited number of licenses in every market that marketplace is a closed one. That's why the public has a right—and a duty—to ensure those licenses serve the public interest.

Newsmax is not alone. CPAC and the National Religious Broadcasters have both filed objections with the FCC, warning that lifting the cap would harm consumers and suppress diversity of viewpoints.

It is a mistake for conservatives to claim allegiance to free markets while endorsing consolidation that destroys competition, stifles innovation, and drives consumer prices higher.

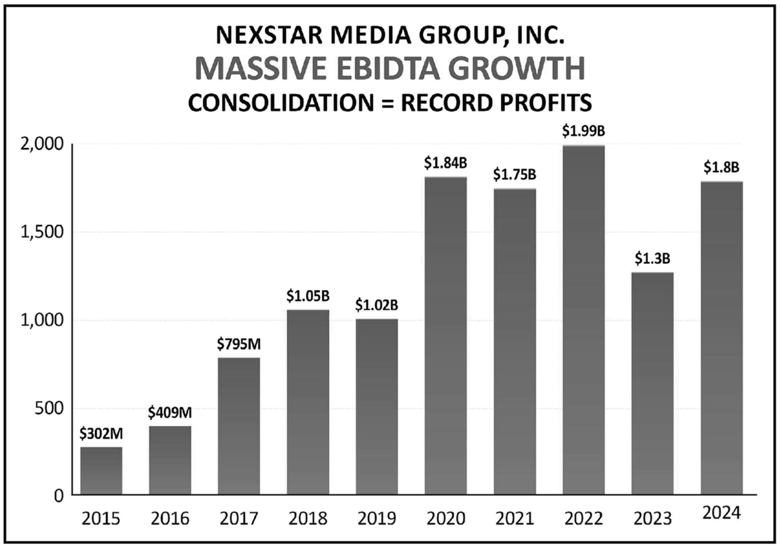
Just last week, the Senate Judiciary Committee—Republicans and Democrats alike—recognized that allowing Netflix to merge with Warner Bros. would stifle competition and harm consumers.

There is room for reasonable accommodation: targeted waivers, limited consolidation in small markets, and a review of whether TV affiliates are receiving fair retrans fees from the big networks.

But Congress should insist that any decisions on consolidation or cap waivers be voted on by the full Commission, not quietly approved at the bureau level.

Let me be absolutely clear: the television industry is far too valuable to be handed over to a small number of conglomerates that are unaccountable to the public.

Congress set the cap. Only Congress should change it—after careful review. Newsmax stands ready to participate constructively in that process.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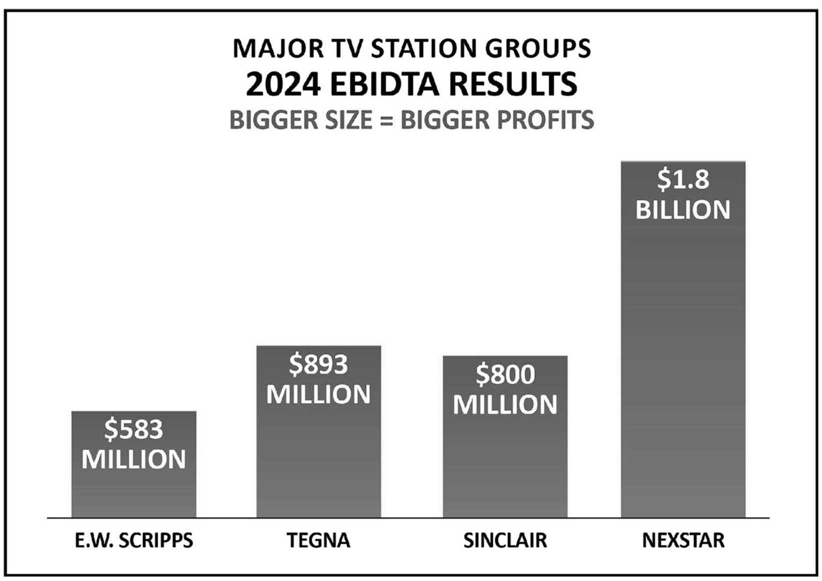
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$800 MILLION
$1.8 BILLION
E.W. SCRIPPS
TEGNA
SINCLAIR
NEXSTAR

Local TV News Critical for Conservatives
Keep TV Ownership Cap, Protect Against Big Networks

FACT SHEET

TVB Study:

- Local broadcast TV news is **the #1 source for news**, not only for local news, but for all news in general.
- **9 out of 10 watch local broadcast TV** news at least once a week with most of these watching daily.
- Local broadcast TV assets are the **most trusted news source among all platforms** measured. Social media is the least trusted.

Knight Foundation Study:

- TV News local affiliates is **the #1 source for local news for Americans** [broadcast news affiliates (33%), local radio (15%), and local newspapers (14%) digital media (13%)]
- **Republicans** are more likely to **trust local news (29%) t**o national news (5%).
- More voters use local news to make informed **voting decisions (44%)** than those who use national sources (22%)

Pew Study 2024:

- **66% of Americans watch local news** closely or very closely.
- **85% view local news** outlets as "at least somewhat important" to their community's well-being.

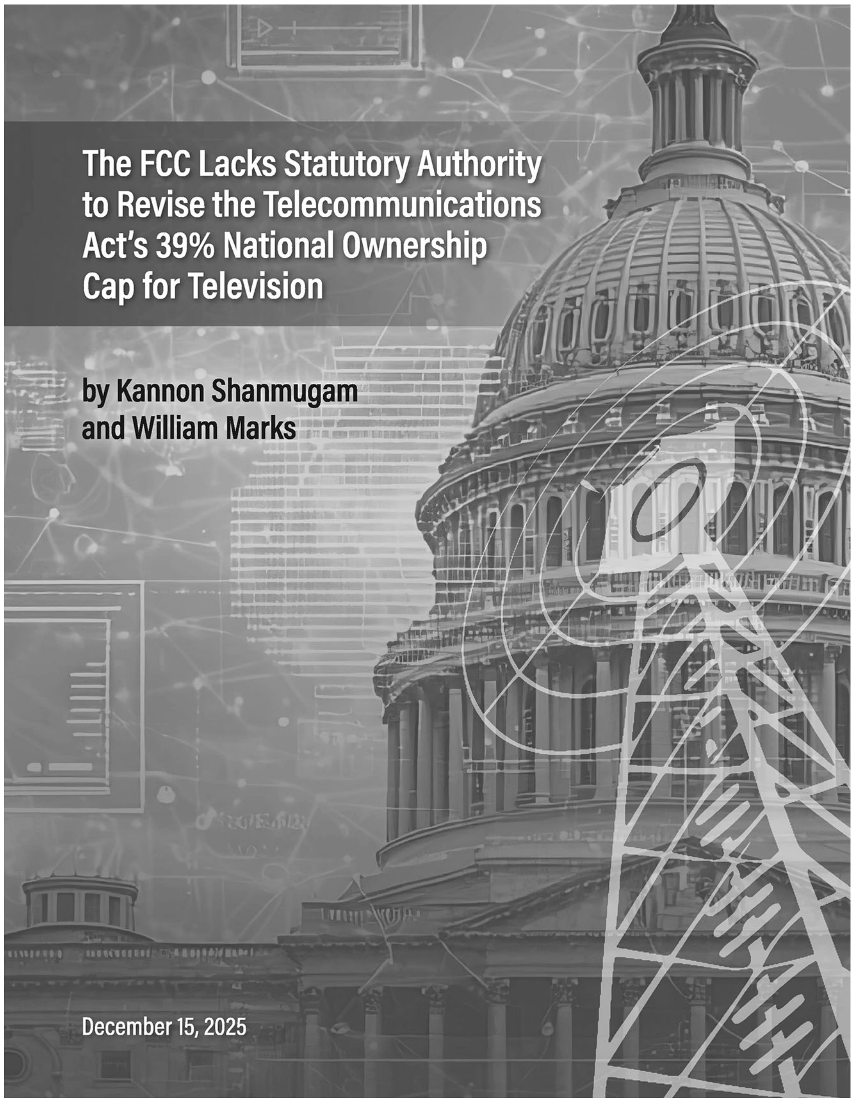
See Sources:

https://www.tvb.org/research-measurement-analytics/research/2024-local-broadcast-tv-news-study/

https://www.pewresearch.org/journalism/2024/05/07/attention-to-local-news/

https://www.pewresearch.org/journalism/2024/05/07/americans-changing-relationship-with-local-news/

https://knightfoundation.org/articles/local-news-most-trusted-in-keeping-americans-informed-about-their-communities/


The FCC Lacks Statutory Authority to Revise the Telecommunications Act's 39% National Ownership Cap for Television
by Kannon Shanmugam and William Marks
December 15, 2025

The FCC Lacks Statutory Authority to Revise the Telecommunications Act's 39% National Ownership Cap for Television

by Kannon Shanmugam and William Marks[1]

1 Kannon Shanmugam is chair of the Supreme Court & Appellate Litigation Practice at Paul, Weiss, Rifkind, Wharton & Garrison LLP. He served as Assistant to the Solicitor General of the United States from 2004 to 2008 and as a law clerk to Supreme Court Justice Antonin Scalia. William Marks is a partner in the Supreme Court & Appellate Litigation Practice at Paul, Weiss, Rifkind, Wharton & Garrison LLP. The authors gratefully acknowledge the support of several media entities and trade associations in developing this legal analysis, including State Cable & Broadband Associations of Colorado, Florida, Indiana, Louisiana, Michigan, Minnesota, New England, Pennsylvania, Virginia, and Washington; Newsmax TV; The American Television Alliance (whose members include ACA Connects, DIRECTV, DISH Network, and Optimum); and NTCA–The Rural Broadband Association. All views expressed in this paper are our own.

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I. Introduction

The Federal Communications Commission (FCC) is considering whether to raise or eliminate the National Television Multiple Ownership Rule.[2] Congress initially mandated the rule in the Telecommunications Act of 1996, as amended by the Consolidated Appropriations Act of 2004. The Act now provides that the FCC "shall modify its rules for multiple ownership" to ensure that no single entity owns television stations reaching more than 39% of households in the United States.[3] Consistent with that statutory directive, the FCC's current rule provides that "[n]o license for a commercial television broadcast station shall be granted, transferred or assigned to any party" if doing so would result in an entity having "an aggregate national audience reach exceeding thirty-nine (39) percent."[4]

> "We conclude in this paper that the FCC lacks authority to revise, eliminate, or waive the 39% cap."

Various stakeholders have made serious policy arguments about why the FCC should or should not revise, eliminate, or waive the 39% cap. But there is a threshold legal question: whether the FCC has the legal authority to do so. We take no position on whether revising or eliminating the 39% cap is good or bad policy. We consider only whether the Telecommunications Act of 1996, as amended in 2004, deprives the FCC of authority to modify the 39% cap set by Congress.

We conclude in this paper that the FCC lacks authority to revise, eliminate, or waive the 39% cap. There are several reasons why. To begin with, that conclusion follows from the statute's text. In the 2004 amendments to the Telecommunications Act, Congress directed the FCC to impose the 39% cap on national audience reach and removed that cap from the FCC's periodic review of ownership rules. In addition, Congress vested the FCC with express discretion to alter other ownership rules but omitted the discretion-conferring language with respect to the national-ownership limitation. The revised Telecommunications Act also expressly refers to "the 39 percent national audience reach limitation" no less than four times. Each textual signal points in the same direction—and together, overwhelmingly so: Congress intentionally set the cap at 39% and made clear the FCC

2 *See* National Television Multiple Ownership Rule, 90 Fed. Reg. 30032 (July 8, 2025).
3 *See* 47 U.S.C. § 303 note.
4 47 C.F.R. § 73.3555(e)(1).

has no authority to alter that cap. The Supreme Court's recent cases concerning the major-questions doctrine confirm that conclusion, strongly suggesting that Congress would have spoken more clearly if it intended to vest the FCC with unbridled authority over the national-ownership cap in a manner that fundamentally reshapes the nationwide broadcasting market.

The structure of the Telecommunications Act reinforces our interpretation. In addition to imposing and repeatedly referring to a 39% cap, the 2004 amendments to the Act prohibit the FCC from forbearing enforcement of that cap; give entities two years to come into compliance before requiring divestiture; and, as noted, remove the 39% cap from the FCC's periodic review. Those provisions make sense only if the 39% cap is permanent. The statutory and regulatory history against which the 2004 amendments were enacted further demonstrate that Congress sought to provide regulatory stability by permanently enshrining a 39% cap.

Finally, fundamental principles of administrative law cast substantial doubt on the FCC's claimed authority to revise, eliminate, or waive the 39% cap. As a preliminary matter, following the Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo*, the agency's interpretation of the Act will receive no judicial deference.[5] In fact, courts may be skeptical of the FCC's current assertion of discretion to alter the 39% cap in light of the FCC's previous representations about the cap's nondiscretionary nature. And the FCC cannot resort to its general rulemaking authority, or its regulations allowing it to waive its own rules, to revise, eliminate, or waive the 39% cap because Congress enacted legislation specifically depriving the FCC of any authority to do so.

Opponents of the current 39% cap offer various arguments in favor of reform, including that the 2004 amendments retained certain language from the 1996 Act; that the FCC may rely on its general rulemaking authority to revise, eliminate, or waive the cap; and that the statute should not be read impliedly to repeal the FCC's pre-2004 authority to review the cap. But as we explain, each of those arguments contravenes the language and structure of the statute.

5 603 U.S. 369 (2024).

II. Background

We begin with an overview of the history of the FCC's efforts to regulate national broadcast ownership and Congress's repeated interventions to limit the agency's discretion in this area. The Communications Act of 1934 established the FCC and vested it with broad authority to "regulat[e] interstate and foreign commerce in communication by wire and radio" "as public convenience, interest, or necessity requires."[6] Seven years later, in 1941, the FCC asserted statutory authority to regulate and to license commercial television broadcasting.[7] In extending its regulatory authority, the FCC not only licensed stations but also decided to regulate, among other things, multiple ownership: a person or entity's ability to "own, operate, or control more than one television broadcast station."[8] The agency justified an ownership cap as necessary to "foster competition," provide "distinct and separate" viewpoints from different parts of the nation, and avoid "concentration of control."[9] Initially, the FCC prohibited any "person or group" from operating more than "one television station in a given area" and three "scattered" television stations "for the main television band."[10] But by 1944, the FCC raised the cap, limiting any entity from controlling more than five television stations in common ownership.[11]

> "... the FCC decided to raise the ownership cap to 12 television stations but to phase out the limitation altogether within six years. Congress quickly blocked the FCC from implementing this change that same year."

In the decades that followed, the FCC continued to regulate ownership through a numerical cap set by rule.[12] In 1954, the FCC raised the numerical cap to prohibit any entity from controlling more than seven broadcast television stations.[13] The so-called "Seven Station Rule" remained in force for approximately three decades. In 1984, out of a recognition of the evolving broadcast landscape, the FCC decided to raise the ownership cap

6 Pub. L. No. 73-416, §§ 1, 303, 48 Stat. 1064, 1064, 1082 (1934).

7 *See* Broadcast Services Other Than Standard Broadcast, 6 Fed. Reg. 2282, 2282 (Apr. 30, 1941); Federal Communications Commission, Seventh Annual Report 29 (1941) ("Seventh Annual Report").

8 6 Fed. Reg. at 2284-2285.

9 *Id.* at 2285.

10 Seventh Annual Report 34.

11 *See* Rules Governing Broadcast Services Other Than Standard Broadcast, 9 Fed. Reg. 5442, 5442 (May 23, 1944).

12 *See* Dana A. Scherer, Congressional Research Service, R45338, Federal Communications Commission (FCC) Media Ownership Rules 30 (July 1, 2021).

13 *See* Multiple Ownership of Television Broadcast Stations, 19 Fed. Reg. 6099, 6102 (Sept. 17, 1954); *United States v. Storer Broadcasting Co.*, 351 U.S. 192 (1956).

to 12 television stations but to phase out the limitation altogether within six years.[14] Congress quickly blocked the FCC from implementing this change that same year.[15]

Following Congress's intervention, the FCC took "a more cautious approach."[16] It retained the 12-station numerical limit on national multiple ownership and eliminated the sunset provision.[17] And, for the first time, the FCC promulgated a percentage cap prohibiting any entity from "acquir[ing] cognizable interests in TV stations" reaching more than "25 percent of the national audience," *i.e.*, 25% of American households containing a television.[18]

In the Telecommunications Act of 1996, Congress eliminated the FCC's numerical limit on station ownership.[19] As to the percentage cap, Congress provided that the FCC "shall modify its rules for multiple ownership ... by increasing the national audience reach limitation for television stations to 35 percent."[20] Congress also directed the FCC to "review" "all of its ownership rules biennially" and "determine" whether to "repeal or modify any regulation it determines to be no longer in the public interest."[21]

Consistent with Congress's directive, the FCC eliminated the numerical limitation and raised the national-ownership cap from 25% to 35%.[22] Several years later (and after instruction from Congress to complete its review[23]) the FCC issued its first biennial review, deciding to retain without modification the 35% ownership cap.[24] The FCC concluded that it should take additional time to observe the effects of Congress's changes before making additional changes of its own.[25]

Media organizations petitioned for review to challenge, among other things, the FCC's decision to retain the 35% cap. In a decision captioned *Fox Television Stations, Inc. v. FCC*, the D.C. Circuit granted the petitions, held that the FCC's decision to retain the 35% cap was invalid, and remanded to the agency for further

14 *See* Amendment of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations, 49 Fed. Reg. 31877, 31891 (Aug. 9, 1984).

15 *See* Second Supplemental Appropriations Act, Pub. L. No. 98-396, § 304, 98 Stat. 1369, 1423 (1984).

16 Multiple Ownership of AM, FM and Television Broadcast Stations, 50 Fed. Reg. 4666, 4672 (1985).

17 *See id.* at 4667.

18 *Id.* at 4666. Although it is beyond the scope of this white paper, the FCC's 1984 rule also adopted a 50% discount for owners of stations broadcasting in the Ultra-High Frequency (UHF) spectrum for purposes of calculating this audience reach cap. *Id.* The UHF discount continues to be in effect.

19 *See* Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(c)(1)(A), 110 Stat. 56, 111 (1996).

20 § 202(c)(1)(B), 110 Stat. at 111.

21 § 202(h), 110 Stat. at 111-112.

22 *See* Implementation of Sections 202(c)(1) and 202(e) of the Telecommunications Act of 1996 (National Broadcast Television Ownership and Dual Network Operations), 61 Fed. Reg. 10691, 10691 (Mar. 14, 1996).

23 *See* Consolidated Appropriations Act, 2000, Pub. L. No. 106-113, § 5003, 113 Stat. 1501, 1501A-593 (1999).

24 *In re* 1998 Biennial Regulatory Review, Biennial Review Report, 15 F.C.C. Rcd. 11058, 11073 (2000).

25 *Id.* at 11072-11075.

consideration.[26] Specifically, the D.C. Circuit held that the FCC's "wait-and-see approach" was improper.[27] The court reasoned that the Telecommunications Act expressly required the FCC to review "all of its ownership rules" biennially, and it observed that Congress did not "enshrine[] the 35% cap in the statute itself."[28] The FCC was thus required to assess whether the 35% ownership cap was "necessary in the public interest" either "to safeguard competition or to enhance diversity."[29] Because the FCC had not done so, the decision to retain the 35% cap was invalid.[30]

On reconsideration and as part of its 2002 biennial review, the FCC announced its intention to increase the ownership cap from 35% to 45%.[31] The FCC's decision to raise the cap sparked significant public debate about how such a change would affect localism, competition, and consolidation.[32] Numerous stakeholders petitioned for review to challenge the new 45% cap in federal court, and after the consolidation of their petitions, the Third Circuit stayed implementation of the 45% cap.[33]

As these developments unfolded, Congress considered potential reforms to the FCC's ownership rules.[34] Those efforts culminated in the enactment of amendments to the Telecommunications Act of 1996 in the 2004 Consolidated Appropriations Act.[35] Congress enacted four changes related to the national-ownership cap[36]:

- *First*, Congress directed that "[t]he Commission shall modify its rules for multiple ownership set forth in section 73.3555 of its regulations ... by increasing the national audience reach limitation for television stations to 39 percent."[37]

- *Second*, Congress required any person or entity that "exceeds the 39 percent national audience reach limitation" through the acquisition of additional broadcast licenses to divest the excess audience reach in order "to come into compliance with such limitation" within two years.[38]

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26 *See* 280 F.3d 1027, 1033 (D.C. Cir.), *modified*, 293 F.3d 537 (D.C. Cir. 2002).

27 *Id.* at 1042.

28 *Id.* at 1033-1034; *Fox Television Stations*, 293 F.3d at 540 (modified opinion).

29 *Fox Television Stations*, 280 F.3d at 1043 (original opinion).

30 *See id.*

31 *See* Broadcast Ownership Rules, Cross-Ownership of Broadcast Stations and Newspapers, Multiple Ownership of Radio Broadcast Stations in Local Markets, and Definition of Radio Markets, 68 Fed. Reg. 46286, 46328 (Aug. 5, 2003).

32 *See* Charles B. Goldfarb, Congressional Research Service, RL1925, FCC Media Ownership Rules: Current Status and Issues for Congress, at CRS-25 to CRS-27 (2007); *see also* U.S. Government Accountability Office, GAO-09-330R, Telecommunications: Preliminary Information on Media Ownership 1 (2007) (noting the FCC's order increasing the cap to 45% generated more than 500,000 public comments).

33 *See Prometheus Radio Project v. FCC*, No. 03-88, 2003 WL 22052896 (3d Cir. Sept. 3, 2003).

34 *See, e.g., Media Ownership Rules: Hearing Before the S. Comm. on Com., Sci., & Transp.*, 108th Cong. (2003).

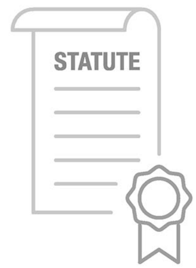
35 Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, 118 Stat. 3.

36 After an initial full citation of each new provision, we cite to the relevant portion of § 202 of the revised Telecommunications Act for brevity's sake.

37 § 629, 118 Stat. 99 (amending § 202(c)(1)(B), 110 Stat. 111) (current version at 47 U.S.C. § 303 note).

38 § 629, 118 Stat. 99 (amending § 202(c), 110 Stat. 111, by adding § 202(c)(3)) (current version at 47 U.S.C. § 303 note).

- *Third*, Congress stated that "[s]ection 10 of the Communications Act of 1934 (47 U.S.C. § 160) shall not apply to any person or entity that exceeds the 39 percent national audience reach limitation for television stations."[39] Under section 10, the FCC has authority to otherwise forbear from "applying any regulation or any provision" upon making various findings, including that forbearance is "consistent with the public interest."[40]



- *Fourth*, whereas the 1996 Act required the FCC to review all ownership rules without exception, Congress expressly provided in the 2004 amendments that the periodic-review requirement "does not apply to any rules relating to the 39 percent national audience reach limitation."[41]

The 39% ownership cap has remained in force since 2004. But in 2017, the FCC published a notice of proposed rulemaking seeking comment on whether it should retain, modify, or eliminate the 39% cap.[42] The FCC sought comment on whether, among other things, it has statutory "authority to modify or eliminate the national cap" in the first place.[43] The comment period closed in April 2018, but the FCC did not take further action.

In July 2025, however, the FCC opened a new comment window soliciting public input on the 39% cap and the agency's statutory authority to revise it.[44]

39 § 629, 118 Stat. 100 (amending § 202(c), 110 Stat. 111, by adding § 202(c)(4)) (current version at 47 U.S.C. § 303 note).
40 47 U.S.C. § 160(a).
41 *Id.*
42 *See* National Television Multiple Ownership Rule, 83 Fed. Reg. 3661, 3667 (Jan. 26, 2018).
43 *Id.* at 3662.
44 *See* National Television Multiple Ownership Rule, 90 Fed. Reg. 30032, 30033 (July 8, 2025).

III. The Text, Structure, and History of the Telecommunications Act Demonstrate that the FCC Lacks the Authority to Revise, Eliminate, or Waive the 39% Cap

A. Under the Plain Text of the Telecommunications Act, the FCC Lacks the Authority to Revise, Eliminate, or Waive the 39% Cap

Statutory interpretation "begin[s] with the text,"[45] and when a statute is unambiguous it "ends there as well."[46] In the wake of the Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo*,[47] that basic precept of statutory interpretation applies with equal force when interpreting statutes administered by federal agencies. Courts must therefore "exercise their independent judgment in deciding whether an agency has acted within its statutory authority" without deferring to an agency's interpretation of its statutory authority.[48]

"Together, Congress's use of this mandatory language and its specification of a precise "39 percent national audience reach limitation" settle that the 2004 amendments required the FCC to impose the 39% cap without granting authority to deviate from it."

The text of the Telecommunications Act, as amended in 2004, states that the FCC "shall modify its rules for multiple ownership" by "increasing the national audience reach limitation for television stations to 39 percent."[49] "[T]he word 'shall' generally signals a mandatory duty," such that the statutory phrase "shall modify" signals a congressional mandate that the FCC must impose the specified cap.[50] Indeed, as one federal court of appeals said shortly after the 2004 amendments, Congress issued a "statutory directive" to the FCC to impose "a precise 39% cap," without any express suggestion of discretion to change it.[51] Together, Congress's use of this mandatory language and its specification of a precise "39 percent national audience reach limitation"

45 *Lackey v. Stinnie*, 604 U.S. 192, 199 (2025).
46 *National Association of Manufacturers v. Department of Defense*, 583 U.S. 109, 127 (2018) (citation omitted).
47 603 U.S. 369 (2024).
48 *Id.* at 412.
49 § 202(c)(1)(B).
50 *See Bridgeport Hospital v. Becerra*, 108 F.4th 882, 887 (D.C. Cir. 2024).
51 *Prometheus Radio Project v. FCC*, 373 F.3d 372, 396 (3d Cir. 2004) (as amended).

settle that the 2004 amendments required the FCC to impose the 39% cap without granting authority to deviate from it.[52]

A plain reading of the Telecommunications Act's periodic-review provision confirms that conclusion. Before the 2004 amendments, the statute required the FCC to review "all of its ownership rules," including the national-ownership cap, at a regular interval, and to decide whether the "repeal," "modif[ication]," or retention of each rule would serve "the public interest."[53] But Congress revised this provision in 2004 expressly to exclude the 39% cap from periodic review.[54] Congress thus instructed the FCC *not* to review or revise periodically the 39% cap, despite continuing to authorize periodic reviews of *other* broadcast-ownership rules. "When Congress acts to amend a statute," courts "presume it intends its amendment to have real and substantial effect."[55]

Additional canons of statutory interpretation reinforce the conclusion that the FCC lacks authority to deviate from the congressionally imposed 39% cap. To begin with, "differences in language ... convey differences in meaning,"[56] and "[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion."[57] In a neighboring provision concerning local broadcast ownership, Congress directed the FCC to "conduct a rulemaking proceeding to determine whether to *retain, modify, or eliminate* its limitations on the number of television stations that a person or entity may own, operate or control" within a single television market.[58] By contrast, the national-ownership provision specifies a precise 39% cap the FCC must adopt; states that the FCC "shall modify" its rules to reflect that precise cap; and entirely omits the words "retain" and "eliminate."[59] Congress's inclusion of discretion-conferring language in the local-ownership provision indicates that the omission of any such language from the national-ownership provision was deliberate.

Further support for this interpretation can be drawn from the Telecommunications Act's provisions concerning local radio diversity. Those sections provide that the FCC "shall revise" its regulations to cap the number of radio stations an entity may own, operate, or control in a particular radio market.[60] Notably, the local-radio-diversity provision also allows the FCC to permit a person or entity to own, operate, or control radio stations beyond the statutorily imposed cap "if the Commission determines" that it "will result in an

52 § 202(c)(3), (c)(4), (h).
53 § 202(h) (1996 version).
54 § 202(h) (amended 2004 version).
55 *Intel Corp. Investment Policy Committee v. Sulyma*, 589 U.S. 178, 189 (2020) (citation omitted).
56 *Henson v. Santander Consumer USA Inc.*, 582 U.S. 79, 86 (2017).
57 *Gozlon-Peretz v. United States*, 498 U.S. 395, 404 (1991).
58 § 202(c)(2) (emphasis added).
59 § 202(c)(1)(B).
60 § 202(b)(1).

increase in the number of radio broadcast stations in operation."[61] Yet again, however, Congress omitted any such discretion-conferring language from the national-ownership provision.[62] The contrast between those provisions reinforces the conclusion that Congress intended for the 39% cap to be fixed absent further congressional action.

With all of the statute's textual indicia pointing toward a mandatory 39% cap—to say nothing of the statute's structure addressed below—an interpretation that would allow the FCC to revise, eliminate, or waive the 39% cap would also fly in the face of the major-questions doctrine. Under that doctrine, when an agency asserts a wide "breadth of ... authority" with "economic and political significance," courts should "'hesitate before concluding that Congress meant to confer such authority.'"[63] Overcoming the presumption requires a court to identify "clear congressional authorization" for the power the agency seeks to exercise, not a "merely plausible textual basis" for it.[64]

Here, the major-questions doctrine powerfully underscores what the text makes clear: Congress did not intend for the FCC to modify the 39% cap. The FCC's assertion of authority to revise, eliminate, or waive the 39% cap would clearly have economic and political significance. As the FCC has acknowledged, "[s]ince its infancy, broadcasting has operated under some form of national ownership restriction," and national-ownership limitations "play[] a fundamental and vital role in creating the industrial infrastructure of broadcasting by affecting basic economic decisions relating to the development of the medium."[65] When adopting the initial percentage-based cap in 1984, the FCC described its approach as "proceed[ing] cautiously in order to avoid rapid and immediate restructuring of the broadcasting industry."[66] Congress has also intervened repeatedly—in 1984, 1996, and 2004—to impose guardrails on the FCC's authority to set appropriate restrictions on national ownership.

Under the major-questions doctrine, the Telecommunications Act must be interpreted in light of the history of congressional action to rein in FCC discretion over national audience reach and the FCC's own pronouncements on the importance of such restrictions. Reading Congress's directive in the Telecommunications Act that the FCC "shall modify" the national-ownership cap to 39% instead to authorize the FCC to revise, eliminate, or waive

61 § 202(b)(2).
62 § 202(c)(1)(B).
63 *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159-160 (2000)).
64 *Id.* at 723 (quoting *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 324 (2014)).
65 Multiple Ownership of AM, FM and Television Broadcast Stations, 50 Fed. Reg. 4666, 4672 (Feb. 1, 1985).
66 *Id.* at 4671-4672.

that cap would work "basic and fundamental changes" inconsistent with this history of deliberate and gradual national-ownership restrictions dating back to the 1940s.[67]

The lessons from the Supreme Court's decisions elaborating on the major-questions doctrine apply with particular force to the 39% cap. Here, unlike a "vague statutory grant" in a "previously little-used backwater" of a statute that might provide an agency at least "a colorable textual basis" for claiming authority,[68] Congress prescribed a numerically fixed percentage cap that the agency must adopt and referred to it in several different places throughout the statute. "It is hard to imagine a statutory term less ambiguous than ... precise numerical thresholds."[69] Accordingly, unlike the typical major-questions case, there is a clear statement from Congress here *depriving* the FCC of the relevant authority.[70] If an agency cannot exercise novel and expansive power under an ambiguous statute, it certainly cannot exercise such power under a statute that clearly deprives the agency of that authority.

> **If an agency cannot exercise novel and expansive power under an ambiguous statute, it certainly cannot exercise such power under a statute that clearly deprives the agency of that authority.**

B. The Structure of the Telecommunications Act Reinforces the Conclusion that the FCC Lacks Authority to Revise, Eliminate, or Waive the 39% Cap

The structure of the revised Telecommunications Act further reveals that the 39% national-ownership cap is not subject to revision by the FCC. That is because the revised Act makes sense "as a symmetrical and coherent regulatory scheme" only if the 39% cap is understood as a permanent mandate on the FCC.[71] There are three principal reasons why:

- *First*, the provisions of the Act concerning the 39% cap reflect the *removal* of delegated authority to the FCC. Specifically, the three implementation provisions in which Congress referred to the 39% cap (1) removed the FCC's discretion to "repeal or modify" "any rules relating to the 39

67 *Biden v. Nebraska*, 600 U.S. 477, 494 (2023) (quoting *MCI Telecommunications Corp. v. American Telephone & Telegraph Co.*, 512 U.S. 218, 225 (1994)).

68 *West Virginia*, 597 U.S. at 722, 730, 732.

69 *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 326 (2014).

70 *See, e.g., Gonzales v. Oregon*, 546 U.S. 243, 250-251, 267-268 (2006); *Alabama Association of Realtors v. Department of Health & Human Services*, 594 U.S. 758, 761, 764-765 (2021) (per curiam); *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 126-127, 159-160 (2000).

71 *Brown & Williamson*, 529 U.S. at 133 (citation omitted).

percent national audience reach limitation" as part of the periodic review otherwise mandated by the Act;[72] (2) prohibited the FCC from forbearing enforcement against any person or entity that exceeds the 39% cap;[73] and (3) imposed a new requirement of divestiture within two years for any person or entity that exceeds the cap.[74] As such, all three provisions seek to constrain the FCC's discretion in implementing the 39% cap. Courts are thus likely to conclude from those implementation provisions that, when Congress directed the FCC to set the 39% cap, it similarly sought to constrain, rather than enlarge, the FCC's discretion.

- *Second*, allowing the FCC to revise, let alone eliminate, "the 39 percent national audience reach limitation" would render the divestiture and forbearance provisions illogical, if not entirely superfluous. No sunset provisions apply to the revised Telecommunications Act's requirement of divestiture for parties after exceeding the 39% cap and stripping of forbearance authority. Nor did Congress express any intention in the statute that those provisions should lack effect if the FCC were to revise, eliminate, or waive the 39% cap. Yet that would be the result of positions taken by opponents of the cap. "Proper respect for Congress cautions courts against lightly assuming that any of the statutory terms it has chosen to employ are 'superfluous' or 'void' of significance."[75]

- *Third*, Congress hard-coded the 39% cap into the revised Telecommunications Act. Not only does the Act itself direct the establishment of the "39 percent cap," but all of the Act's provisions related to implementation of the national-ownership restriction also refer specifically to the "39 percent cap."[76] Together, those repeated references to a precise percentage cap indicate Congress's intention that the numerical figure remain fixed; if Congress had instead intended for 39% to constitute a starting point subject to the FCC's future revision, it would have used different language referring to the cap more generically, rather than specifically referring to the "39 percent cap."

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72 § 202(h).

73 § 202(c)(4). The FCC may "suspend[], revoke[], amend[], or waive[] for good cause shown, in whole or in part, at any time" any of its own rules, "subject to the provisions of the Administrative Procedure Act and the provisions of this chapter." 47 C.F.R. § 1.3. That waiver authority is, of course, subordinate to the Administrative Procedure Act and the requirement that the agency may not act contrary to or "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(C). That means the FCC's waiver authority may not serve as an end run to Congress's statutory commands in the 2004 amendments, including the prohibition on FCC forbearance from the 39% cap.

74 § 202(c)(3).

75 *Department of Agriculture Rural Development Rural Housing Service v. Kirtz*, 601 U.S. 42, 53 (2024) (quoting *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001)).

76 *See* § 202(c)(3) ("A person or entity that exceeds the *39 percent* national audience reach limitation for television stations "); § 202(c)(4) ("Section 10 of the Communications Act of 1934 ... shall not apply to any person or entity that exceeds the *39 percent* national audience reach limitation for television stations"); § 202(h) ("This subsection does not apply to any rules relating to the *39 percent* national audience reach limitation").

In sum, treatment of the 39% cap as mandatory is the only interpretation that avoids making a hash of the revised Telecommunications Act, in addition to being the interpretation best supported by the plain meaning of the statutory text.

"In sum, treatment of the 39% cap as mandatory is the only interpretation that avoids making a hash of the revised Telecommunications Act, in addition to being the interpretation best supported by the plain meaning of the statutory text."

C. Principles of Administrative Law Confirm the Conclusion that the FCC Cannot Revise, Eliminate, or Waive the 39% Cap

If the FCC were to assert authority under the Telecommunications Act to revise, eliminate, or waive the 39% cap, that approach would also defy basic principles of administrative law.

First, a congressional command that an agency must adopt a particular rule carries the force of law and does not authorize an agency to repeal, alter, or ignore that rule absent permission. Congressional delegations of authority to an agency "may be shown in a variety of ways," such as an express delegation of rulemaking power "or by some other indication of a comparable congressional intent."[77] By the same token, Congress can also, within constitutional limits, withhold authority from an agency or direct an agency to act in a particular manner. So "[w]hen Congress enacts legislation that directs an agency to issue a particular rule, 'Congress has amended the law,'" and the agency must comply.[78] Under those circumstances, an agency is not free to disobey Congress's command by, for example, repealing the rule Congress commanded it to adopt.[79] So too here.

Second, the FCC's previous treatment of the 39% cap as mandatory counsels against its future assertion of authority to revise the 39% cap. Following the Supreme Court's decision in *Loper Bright*, federal courts may not defer to reasonable agency interpretations of statutes merely because those statutes are ambiguous. Courts must instead "exercise their independent judgment in deciding whether an agency has acted within its statutory

77 *United States v. Mead Corp.*, 533 U.S. 218, 227 (2001).

78 *Center for Biological Diversity v. Bernhardt*, 946 F.3d 553, 562 (9th Cir. 2019) (quoting *Alliance for the Wild Rockies v. Salazar*, 672 F.3d 1170, 1174 (9th Cir. 2012)).

79 *See United States v. Osorto*, 995 F.3d 801, 815 (11th Cir. 2021) ("[O]nce an agency promulgates such a required rule, the agency is not free to scrap the rule in the absence of congressional or executive direction.").

authority."[80] But in *Loper Bright*, the Supreme Court left untouched its decision in *Skidmore v. Swift & Co.*,[81] and instead cited that decision favorably.[82] *Skidmore* provides that the "interpretations and opinions" of an agency "made in pursuance of official duty" and based on the agency's "specialized experience" can provide "guidance" to "courts and litigants" on issues of statutory interpretation.[83] Federal courts thus remain free to give "weight" to an agency's judgment based "upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control."[84]

Applying *Skidmore*, a federal court would be skeptical of an assertion of FCC authority to alter the 39% cap, because of the agency's inconsistency on that issue. In implementing the 2004 amendments to the Telecommunications Act, the FCC bypassed notice-and-comment procedures and instead issued the rule implementing the 39% cap under the "good cause" exception for situations where those procedures are "impracticable, unnecessary, or contrary to the public interest."[85] In so doing, the FCC cited a decision holding that "good cause" exists when an agency order is a "nondiscretionary ministerial action[] issued in conformity with statute."[86] In the FCC's view at that time, Congress's command to implement a 39% cap on national ownership did not involve any "discretionary action."[87] The FCC reasoned that the 2004 amendments "direct[ed] the Commission to revise its rules according to specific terms set forth in those laws."[88]

By contrast, in a 2013 notice of proposed rulemaking regarding the UHF discount, the FCC "tentatively conclude[d]" that it had "authority to modify the national ownership rule."[89] It also stated that it "retains authority under the Communications Act to review any aspect of the national audience reach cap" when seeking to eliminate the UHF discount,[90]and it noted that its view was "undisturbed" when it then reinstated the UHF discount.[91] But that view was the subject of internal division, with then-Commissioner O'Rielly repeatedly writing separately to "reject the assertion that the Commission has authority to modify the National Television

80 *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024).
81 323 U.S. 134 (1944).
82 *See Loper Bright*, 603 U.S. at 402.
83 *Skidmore*, 323 U.S. at 139-140.
84 *Loper Bright*, 603 U.S. at 388 (quoting *Skidmore*, 323 U.S. at 140).
85 National Broadcast Television Ownership Rules, 72 Fed. Reg. 16283, 16284 n.7 (Apr. 4, 2007) (quoting 5 U.S.C. § 553(b)(B)).
86 *Id.* (citing *Metzenbaum v. FERC*, 675 F.2d 1282, 1291 (D.C. Cir. 1982)).
87 *Id.* at 16284.
88 *Id.*
89 In the Matter of Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule, 28 F.C.C. Rcd. 14324, 14329 (Sept. 26, 2013).
90 In the Matter of Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule, 31 F.C.C. Rcd. 10213, 10222-10223 (Aug. 24, 2016).
91 In the Matter of Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule, 32 F.C.C. Rcd. 3390, 3394, 3398 n.60 (Apr. 20, 2017).

Ownership Rule in any way," particularly because the 2004 amendments were "heavily negotiated and painstakingly crafted in order to settle a recurring and particularly contentious media ownership issue."[92] Under *Skidmore*, the FCC's changes in position undermine the persuasive force of any decision to revise, eliminate, or waive the 39% cap.[93]

D. The History of the 2004 Amendments Underscores Congress's Intention to Strip the FCC of Authority to Revise, Eliminate, or Waive the 39% Cap

The statutory and regulatory history of the 39% cap underscores its mandatory nature. Starting with the statutory history, Congress's 2004 amendments to the Telecommunications Act reflect a desire to bring stability to national-ownership limitations. As previously discussed, the D.C. Circuit's decision in *Fox Television* held that the Telecommunications Act required the FCC to review all ownership limitations, including the initial 35% ownership cap, at a regular two-year interval.[94] The FCC's first biennial review of the 35% cap in 1998, and its decision to retain the cap, were remanded by the D.C. Circuit in 2002.[95] The FCC then reconsidered the issue in its 2002 biennial review and decided to raise the cap to 45%.[96] But that decision was quickly challenged and stayed by a federal court.[97] Against that pattern of repeated litigation and judicial scrutiny of the FCC's decisions under the periodic-review provision, Congress enacted the 2004 amendments.

Courts presume that Congress is aware of such judicial interpretations of a statute when it later amends the statute.[98] The 2004 amendments followed closely on the heels of the D.C. Circuit's decision in *Fox Television*. Although the 2004 amendments retained the periodic-review provision for "all of [the FCC's] ownership rules," Congress expressly excluded the 39% cap from that requirement, thereby removing the FCC's authority to reevaluate the cap as it was required to do under the 1996 Act. Aware of the history behind the 2004 amendments, a reviewing court would likely hold that Congress sought to exempt the revised 39% cap from

92 31 F.C.C. Rcd. at 10251 (Dissenting Statement of Commissioner Michael O'Rielly). Although Commissioner O'Rielly later voted to commence a process to review that rule, he reiterated his view that he "d[id] not believe that the Commission has the authority to modify the national audience reach cap." In the Matter of Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule, 32 F.C.C. Rcd. 10785, 10808 (Dec. 14, 2017) (Statement of Commissioner Michael O'Rielly).

93 *Skidmore*, 323 U.S. at 140.

94 *See* Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-112 (1996).

95 *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, 1033 (D.C. Cir. 2002).

96 *See* Broadcast Ownership Rules, Cross-Ownership of Broadcast Stations and Newspapers, Multiple Ownership of Radio Broadcast Stations in Local Markets, and Definition of Radio Markets, 68 Fed. Reg. 46286, 46328 (Aug. 5, 2003).

97 *See Prometheus Radio Project v. FCC*, No. 03-3388, 2003 WL 22052896 (3d Cir. Sept. 3, 2003).

98 *See Forest Grove School District v. T.A.*, 557 U.S. 230, 239-240 (2009) (citation omitted).

agency alteration, both as a response to the D.C. Circuit's decision and to spare both the FCC and the market from the destabilizing force of continual litigation over the cap.

Although some courts give legislative history less weight under contemporary approaches to statutory interpretation, the legislative history of the 2004 amendments is of a piece with the statutory text and structure. In the aftermath of the D.C. Circuit's adverse ruling in 2002 on the 1998 biennial review, all five FCC commissioners testified before Congress. Senator Hollings placed the D.C. Circuit's decision in the record,[99] and the commissioners testified that the Telecommunications Act's mandatory periodic review proved "very destabilizing to the market" and created "an extraordinary amount of pressure on resources in the Commission."[100] Several commissioners recommended that Congress should impose a permanent national-ownership cap to stave off any further instability and save the FCC the onerous burden of periodic review.[101] Indeed, when Senator Wyden asked directly whether "Congress [should] step in and set the cap," the FCC Chairman stated that the proposal "bears merit"; another commissioner responded that he thought "it would be ideal"; and none of the other commissioners objected to the concept of a mandatory cap.[102] Unsurprisingly, then, when the 2004 amendments containing the 39% cap reached the floor for debate, legislators characterized the cap as permanent and immune from FCC revision.[103]

From that statutory and regulatory background, courts are likely to glean that Congress's purpose in enacting the 2004 amendments was to codify a permanent 39% cap in order to increase regulatory stability. Any assertion that the FCC may revise, eliminate, or waive the cap is thus inconsistent with both the text of the Telecommunications Act and Congress's apparent purpose in enacting it.

99 *FCC Oversight: Media Ownership and FCC Reauthorization: Hearing Before the S. Comm. on Com., Sci., & Transp.*, 108th Cong. 5-20 (2003).

100 *Id.* at 101 (statement of Michael K. Powell, Chairman, Federal Communications Commission); *see also id.* at 102 (statement of Jonathan S. Adelstein, Commissioner, Federal Communications Commission) ("I think it is somewhat destabilizing to have [periodic review] every 2 years."); *id.* (statement of Kathleen Q. Abernathy, Commissioner, Federal Communications Commission) ("I agree with the Chairman" about "the 2-year review cycle, particularly when ... we don't have the ability to simply say there's no change to circumstances ... and some of the rules can continue."); *id.* at 103 (statement of Michael J. Copps, Commissioner, Federal Communications Commission) (noting biennial review "does impose an undue burden on the Commission").

101 *See id.* at 102 (statement of Jonathan S. Adelstein, Commissioner, Federal Communications Commission) ("I think that the Congress could consider codifying the national cap at 35 percent."); *id.* at 103 (statement of Michael J. Copps, Commissioner, Federal Communications Commission) ("Codifying the cap would be good.").

102 *Id.* at 104.

103 *See* 149 Cong. Rec. H12838 (2003) (statement of Rep. Billy Tauzin) ("[T]his bill will forbid the FCC from raising or lowering the 39 percent limit ... Eliminating the FCC's discretion over the national audience-reach limit in this manner is unwise."); 150 Cong. Rec. S148 (2004) (statement of Sen. Diane E. Feinstein quoting Sen. Robert Byrd) ("[T]he one-year limitation on the FCC media ownership rule was turned into a permanent cap at 39 percent."); 150 Cong. Rec. S141 (2004) (statement of Sen. Patrick J. Leahy) ("[T]he White House successfully lobbied for last-minute increase of a permanent cap at 39%.").

IV. The Arguments Supporting the FCC's Authority to Eliminate, Revise, or Waive the 39% Cap Lack Merit

Opponents of the 39% cap have argued that the FCC does have the authority to revise, eliminate, or waive it. In particular, opponents make three related arguments based on the premise that the 2004 amendments did nothing to alter the FCC's discretion under the Communications Act of 1934 and the 1996 version of the Telecommunications Act to revise the national-ownership cap. Those arguments, however, misunderstand the text, structure, and history of the Telecommunications Act.

A. The 2004 Amendments Do Not Preserve Any Discretion to Revise the Ownership Cap that the FCC Might Otherwise Have Had

As already discussed, the D.C. Circuit held in *Fox Television* that the 1996 version of the Telecommunications Act gave the FCC discretion to modify the previous 35% cap as part of its periodic review.[104] Some have argued that Congress's use of similar cap-setting language in the 2004 amendments preserved the FCC's discretion to modify the mandated ownership cap. For example, the FCC has suggested that it retains authority to modify the 39% cap because "Congress elected to use the same language in the 2004 [amendments], instructing the Commission to 'modify its rules,' as it did when it instructed the Commission to change the cap from 25 to 35 percent as part of the 1996 Act."[105]

> "The 2004 amendments clearly eliminated the FCC's discretion under the 1996 version of the Act."

The 2004 amendments clearly eliminated the FCC's discretion under the 1996 version of the Act. As discussed above, several other provisions in the 2004 amendments removed the FCC's discretion to modify the 39% cap, including enshrining a "39 percent national audience reach limitation" throughout the statutory text; removing that cap from the FCC's periodic review of broadcast ownership rules;[106] eliminating the FCC's ability to forbear from enforcement of the cap;[107] and directing entities that exceed

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104 *Fox Television Stations, Inc. v. FCC*, 293 F.3d 537, 540 (D.C. Cir. 2002).
105 National Television Multiple Ownership Rule, 83 Fed. Reg. 3661, 3662 (Jan. 26, 2018).
106 *See* § 202(h).
107 *See* § 202(c)(4).

the cap to divest within two years.[108] That precise numerical cap, alongside the discretion-removing provisions, leave no ambiguity that the 39% is mandatory.

Even if there were any ambiguity in the 2004 amendments, the Supreme Court has cautioned that courts, agencies, and litigants alike should not "presum[e] that statutory ambiguities are implicit delegations to agencies."[109] That is especially true here. Congress did not employ the phrase "modify its rules" in a vacuum; rather, the phrase must be "read in [its] context and with a view to [its] place in the overall statutory scheme."[110] And that broader context—including the implementation provisions in the 2004 amendments which specifically refer to the 39% cap—compels the conclusion that Congress's use of similar cap-setting language in the 2004 amendments does not authorize the FCC to deviate from that cap.

B. The FCC's Residual Rulemaking Authority Cannot Overcome a Specific Congressional Command

Opponents of the 39% cap also argue that the FCC can revise that cap based on the agency's residual rulemaking authority under the Communications Act of 1934. They first cite 47 U.S.C. § 303(r), which vests the FCC with authority to "[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this chapter." Opponents also cite 47 U.S.C. § 154(i), which authorizes the FCC to "make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions." That language, opponents suggest, is broad enough to allow the FCC to revise, eliminate, or waive the 39% cap.

That argument fails on two counts. *First*, it misses a key caveat in Congress's grant of residual rulemaking authority: namely, that the FCC may issue only rules that are not "inconsistent with law."[111] As explained above, the 2004 amendments expressly stripped the FCC of authority to alter the 39% cap. If the FCC were to overstep that prohibition, its action would be invalid.[112]

Second, the argument that the grants of residual authority in the Communications Act give the FCC discretion to change the 39% cap cannot be reconciled with the "commonplace of statutory construction that the specific

108 *See* § 202(c)(3).
109 *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 399 (2024).
110 *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 320 (2014) (internal quotation marks and citation omitted).
111 47 U.S.C. § 303(r); *see also id.* § 154(i) ("not inconsistent with this chapter").
112 *See* 5 U.S.C. § 706(2)(A), (C).

governs the general."[113] The principle that specific statutory language controls over general provisions is applicable especially when "Congress has enacted a comprehensive scheme and has deliberately targeted specific problems with specific solutions."[114] And that canon applies with particular force in statutes that grant or constrain authority to agencies: "an agency may not circumvent specific statutory limits on its actions by relying on separate, general rulemaking authority."[115]

The FCC's residual, general authority to modify its rules cannot "displace the clear, specific text" of the revised Telecommunications Act, which extinguishes the FCC's authority over the 39% cap, whether through rulemaking, waiver, or otherwise.[116] Indeed, the D.C. Circuit has already rejected a similar argument raised by the FCC. In *National Association of Broadcasters v. FCC*, the FCC argued that its "general authority to 'prescribe appropriate rules and regulations to carry out the provisions'" of another portion of the Communications Act authorized it to require broadcasters to conduct actions that were not expressly prescribed by the statute.[117] The court held that the "generic grant of rulemaking authority to fill gaps ... does not allow the FCC to alter the specific choices Congress made."[118] Here, too, "the FCC cannot alter Congress's choice."[119]

"The FCC's residual, general authority to modify its rules cannot "displace the clear, specific text" of the revised Telecommunications Act, which extinguishes the FCC's authority over the 39% cap"

113 *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992).
114 *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (internal quotation marks and citation omitted).
115 *Air Alliance Houston v. EPA*, 906 F.3d 1049, 1061 (D.C. Cir. 2018).
116 *Murray Energy Corp. v. EPA*, 936 F.3d 597, 627 (D.C. Cir. 2019).
117 39 F.4th 817, 820 (D.C. Cir. 2022) (citing 47 U.S.C. § 317(e)).
118 *Id.*
119 *Id.*

C. Interpreting the 39% Cap to Be Mandatory Is Not an Implied Repeal of Preexisting FCC Discretion

In a similar vein to the previous arguments, opponents of the 39% cap argue that Congress would not have impliedly repealed the FCC's discretion under the 1996 version of the Act to modify the national-ownership cap. As opponents of the cap see it, the periodic-review provision in the 1996 Act required the FCC to revisit the national-ownership cap every two years but did not otherwise limit the FCC's discretion to alter the cap outside that review window. Opponents thus suggest that, because the 2004 amendments excluded the cap only from the periodic-review provision, Congress merely relieved the FCC from the *obligation* to review the cap at a regular interval but did not otherwise limit the FCC's discretion to modify the cap under its general authority over broadcasting. To read the 2004 amendments otherwise, they contend, would constitute a "disfavored" implied repeal of the 1996 Act's provisions.[120]

> **"The statutory scheme would … make little sense if the FCC *could* alter the cap."**

That argument fails because there is nothing implied about the nature of Congress's repeal in this context. As the D.C. Circuit held in *Fox Television*, the FCC had authority to revise the cap under the 1996 Act. But, in the 2004 amendments, Congress made a "clear and manifest" decision to remove any such authority.[121] By requiring divestiture for entities that exceed the 39% cap and prohibiting the FCC from forbearing enforcement of the 39% cap, Congress gave the FCC no ability to deviate from the cap. Congress thus knowingly and expressly changed the scope of its delegation to the FCC.

The statutory scheme would also make little sense if the FCC could alter the cap. Suppose the FCC eliminated the 39% cap, as opponents of the cap argue is within the FCC's discretion. Opponents offer no answer for what would then happen to the additional statutory requirements that entities "exceed[ing] the 39 percent" cap "shall" have two years to divest and that the FCC "shall not" forbear from taking enforcement action against any entity "exceed[ing] the 39 percent" cap.[122] Both provisions are framed as clear prohibitions, and

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120 *Epic Systems Corp. v. Lewis*, 584 U.S. 497, 510 (2018) (quoting *United States v. Fausto*, 484 U.S. 439, 452 (1988)).
121 *Id.* at 510 (quoting *Morton v. Mancari*, 417 U.S. 535, 551 (1974)).
122 § 202(c)(3), (4).

neither contains any language suggesting that it can be modified (let alone made without effect) by the FCC. Indeed, the divestiture provision is not time limited; rather, it applies at any point "after" an entity "exceed[s] such limitation."[123]

Put differently, the 39% cap is built into those provisions. As such, even if the FCC revised or eliminated the 39% cap in its rules, a regulated entity would still be subject to the statutory divestiture provision if it exceeded the 39% limit, and the FCC would still be required to take enforcement action without the option of forbearance. Those provisions—all of which serve to remove the FCC's authority to deviate from a 39% cap—constitute a "clear and manifest" indication that Congress intended to remove whatever discretion the FCC previously enjoyed to revise the national-ownership cap.

In short, recognizing that the 39% cap removes discretion from the FCC to alter the cap does not amount to an implied repeal of the provisions in the 1996 Act. It simply acknowledges that, in the 2004 amendments, Congress "specifically address[ed] language on the statute books that it wishe[d] to change."[124] Those amendments "enshrined" the 39% cap through a series of provisions that specify that a congressionally determined 39% cap applies throughout the statute.[125]

V. Conclusion

Regardless of the policy merits of the proposals to revise, eliminate, or waive the 39% cap on national television ownership, the Telecommunications Act of 1996, as amended in 2004, stripped the FCC of authority to adopt such a change. The text, structure, and history of the revised Act leave the FCC no room to revise, eliminate, or waive the 39% cap. Should the FCC nevertheless attempt to do so, a challenge in federal court would be strongly supported by principles of statutory interpretation and administrative law. Congress has spoken clearly that the public debate over the cap must be resolved by the people's elected representatives in Congress and not by the unelected leaders of an administrative agency.

123 § 202(c)(3); *see* Brian T. Fitzpatrick, Ex Parte Submission In the Matter of National Television Multiple Ownership Rule (Nov. 3, 2025) <www.fcc.gov/ecfs/document/1103066222175/1>.

124 *Fausto*, 484 U.S. at 452.

125 In fact, when considering the 2004 amendments, the Senate Committee on Commerce, Science, and Transportation expressly considered and discussed the *Fox Television* decision and included it in the record. *See FCC Oversight: Media Ownership and FCC Reauthorization: Hearing Before the S. Comm. on Com., Sci., & Transp.*, 108th Cong. 5-20 (2003).

November 3, 2025

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Ex Parte Submission - In the Matter of National Television Multiple Ownership Rule MB Docket No. 17-318

Dear Ms. Dortch:

I am the Milton R. Underwood Chair in Free Enterprise and Professor of Law at Vanderbilt Law School in Nashville, Tennessee. Before I joined the Vanderbilt faculty, I was a law clerk to Supreme Court Justice Antonin Scalia and served as Special Counsel to U.S. Senator John Cornyn. I have been a member of the Federalist Society for Law & Public Policy Studies for nearly 30 years. In short, I have been a textualist my entire adult life. I am writing today because I read recently that the Commission is contemplating doing something that would be anathema to textualism: lifting the 39% nationwide television ownership cap despite a clear textual command from Congress otherwise.

Let me state at the outset that there may or may not be good policy reasons for lifting the ownership cap. I do not know the answer to that question because I am not a scholar of policy. But I am a scholar of law and I know that even the best policy reasons cannot override textual commands from Congress. Statutes should be changed by the democratic process, not by administrative fiat.

Prior to 1996, the Commission had plenary power to decide whether and how to cap television station ownership. The Communications Act of 1934 empowered the Commission to "[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions" of the Act.[1] Under this statutory authority, the Commission adopted various rules to cap television ownership over the years, including a cap of 25% of the nationwide audience in 1985.[2]

In the Telecommunications Act of 1996, however, Congress took away the Commission's plenary authority over television ownership. In particular, it instructed the FCC to lift its 25% nationwide cap to 35%[3] and to consider lifting that number even further as part of a new periodic review

[1] 47 U.S.C. § 303(r).
[2] *See* Appendix to Congressional Research Service, Federal Communications Commission (FCC) Media Ownership Rules (June 1, 2021) (Table A-1).
[3] *See* Pub. L. No 104-104, tit. II, § 202(c)(1)(B), 110 Stat. 111 (1996) ("The Commission shall modify its rules for multiple ownership . . . by increasing the national audience reach limitation for television stations to 35 percent.").

required of all its ownership rules.[4] In 2002, the D.C. Circuit held that the Commission failed to follow this periodic reconsideration.[5] Shortly thereafter, the Commission decided to lift the cap to 45%.[6]

But times had changed by then and Congress overruled the Commission: in 2004, it amended the Telecommunications Act of 1996 by instructing the Commission to lower the 45% nationwide ownership cap to 39%[7] and by removing the cap altogether from the Commission's periodic review of its ownership rules.[8] It further required any entity that goes above the 39% cap to come into compliance with the cap within two years.[9]

Textualists agree that statutes can only be understood from their evolution over time.[10] Now that *Chevron* has been overruled, the only question is what is the best reading of the above history of the Telecommunications Act of 1996.[11] The best reading is clear. In 1996, Congress said the Commission's cap is *too low*, it should be *increased*, and the Commission should periodically consider whether it should be *even higher*. In 2004, Congress flipped: it said the Commission's cap is *too high*, it should be *lower*, and the Commission should *not* periodically consider whether it should be higher. We are still living under the 2004 regime. As such, the Commission is foreclosed from considering whether Congress's 39% cap should be higher.

Indeed, it is hard to see how the Commission could raise Congress's 39% cap without running afoul of Congress's 2004 provision requiring any entity to divest when they exceed 39%: this

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[4] *See id.* at § 202(h) ("The Commission shall review its rules adopted pursuant to this section and all of its ownership rules biennially . . . and shall determine whether any of such rules are necessary in the public interest as the result of competition. The Commission shall repeal or modify any regulation it determines to be no longer in the public interest.").
[5] *See Fox Television Stations, Inc. v. Federal Communications Commission*, 280 F.3d 1027 (D.C. 2002), *modified on reh'g,* 293 F.3d 537 (D.C. 2002).
[6] *See* 2002 Biennial Regulatory Review, Report & Order, 18 FCC Rcd 13620, 13847 (2003).
[7] *See* Pub. L. No. 108-199, div. B, tit. VI, § 629(1), 118 Stat. 99 (2004) (amending § 202(c)(1)(B) by striking "35 percent" and inserting "39 percent").
[8] *See id.* at § 629(3), 118 Stat. 100 (adding the following sentence at the end of § 202 (h): "This subsection does not apply to any rules relating to the 39 percent national audience reach limitation . . ..."). This provision also changed the otherwise required biennial review to a required quadrennial review. *See id.*
[9] *See id.* at § 629(2) (adding the following new paragraph at the end of § 202(c): "A person or entity that exceeds the 39 percent national audience reach limitation . . . through grant, transfer, or assignment . . . shall have not more than 2 years after exceeding such limitation to come into compliance . . . . This divestiture requirement shall not apply to persons or entities that exceed the 39 percent . . . through population growth.").
[10] *See*, *e.g.*, Antonin Scalia & Bryan Garner, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 256 (2012) ("We oppose the use of legislative history, which consists of the hearings, committee reports, and debate leading up to the enactment in question . . . But quite separate from legislative history is *statutory* history—the statutes repealed or amended by the statute under consideration. These form part of the context of the statute, and (unlike legislative history) can properly be presumed to have been before all the members of the legislature when they voted."); *see also* Anita S. Krishnakumar, *Statutory History*, 108 Va. L. Rev. 263, 299, 306 (2022) (tbl. 7) (finding widespread use among textualist Supreme Court Justices of the "override" canon: "the Court points out that Congress revised a statute in an effort to repudiate, or override, an earlier judicial decision and reasons that the revised statute should be construed to honor that reversal"). Textualists use statutory history in juxtaposition to administrative decisions just as well as to judicial decisions. *See*, *e.g.*, Scalia & Garner, SUPRA, at 322-25.
[11] *Loper Bright Enters. v. Raimondo,* 603 U.S. 369 (2024).

provision clearly applies to future growth, not just to those entities that were too big on the date the 2004 amendments came into law.[12]

During the Obama Administration, the Commission opined that, whatever the 2004 amendments did to the Telecommunications Act of 1996, they did not touch the Commission's preexisting authority under the Communications Act of 1934 to make whatever rules and regulations it deems necessary.[13] But this can't be right. The entire point of the 1996 Act was to take this authority away from the Commission for television ownership. Indeed, the 1934 Act itself says the Commission's authority can only be exercised in a way that is "not inconsistent with law."[14] Is the Telecommunications Act of 1996, as amended in 2004, not a "law"? Of course it is.

I have also heard it said that the Commission can waive the cap on a case-by-case basis even if it cannot raise the cap altogether. The purported authority for this is a Commission regulation that permits the Commission to waive its other regulations. *See* 47 C.F.R. § 1.3. Although the Commission may be able to give itself permission to waive regulations that it is under no obligation to promulgate in the first place, it cannot give itself permission to waive regulations that Congress requires it to maintain. As I explained, Congress forced the Commission to adopt the 39% ownership cap in the 2004 amendments to the Telecommunications Act and further commanded that any entity that grew beyond that number must divest in a timely manner. The Commission cannot "waive" these statutory commands. Nor can it circumvent them by manipulating the UHF discount or permitting sidecar deals.[15] Agencies are subordinate to Congress, not the other way around.

The bottom line is this: the Commission should not repeat the freewheeling, law-by-administrative-fiat approach of the Obama Administration. If the Commission doesn't like what Congress did in 2004, it should ask Congress to change it, not try to evade it. That's what it means to live in a democracy rather than in a bureaucracy.

Sincerely,

Brian T. Fitzpatrick
Milton R. Underwood Chair in Free Enterprise
and Professor of Law
Vanderbilt Law School

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[12] *See* Pub. L. No. 108-199, div. B, tit. VI, § 629(2), 118 Stat. 99 (2004) (declaring that entities must comply with the 39% limitation within two years "after exceeding such limitation" and that the provision does not apply if entities come to exceed the 39% limitation by reason of "population growth").
[13] *See* Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule, MB Docket No. 13-236, Notice of Proposed Rulemaking (released Sept. 26, 2013).
[14] 47 U.S.C. § 303(r).
[15] *See, e.g., Prometheus Radio Project v. F.C.C.*, 373 F.3d 372, 396 (3d Cir. 2004) ("[B]ecause reducing or eliminating the discount for UHF station audiences would effectively raise the audience reach limit, we cannot entertain challenges to the Commission's decision to retain the 50% UHF discount. Any relief we granted on these claims would undermine Congress's specification of a precise 39% cap.").

The CHAIRMAN. Thank you. Mr. LeGeyt.

STATEMENT OF CURTIS LeGEYT, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION OF BROADCASTERS

Mr. LEGEYT. Good morning, Chairman Cruz, Ranking Member Cantwell, and members of the Committee. My name is Curtis LeGeyt, and I'm proud to testify on behalf of the NAB and our nearly 1,300 free, local, over-the-air television stations that serve your communities every day.

When the FCC first imposed national and local television ownership limits, Franklin Roosevelt was President. Now, 9 decades later, those same rules still prevent broadcasters and broadcasters alone from owning more than two stations in any local market and from reaching more than 39 percent of American television households. These outdated regulations distort today's video and advertising marketplace. They advantage giant tech platforms, global streaming services, pay TV providers, and national cable programmers while placing local broadcasters at a severe disadvantage.

In a digital media marketplace dominated by Google, YouTube, Netflix, Amazon, Apple, Meta, and TikTok, ownership restrictions that apply only to broadcasters are no longer rational or sustainable. They prevent broadcasters from achieving the scale necessary to compete for audience, programming, advertising revenues, and investment capital. As a result, your local stations remain hobbled by rules designed for the analog era, rules that directly undermine broadcasters' ability to provide our essential public service that remains free and universally accessible to all viewers.

During recent crippling winter storms across vast swaths of the country and during devastating floods in both Texas and Washington State, it was local broadcasters, not global streamers or national pay TV channels, that remained on the ground and on the air in those communities providing lifesaving information to their viewers. And beyond times of emergency, broadcasters are delivering the fact-based, most trusted journalism that keeps your constituents and communities informed and connected.

Unfortunately, this local journalism is facing growing financial pressure. Fewer than half of television stations now report that their local news operations are profitable. Facing ever rising news production costs and declining ad revenues, some broadcasters are simply unable to continue maintaining their own separate news operations. Without modernizing these ownership rules, local television news, the last bastion of truly local journalism in many communities, will suffer the same fate as thousands of local newspapers.

Some argue that allowing broadcasters to achieve greater scale would reduce local news. The data shows just the opposite. Over the past decade, as broadcasters gained modest additional scale, the number of local news telecasts and hours of locally produced news increased substantially. From 2011 to 2023, local news telecasts increased by more than 40 percent, and total hours of local news grew nearly 50 percent. Scale allows broadcasters to invest more heavily in journalism not less, but it's not enough.

Outdated rules also limit broadcasters' ability to provide viewers access to marquee sports and entertainment. Instead of subscribing to a new streaming service every time they want to watch a game, viewers overwhelmingly prefer to watch sports on broadcast television. However, keeping broadcasters artificially small makes it harder to compete for increasingly expensive sports rights against our unregulated streaming rivals. Broadcasting share of viewership is already less than half our streaming competitors, and this decline will continue as premium sports content further migrates behind streaming paywalls.

In conclusion, localism is a vital but expensive American value. Competitively hobbled TV stations lacking sufficient resources will not provide quality local journalism, emergency information, valued sports, and programming that your communities depend upon. For these reasons, we urge Congress to support the FCC's efforts to eliminate the outdated broadcast TV ownership restrictions that no longer serve the public interest. I want to personally thank the many members of this committee, as well as President Trump, who have publicly supported us on this issue. Congress should flatly reject arguments from a single national programmer subject to no similar restrictions and who invests zero dollars in your local communities.

Thank you again for the opportunity to testify today. I look forward to your questions.

[The prepared statement of Mr. LeGeyt follows:]

PREPARED STATEMENT OF CURTIS LEGEYT, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION OF BROADCASTERS

Introduction

Good morning, Chairman Cruz, Ranking Member Cantwell and members of the committee. My name is Curtis LeGeyt, and I serve as President and Chief Executive Officer of the National Association of Broadcasters (NAB). I am proud to testify today on behalf of nearly 1,300 free, local over-the-air television stations that serve your constituents every day.

Local broadcast television is simple to describe, but hard to replace. It is free. It is local. It is accountable to the public interest obligations that come with a broadcast license.

When your constituents need verified information quickly, they turn on the television and tune to local broadcasting. When severe weather hits, when a wildfire moves fast, when a bridge collapses, when a child goes missing, local stations deliver factual, lifesaving information in real time without a paywall.

That service requires investment in journalists, on-air talent, meteorologists, producers, engineers, towers, studios, safety equipment and modern technology. The national broadcast television ownership cap makes that investment harder by limiting broadcasters' ability to compete for audience, advertising and programming in a marketplace that no longer resembles the one that existed when this rule was created. It is past time to level the playing field and eliminate this antiquated restriction.

The Problem: A Twentieth-Century Cap in a Twenty-First Century Market

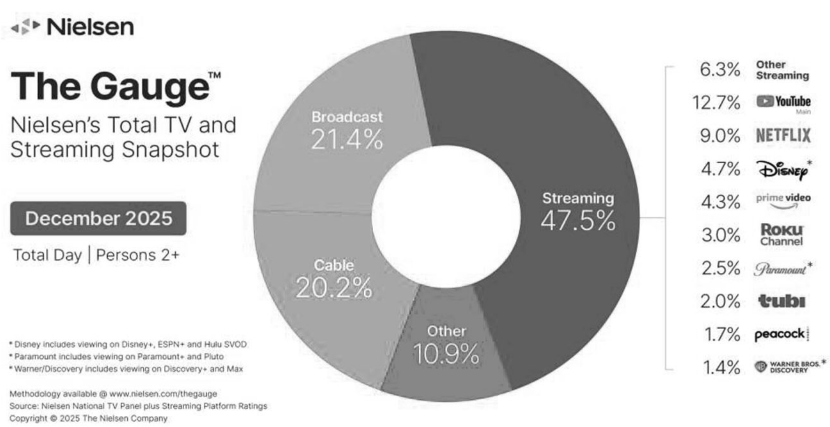
When the Federal Communications Commission (FCC) first imposed limits on the national and local ownership of broadcast TV stations, Franklin D. Roosevelt was president. Cable and satellite TV didn't exist. The Internet was a fantasy. Big Tech was a 2,000-foot-tall radio tower. Yet nine decades later, these rules remain, preventing TV broadcasters from owning more than two outlets in any local market[1] and restricting a broadcaster's national reach at 39 percent of TV households.[2]

These outdated rules unfairly skew today's video and advertising markets. None of the dominant competitors that shape what Americans watch face these limits. Global streaming platforms, Big Tech video services and digital advertising giants can reach every household. Broadcast television alone remains boxed in.

Digital technologies and the Internet have completely transformed the video and advertising markets, making a broadcast-only ownership cap obsolete.[3] Global streaming platforms now account for roughly half of total viewing, yet broadcasters are still restricted from reaching TV households nationwide. This means we cannot effectively compete for audiences, advertising revenues and premiere programming. As a result, local stations' most important public service—offering news, emergency information and valued entertainment and sports programming in local communities at no cost to the public—is in jeopardy.

Audience Viewing Habits and Advertising Markets Have Changed

The notion that local broadcasters compete only against one another for audience and programming rights is out of step with the reality of today's media marketplace. According to recent Nielsen data, streaming platforms comprise nearly half of all television viewing, more than double that of all broadcast television outlets combined. And those figures understate streaming's advantage because they do not fully capture mobile viewing on iPhones and tablets.[4]



This growth in streaming viewership has been accelerated by the migration of premiere live sports away from broadcast stations to behind these paywalled tech platforms. For example, Amazon Prime Video viewing surged in December due to its streaming of four NFL Thursday night games, including on Christmas Day. Netflix also featured back-to-back NFL games on the holiday.[5] And every major sports league, including Major League Baseball, the National Basketball Associa-

[1] 47 C.F.R. § 73.3555(b). The local TV rule prohibits the common ownership of more than two full-power commercial TV stations in any of the 210 Designated Market Areas (DMAs) in the U.S., regardless of the number of stations or competitive conditions in these widely disparate markets, ranging from New York City to Glendive, MT.

[2] 47 C.F.R. § 73.3555(e). The national TV rule bans the common ownership of full-power commercial TV stations that reach, in the aggregate, more than 39 percent of TV households nationwide. For purposes of calculating "reach," the rule discounts the presumed 100 percent reach of UHF stations by half. *Id.* at § (e)(2).

[3] *See, e.g.,* Comments of NAB, MB Docket No. 22–459 (Dec. 17, 2025); Comments of NAB, MB Docket No. 17–318 (Aug. 4, 2025); Written Ex Parte Communication of NAB, MB Docket No. 17–318 (Apr. 2, 2025).

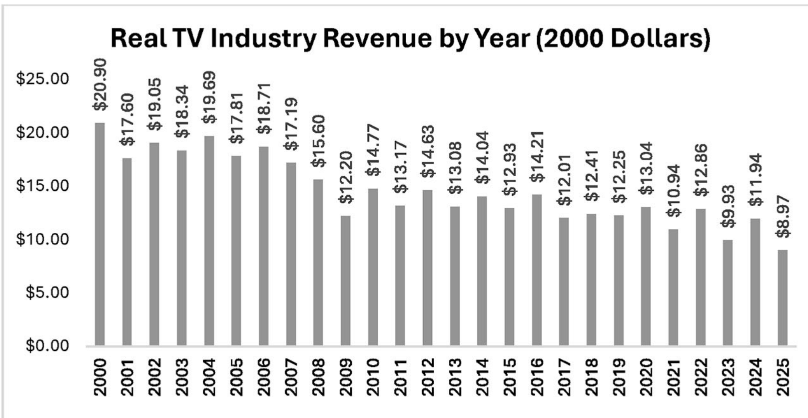
[4] The Gauge also does not include viewing of YouTubeTV, the linear virtual multichannel video programming distribution service, in YouTube's streaming share. Yet YouTube alone still garners about 60 percent of the share of total TV usage garnered by all broadcast television. The "Other" category in The Gauge includes video gaming, DVD playback, audio streaming, unmeasured video on demand, etc.

[5] *See* Nielsen, *Streaming Shatters Multiple Records in December 2025 with 47.5 percent of TV Viewing, according to Nielsen's The Gauge,* nielsen.com (Jan. 20, 2026).

tion, the National Hockey League and the NCAA now distribute significant numbers of in-market and out-of-market games through global streaming platforms. The bottom-line is that while we value the ongoing relationship that these leagues and teams have with local broadcasters and our networks, the games that once anchored free, over-the-air viewing are increasingly balkanized across subscription services to the detriment of local stations, our viewers, and the communities that rely on us. Greater scale is needed to allow our industry to better compete for these rights.

The advertising marketplace has shifted even more. Digital advertising is now the majority of local ad spending, and most of that money does not stay in communities.[6] It flows to digital platforms that do not maintain local newsrooms, weather operations or public safety infrastructure. Meanwhile, broadcast television advertising revenue has declined sharply. These trends are the economic reality behind what many communities are experiencing: fewer reporters, tighter budgets and increasing difficulty sustaining robust local journalism.

As shown in the graphic below, broadcast television station industry advertising revenues have declined by nearly 60 percent over the past 25 years on a real (*i.e.,* inflation adjusted) basis.



Source: BIA Advisory Services, LLC

Outside of the largest markets, the advertising marketplace is even more dire. Television stations in mid-sized and small markets earn only a fraction of the ad revenues garnered by stations in the largest markets. In 2024 the average TV station in DMAs 51–100, 101–150 and 151–210 garnered merely 23.5 percent, 17.6 percent and 12.1 percent, respectively, of the ad revenues earned by the average station in the 10 largest DMAs.[7] Steady declines in ad revenue hurt local TV stations' ability to deliver high quality programming, hire and retain talented staff, maintain local newsrooms and serve our communities effectively.

The National Ownership Cap Doesn't Merely Limit Growth, it Hurts Local Viewers

The current broadcast ownership restrictions impair our ability to realize important economies of scale, acquire and produce content, attract more viewers, earn necessary ad revenues, obtain needed investment and provide free service to local communities. These rules undermine localism and hurt competition in the video and advertising markets by keeping broadcasters artificially weak and unable to offer robust competition to other content providers and ad platforms.

[6] According to Borrell Associates, local digital advertising reached $103 billion in 2024, accounting for about 70 percent of all local ad spending. This report reconfirmed that the "lion's share of digital advertising" leaves local markets and "goes to the pureplay digital companies such as Google, Facebook, and others," with local outlets, including TV and radio stations and newspapers, capturing only about 15 percent of all locally spent digital advertising. Digital platforms' reshaping of the advertising market has radically undercut support for locally-based media and journalism, and these trends will only continue, with Borrell estimating that local digital ad spend will reach nearly $121 billion by 2028. Borrell Associates, *2025 Annual Report Benchmarking Local Digital Media,* at 5–9 (May 15, 2025).

[7] Comments of NAB, MB Docket No. 22–459, at 95 (Dec. 17, 2025) (citing BIA data).

Streaming, Big Tech and social media platforms operate at a significant competitive advantage without these constraints. They scale, invest, acquire rights, capture advertising and reinvest nationally and globally without regulatory restrictions. As a result, they have tremendous advantages over TV broadcasters in the programming market. Eliminating the national cap would enable TV broadcasters to better compete for advertising, produce or purchase more and better programming (including premiere sporting events), and invest in local journalism. This means increased competition and more and better content, all of which is freely-available to consumers.[8]

Scale is Not the Enemy of Localism. It is Often What Makes Localism Possible

Economists have found that TV broadcasting, and especially local news production, is subject to strong economies of scale and scope. Restricting broadcasters' ability to scale leads to "higher costs, lower revenues, reduced returns on invested capital," resulting in significantly less local news.[9] The FCC itself has concluded that the "efficiencies of common ownership" enable TV stations to "provide more high-quality local programming, especially in revenue-scarce small and mid-sized markets."[10]

The need is urgent. The Radio Television Digital News Association (RTDNA) reports that fewer than half of TV stations now say their local news operation is profitable, after several years of decline.[11] Facing high and ever-rising news production costs and declining ad revenues, some broadcasters are simply unable to continue maintaining their own separate local news operations.[12] Financial pressures also have led many local stations to decrease their TV news budgets, and the pressure is real across market sizes.[13]

Importantly, data show that when station groups have been able to achieve greater scale, local news output increased materially over time. As shown in the graphic below, from 2011–2023, as TV station groups producing and airing local news grew in size but fell in number (from 140 separate groups to 62, a 55.7 percent decline), the number of local news telecasts and hours of local news increased by 41.7 percent and 49.7 percent, respectively.

[8] NAB earlier documented the extremely high costs (running into the tens of billions of dollars) of acquiring or producing entertainment programming and the millions local TV stations expend annually on local news programming, made all the more challenging for broadcasters due to ownership rules limiting our audience reach and thus our revenue base. *See, e.g.,* Written Ex Parte Communication of NAB, MB Docket No. 17–318, at 21–26 (Apr. 2, 2025) (documenting programming costs, including local news costs that routinely represent around one third of many stations' total annual expenses).

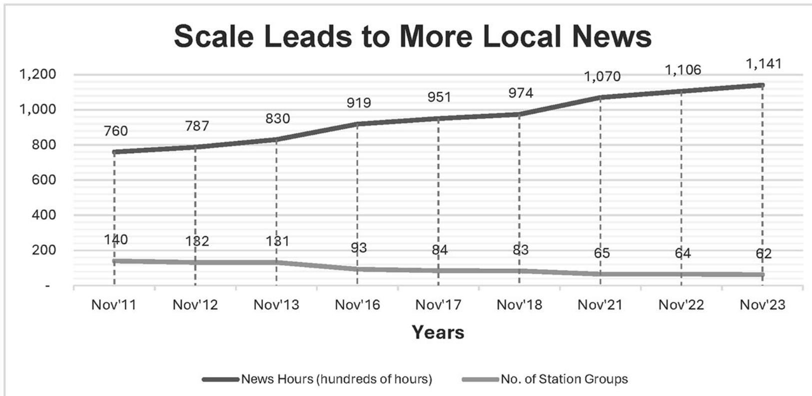
[9] J.A. Eisenach and K.W. Caves, *The Effects of Regulation on Economies of Scale and Scope in TV Broadcasting,* at 2–3 (June 2011), attached to Reply Comments of NAB, MB Docket No. 10–71 (June 27, 2011) (explaining that economies of scale are, by definition, "associated with falling unit costs of production—that is, with the production of more output," such as programming, "at lower average cost—and hence are *prima facie* welfare enhancing"). *Id.* at 1. *Accord* Decl. of M. Israel and A. Shampine, Comments of NAB, MB Docket No. 10–71, at Appendix B ¶¶ 49–51 (June 26, 2014) (finding that economies of scale and scope exist in TV broadcasting and that both lead to "increased investment in news programming"). These studies remain unrefuted.

[10] *2014 Quadrennial Regulatory Review,* Order on Reconsideration, 32 FCC Rcd 9802, 9834, 9836 (2017).

[11] B. Papper, K. Henderson and T. Mirabito, RTDNA/Syracuse University, *TV news profitability drops to lowest level since 2010,* at 1 (July 28, 2025) (TV News Profitability Report).

[12] The number of TV stations originating local news has dropped by 16 in the past two years, but the number of stations receiving local news from one of the nearly 700 stations originating news has increased by 20 (from 402 to 422) during that time. B. Papper, K. Henderson and T. Mirabito, RTDNA/Syracuse University, *Amount of local news stays steady—for a change,* at 3 (July 21, 2025).

[13] TV News Profitability Report at 3.



Permitting TV station groups to achieve greater scale will further enhance the quantity and quality of local and regional news. Ownership policy should strengthen the services communities value most. The national broadcast ownership cap does the opposite.

The FCC has Authority to Repeal its National Broadcast Ownership Cap

The Supreme Court has long recognized that the FCC has broad authority under the Communications Act of 1934 to adopt, modify or eliminate ownership rules as part of its public interest licensing framework.[14] That has never been in doubt. And contrary to the misleading arguments of those who oppose ownership modernization, Congress did not strip that authority by implication in the Telecommunications Act of 1996 or the Consolidated Appropriations Act of 2004.

In 1996, Congress directed the FCC to modify its rules to increase the national audience reach limitation to 35 percent.[15] All agree that directive did not convert the cap into a permanent statutory ceiling. In fact, when the D.C. Circuit Court of Appeals reviewed the FCC's early implementation of the 1996 statute, it confirmed that Congress had not "enshrined" the 35 percent cap into statute.[16]

In 2004, following the FCC amending the cap to 45 percent, Congress stepped in and changed the number to 39 percent through an appropriations rider that again directed the FCC to modify its rules. However, in doing so, Congress never removed the FCC's well-recognized authority to amend or eliminate the national television cap at a later date. Instead, Congress merely removed the FCC's affirmative duty to re-examine the rule on a fixed schedule through the agency's quadrennial review.[17] No one can point to any statutory directive expressly eliminating FCC authority to adjust the cap as it sees fit.

Simply put, as explained in more detail in the Appendix, Congress did not mandate a permanent cap, and nor did it prevent the FCC from revisiting the cap at a later date. As the FCC itself has consistently determined under Republicans and Democrats, the FCC retains authority to modernize or repeal the national TV rule.

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[14] *FCC v. NCCB,* 436 U.S. 775, 793–94 (1978) (upholding adoption of newspaper/broadcast cross-ownership ban pursuant to the FCC's authority under the Act to "issue regulations codifying its view of the public-interest licensing standard"). *Accord NBC v. U.S.,* 319 U.S. 190, 214–18 (1943) (finding that the Act grants the FCC "broad licensing and regulatory powers" and upholding adoption of chain broadcasting rules as permissible exercise of its power to license stations in the public interest); *U.S. v. Storer Broad. Co.* 315 U.S. 192, 201–203 (1956) (concluding that FCC had authority to impose rules limiting the multiple ownership of AM, FM and TV stations under its public interest rulemaking and licensing authority in the Act); *FCC v. Prometheus Radio Project,* 592 U.S. 414, 418 (2021) (while upholding the FCC's 2017 decision to repeal or relax several ownership rules, court stated that the FCC possessed broad authority under the Act to regulate broadcast media and, exercising that authority, it had historically maintained strict ownership rules).

[15] Telecommunications Act of 1996, Section 202(c)(1)(B).

[16] *Fox Television Stations, Inc. v. FCC,* 293 F.3d 537, 540 (D.C. Cir. 2002).

[17] *See* Appendix.

Opposition to Eliminating the National Cap is Driven by Anti-Competitive Interests

Many of the loudest opponents of reform are not motivated by protecting local service. They are direct competitors who benefit when broadcasters are held back, especially entities that want to limit broadcast competition while seeking scale for themselves. Others have maintained their decades-old positions on the issue that have remained unchanged even as the marketplace has been transformed by Big Tech and streaming dominance. What they have in common is a lack of credible legal or economic arguments and data to support their position.

The pay TV industry, including cable and satellite TV providers and one national cable programmer, has consistently opposed modernizing ownership rules, and even called for imposition of additional restrictions. All of this aims to keep broadcasters at a competitive disadvantage.[18] NAB has long urged the FCC—and now we urge Congress—to disregard the pay TV industry's advocacy to restrict broadcast TV stations that compete with them for viewers, advertisers and content and that negotiate with them for retransmission consent fees. Keeping TV broadcasters artificially small and weak may be in the pay TV industry's interest, but it is not in the public's interest. After all, pay TV providers and national cable programmers do not provide important local services, including the news and emergency information that only locally-licensed broadcast stations offer, if they have the financial wherewithal to do so. And none are freely-available.

Newsmax, a national pay TV channel, is among the most vociferous opponents of eliminating the national broadcast TV cap.[19] Newsmax does not want any TV station group expanding their national reach because that would provide more robust competition—and free, rather than subscription, competition—to its own news brand. This has nothing to do with safeguarding viewpoint diversity and everything to do with fearing the emergence of other strong, national competitors.

The committee should evaluate arguments based on what strengthens local journalism, preserves free access, improves emergency information and increases competition. Maintaining the national cap fails that test.

What's at Stake for Your Constituents

If the FCC's broadcast-only ownership limits remain frozen in time, the harm is not theoretical. It will show up in local communities. It will mean less local journalism and community-focused programming, and diminished access to premiere sporting events.

Local journalism does not happen by accident. It takes sustained investment. The national broadcast television cap restricts the revenue base that supports those investments, especially as advertising shifts to digital platforms that do not fund local reporting.

Free, over-the-air access to major live programming is at risk. Live sports is among the most desired content. Its cost continues to rise dramatically, and streaming platforms with unlimited scale are buying more rights and placing them behind subscription paywalls. Broadcasters need a fair chance to compete so that more marquee programming remains available free and over the air.

Local stations must continue upgrading technology to improve emergency alerting, weather reports, accessibility and the overall viewer experience. A regulatory regime that suppresses investment works against these public interest outcomes.

Conclusion

Thank you for inviting me to testify today.

Local television broadcasters are proud of the service we provide to your constituents. We deliver our trusted local journalism, critical emergency information and valued programming, free and over the air.

But localism is an expensive value. Analog-era regulations that artificially limit broadcasters' ability to compete for investment, programming, audiences and advertising revenue weaken the very services policymakers say they want to protect.

We urge members of this committee to support the FCC in modernizing its broadcast ownership framework and eliminating the national television ownership cap.

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[18] *See, e.g.,* Comments of The American Television Alliance, MB Docket No. 17–318 (Aug. 4, 2025); Comments of NCTA—The Internet & Television Association, MB Docket No. 17–318 (Aug. 4, 2025); Ex Parte Letter of DIRECTV, MB Docket No. 17–318 (Sept. 19, 2025); *see also* Comments of NCTA—The Internet & Television Association, MB Docket No. 22–459 (Dec. 17, 2025) (also calling for a stricter local TV rule).

[19] Comments of Newsmax Media, Inc., MB Docket No. 17–318 (July 23, 2025); Comments of Newsmax Media, Inc., MB Docket No. 17–318 (Mar. 19, 2018); *see also* Comments of Newsmax Media, Inc., MB Docket No. 22–459 (Dec. 16, 2025) (also opposing repeal of the local TV ownership rule).

I look forward to answering your questions.

Appendix: Legal Analysis of FCC Authority to Eliminate the National Cap

As consistently recognized by the Supreme Court since the 1940s, the Commission has broad authority under the Communications Act of 1934 to adopt, alter or eliminate broadcast ownership rules "codifying its view of the public-interest licensing standard."[20] In neither the 1996 Telecommunications Act (1996 Act) nor the 2004 Consolidated Appropriations Act (2004 Appropriations Act) did Congress remove this long-standing authority, which authorizes the FCC to alter or repeal its current rule capping TV broadcasters' national reach at 39 percent, nor did it enshrine the 39 percent cap into statute.[21]

To "promote competition and reduce regulation,"[22] Congress in various provisions of Section 202 of the 1996 Act directed the FCC to revise or modify several of its long-standing ownership rules, including the national TV ownership cap. Specifically, Section 202(c)(1)(B) did *not* set a statutory cap but only told the FCC to "*modify its rules* for multiple ownership set forth in section 73.3555 of its regulations . . . by increasing the national audience reach limitation for television stations to 35 percent" (up from 25).[23]

"To ensure that the FCC's ownership rules d[id] not remain in place simply through inertia,"[24] Congress in 1996 also adopted Section 202(h), which requires the FCC to review its broadcast ownership rules biennially (now quadrennially) to determine whether they remain "necessary in the public interest as the result of competition" and to "repeal or modify" any rules that are not. Section 202(h) did not give the Commission authority it had lacked to review its rules and to retain, repeal or eliminate them—as the Supreme Court has made clear since 1943, the agency already possessed that authority under the 1934 Act—but only directed the FCC to exercise its existing authority on a periodic basis so that it "keep[s] pace with industry developments" and "regularly reassess[es] how its rules function in the marketplace."[25]

Notably, when reviewing the FCC's initial biennial review of all its ownership rules under Section 202(h), the D.C. Circuit Court of Appeals confirmed that Congress in the 1996 Act had *not* "enshrined the 35 percent cap in the statute itself"[26] and in fact concluded that the FCC's *retention* of the 35 percent cap was arbitrary and capricious and contrary to Section 202(h).[27] The D.C. Circuit thus affirmed that Congress' direction in Section 202(c)(1)(B) of the 1996 Act for the FCC to "modify its rules" by setting the national cap at 35 percent did not cement 35 percent into statute and left undisturbed the FCC's authority to change the cap further by setting it at a different percentage or by repealing it.

Responding to the D.C. Circuit's 2002 ruling, the FCC determined in 2003 to increase the cap to 45 percent. This 45 percent cap raised some controversy in the analog era, and in 2004 Congress decided that a different percentage cap was more appropriate. Even in light of the D.C. Circuit's ruling that the 1996 Act had not enshrined the previous 35 percent cap into statute, Congress in Section 629(1) of the 2004 Appropriations Act again merely directed the FCC to amend Section 202(c)(1)(B) of the 1996 Act, this time by inserting "39 percent" in place of "35 percent."[28] This action left untouched Section 202(c)(1)(B)'s original language that had only directed the FCC to modify its rules—rules that the FCC has authority under the 1934 Act to change—and nowhere enshrined "39 percent" into statute.

In Section 629(3) of the 2004 Appropriations Act, Congress also (1) changed the FCC's required periodic reviews of its ownership rules from biennial to quadrennial, and (2) relieved the Commission of its mandatory duty under Section 202(h) of the

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[20] *See supra* note 14.

[21] For additional context, please *see* Reply Comments of the Joint Broadcasters, MB Docket No. 17–318, at 5–30 (Aug. 22, 2025) (explaining that the FCC has authority to revise or repeal the national TV cap and refuting at length the error-filled arguments to the contrary by those parties supporting ownership rules that harm broadcasters).

[22] Pub. L. No. 104–104, 110 Stat. 56 (stating the purpose of the 1996 Act).

[23] 1996 Act, § 202(c)(1)(B), 110 Stat. at 111 (emphasis added).

[24] *FCC v. Prometheus,* 592 U.S. at 419.

[25] *FCC v. Prometheus,* 592 U.S. at 419.

[26] *Fox Television Stations, Inc.,* 293 F.3d at 540.

[27] *Fox Television Stations, Inc. v. FCC,* 280 F.3d 1027, 1043–45 (D.C. Cir. 2002) (finding that the FCC had "adduced not a single valid reason to believe" that the national TV ownership rule was in the public interest, "either to safeguard competition or to enhance diversity").

[28] Section 629(1), Consolidated Appropriations Act, 2004, Pub. L. No. 108–199, 118 Stat. 3, 99.

1996 Act to review the national TV cap every four years.[29] Textualists take notice: by its clear terms, Section 629(3) does not *prohibit* the FCC from ever reviewing the cap, but only provides that Section 202(h)'s affirmative obligation for the FCC to review *all* its ownership rules quadrennially "does not apply" to any rules relating to the national audience reach limit. In short, the plain language of Section 629(3) merely states that the FCC is not *required* to review the national TV cap every four years but does not *prevent* it from reviewing and altering the rule under its established authority in the 1934 Act, as the Commission has concluded since 2013 in multiple proceedings concerning the national TV rule.[30]

Those supporting retention of FCC rules that disadvantage broadcasters erroneously claim that Section 629(3) prevents the Commission from ever reviewing or altering the 39 percent cap because that subsection removed it from the FCC's Section 202(h) obligation to review all its ownership rules quadrennially. But removing an affirmative duty to review the cap every four years clearly is not the same as prohibiting the FCC from ever reviewing it again. Simply put, just because someone isn't required to cook dinner or mow the lawn doesn't mean they aren't allowed to do so. The arguments of those opposing any changes to the 39 percent cap must fail because they are contrary to the text of Section 629(3), which contains nary a hint of any prohibitory language, and "[o]nly the written word is the law."[31]

Those claiming that the FCC lacks authority to reevaluate the 39 percent national cap also cannot explain how Section 629 of the 2004 Appropriations Act removed the FCC's authority—as affirmed multiple times across nine decades by the Supreme Court—to adopt, amend and eliminate ownership rules under its rulemaking and public interest licensing authority in the 1934 Act.[32] Section 629 does not even mention, let alone cut back on or override, the 1934 Act or the FCC's broad authority under it, of which Congress was well aware.[33]

Nor can the opponents of broadcast TV ownership rule reform validly contend that Congress, when passing Section 629, somehow impliedly repealed the FCC's powers under the 1934 Act. The Supreme Court has made clear for 90 years—even calling it a "cardinal rule"—that any repeals by implication are strongly disfavored.[34] "Congress will specifically address preexisting law when it wishes to suspend its normal operations in a later statute."[35] But in Section 629, Congress did not specifically address the 1934 Act and did not suspend its operations or the FCC's long-standing authority under it to regulate ownership of broadcast stations. "Congress 'does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions,'"[36] and it would not silently hide the elephant of suspending the FCC's broad licensing and rulemaking authority under the agency's foundational statute

[29] Section 629(3), Consolidated Appropriations Act, 2004, 118 Stat. at 100 (stating that Section 202(h) "does not apply" to any rules relating to the 39 percent national audience reach limitation in Section 202(c)(1)(B)).

[30] The FCC has consistently concluded that the 2004 Appropriations Act only directed it to revise its rules to reflect a 39 percent cap and removed the requirement to review the cap quadrennially. As the FCC explained, the 2004 Act did not impose a statutory cap or prohibit the FCC from evaluating the rule; thus, it retained authority under the 1934 Act to review the national cap but was merely not required to do so as part of its quadrennial reviews. The FCC emphasized that Congress was well aware of the agency's broad authority—indeed, its obligation—under the 1934 Act to reevaluate its rules and revise any that do not serve the public interest and could have foreclosed the FCC from ever revising the national cap by making it a statutory restriction or by otherwise withdrawing FCC authority to modify the cap. Congress, however, did not do so but opted for a limited measure reducing the cap from 45 to 39 percent and relieving the FCC of its duty to reevaluate the cap in the mandated quadrennial reviews. Report and Order, 31 FCC Rcd 10213, 10222–24 (2016). *Accord* Notice of Proposed Rulemaking, 28 FCC Rcd 14324, 14329–30 (2013). *See also* Order on Reconsideration, 32 FCC Rcd 3390, 3398 n.60 (2017) (referring to FCC's previous conclusions about the national cap); Notice of Proposed Rulemaking, 32 FCC Rcd 10785, 10788–89 (2017) (explaining the FCC's earlier conclusions that it had authority to modify or eliminate the national TV cap and noting the consistency of those conclusions with previous decisions by the Third and D.C. Circuit Courts of Appeal).

[31] *Bostock v. Clayton County,* 590 U.S. 644, 653 (2020). "We do not inquire what the legislature meant; we ask only what the statute means." *Epic Sys. Corp. v. Lewis,* 584 U.S. 497, 523 (2018). And prohibitions plainly absent from statutory language should not be inferred. *See, e.g.,* Breuer v. Jim's Concrete of Brevard, Inc. 538 U.S. 619, 694 (2003).

[32] *See* 1934 Act, 47 U.S.C. §§ 303(r), 307, 308, 309, 310 and 154(i).

[33] *See, e.g.,* H.R. Rep. No. 104–204, at 54 (1995), *reprinted in* 1996 U.S.C.C.A.N. at 18 (recognizing when adopting the 1996 Act that the FCC had regulated broadcast ownership since the 1940s).

[34] *Tenn. Valley Auth. v. Hill,* 437 U.S. 153, 189 (1978), quoting *Posadas v. Nat'l City Bank,* 296 U.S. 497, 503 (1936); *accord Me. Cmty. Health Options v. U.S.* 590 U.S. 296, 315 (2020).

[35] *Epic Sys. Corp. v. Lewis,* 584 U.S. 497, 510 (2018) (citation omitted).

[36] *Bostock,* 590 U.S. at 680, quoting *Whitman v. Am. Trucking Ass'ns, Inc.,* 531 U.S. 457, 468 (2001).

in any statutory mousehole, let alone one consisting of an ancillary, less than 200-word rider to an approximately 200,000-word appropriations bill.[37]

Congress' decision to remove the national TV cap from the mandated quadrennial reviews—but not to prohibit the FCC from reevaluating it ever again—is understandable from a practical point of view. After frequent changes to the level of the national cap in the span of a few years, from 25 to 35 to 45 to 39 percent, Congress was reluctant to require the Commission to turn around and reexamine the level of the cap yet again in just a couple of years.[38] Thus, in Section 629 Congress (1) again chose to direct the FCC to modify its rules, instead of enshrining the 39 percent limit into statute (which it easily could have done), and (2) chose to remove the national TV cap from Section 202(h)'s mandated quadrennial reviews but did not prohibit the FCC from reviewing its rule at some point in the future. The "one, cardinal canon" in interpreting a statute is that one "must presume that a legislature says in a statute what it means and means in a statute what it says there."[39]

The CHAIRMAN. Thank you. Mr. Johnson.

STATEMENT OF THOMAS JOHNSON, PARTNER AND CO-CHAIR OF ISSUES AND APPEALS, WILEY REIN LLP

Mr. JOHNSON. Chairman Cruz, Ranking Member Cantwell, members of the Committee, thank you for the invitation to testify here today. This hearing is timely as the FCC considers whether to repeal obsolete ownership rules that are preventing local broadcasters from fairly competing in a media environment dominated by the national networks, social media platforms run by Big Tech, and online streaming services whose content does not always reflect the views of everyday American communities across the country.

Mr. Chairman, as the former general counsel of the FCC during the first Trump administration, one of my proudest moments was persuading the U.S. Supreme Court to take and ultimately decide by unanimous vote a case that upheld Chairman Pai's landmark media ownership reforms for the digital age, including outdated prohibitions on newspaper and broadcast cross-ownership. Now under Chairman Carr's leadership, the FCC is continuing the important work of reviewing the Agency's remaining ownership rules. In my view, all of these prescriptive rules are outdated and ought to be repealed, and chief among these is the national television broadcast ownership cap.

As general counsel, I defended the Agency's bipartisan consensus that the Agency has legal authority to eliminate that rule, and I continue to believe so today. The reason, Mr. Chairman, is simple. As Justices Thomas and Scalia have said repeatedly, when inter-

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[37] Some opponents of ownership rule reform also perfunctorily and erroneously contend that Section 629(2) of the 2004 Appropriations Act shows that Congress intended to permanently remove the national cap from FCC review. This subsection confusingly states that the FCC may not use its authority under Section 10 of the 1934 Act, 47 U.S.C. § 160, to forbear from applying the 39 percent national cap to any entity exceeding that audience reach limitation. But the FCC's forbearance authority under Section 10 applies only to regulation of "telecommunications carriers or telecommunications services," not to broadcasters or broadcasting under Title III of the 1934 Act. In any event, Section 629(2)'s nonsensical prohibition on forbearance does not preclude other types of relief from the cap's restrictions, including relaxation or repeal of the cap itself. The FCC rejected claims a decade ago that Section 629(2) somehow prevented it from reexamining and revising the national TV cap. *See* Report and Order, 31 FCC Rcd 10213, 10222–23 n.77 (2016). NAB agrees with the FCC. Significantly, Section 629(2) refers specifically to the 39 percent limit in Section 202(c)(1)(B) of the 1996 Act, which as discussed above, only directs the FCC to modify its national TV ownership rule, does not enshrine the cap into statute, and does not prohibit the FCC from later changing its rules.

[38] Despite changing the frequency of the required periodic ownership reviews from every two to every four years in the 2004 Appropriations Act, the next mandated quadrennial review was due in 2006, given that the FCC had conducted its last biennial review in 2002.

[39] *Connecticut Nat'l Bank vs. Germain,* 503 U.S. 249, 253–54 (1992).

preting a statute, we must start with the text, and the relevant text here is straightforward. As I explained in more detail in a letter I submitted to the—to the FCC in the national cap record, on two occasions, in 1996 and 2004, Congress chose the language, "modify its rules," to instruct the Commission to make a one-time change to its longstanding national ownership cap rule.

The Court of Appeals here in D.C. looked at the language in the 1996 Act and concluded that it was "only the starting point from which the Commission was to assess the need for further change." If Congress intended to eliminate that discretion, the Court reasoned, "It need only have enshrined the cap in the statute itself." Only two years later, in 2004, Congress directed the Commission to change the national cap level again, but kept that "modify its rules" formulation in place. That was not accidental. Congress had before it two bills that would have expressly codified the cap as the D.C. Circuit suggested, but adopted neither proposal. Congress' choice of words to direct a one-time rule change rather than impose a mandate, as it has in other parts of the Communications Act even with respect to broadcast policy, those words matter.

Now, I believe the FCC not only can modify the cap, but it should do so. During the early days of the cap, as you mentioned, Mr. Chairman, Americans still got their news and other programming primarily from one of the so-called Big Three broadcast networks. The FCC hoped that limits on audience reach would help ensure against those then dominant voices monopolizing the marketplace, but advances in technology have turned that original rationale on its head. Those networks increasingly distribute programming through their own streaming platforms, none of which are subject to the FCC's rules.

Ironically, a rule originally intended to constrain the power of large networks, now provides them with a competitive advantage over smaller local stations. Meanwhile, more than half of Americans today get their news and entertainment from streaming services, social media, and virtual MVPDs, like YouTube TV, for the first time, none of which are subject to this audience reach limitation. Imagine a rule that Hulu, Netflix, Facebook could only reach 39 percent of the population. They exceed those numbers today and would have to divest, but that's the world in which local broadcast lives.

Broadcast stations do have one advantage, as you mentioned, Senator Cantwell. They remain the source of news and information that Americans trust the most. Local newsrooms provide unbiased reporting free from algorithmic bias and politicized environments that infect a lot of online discourse. Eliminating the cap would provide stations with flexibility to take advantage of economies of scale to help them compete more effectively with today's modern media behemoths. It would also benefit viewpoint diversity. Affiliate groups that represent a broad cross-section of Americans would have more leverage to demand programming from networks and streamers that reflect conservative and moderate values, not only the progressive values of content creators in places like Hollywood and New York.

Now, even without the cap in place, broadcasters involved in an acquisition would still have to undergo the same competition review at the Department of Justice as every other sector of the economy. Indeed, broadcasters uniquely have to undergo a separate public interest review at the FCC, which historically has considered issues like localism and viewpoint diversity that national cap proponents have talked about. In conclusion, good deals that would otherwise be blocked by the 39-percent cap could get approved, while bad deals would not, or as President Trump put it this past weekend, letting good deals get done will result in "more competition and at a higher and more sophisticated level" between local affiliates and national TV networks.

I again thank the Committee. I look forward to your questions.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF THOMAS M. JOHNSON, JR., FORMER GENERAL COUNSEL, FEDERAL COMMUNICATIONS COMMISSION

Chairman Cruz, Ranking Member Cantwell, and Members of the Committee, thank you for the invitation to testify today. I am grateful for the opportunity to discuss the important topic of media ownership in the digital age, and in particular, why it is both lawful and in the public interest for the Federal Communications Commission to repeal an obsolete ownership limit on local broadcast television stations that has limited their ability to compete in a media environment increasingly dominated by Big Tech social media platforms, national programmers, and other media giants who are not subject to the same regulatory constraints.

Consumers trust their local broadcasters to provide them with unbiased local news, weather, sports, and other programming reflective of the communities they serve, and indeed, these FCC licensees have a public interest obligation to serve their local communities. Given that, it is imperative that broadcasters not be subject to prescriptive, artificial limits on their ability to scale effectively to continue performing their important public mission and to act as a check on national programmers whose content does not always reflect the views of everyday Americans across the country.

My Background Promoting Media Ownership Reform

To provide the Committee with some context on my history with these issues: I am currently the Co-Chair of the Issues and Appeals practice at Wiley Rein LLP, and before that, in the first Trump administration, I served as General Counsel of the FCC under Chairman Ajit Pai and then-Commissioner (now Chairman) Brendan Carr.

During my tenure, the Office of General Counsel took seriously its obligation to stay within the limits of the authority that Congress delegated to the Commission while vigorously pursuing the public interest. I am proud that during my time at the FCC nearly all the Commission's orders were upheld in court. Relevant here, that record includes a unanimous Supreme Court decision in *FCC v. Prometheus Radio Project* that affirmed our landmark media-ownership reforms repealing long-outdated rules on media cross-ownership that had been held up in litigation in the courts of appeals for decades.

As GC under Chairman Pai, I also defended the Commission's authority to eliminate or modify an agency rule that restricts broadcasters from owning television stations that reach more than 39 percent of our national audience. This position is consistent with the agency's longstanding bipartisan consensus that—in the words of three former Democratic permanent or acting FCC Chairs (Tom Wheeler, Mignon Clyburn, and Jessica Rosenworcel)—the FCC retains "authority to modify the national audience reach cap" under the Commission's statutory mandate to "revisit its own rules and revise or eliminate them when it concludes such action is appropriate." I continue to hold this view today.

The FCC Has the Legal Authority to Eliminate the National Cap

The reason why is simple. As Justice Thomas and the late Justice Scalia would advise us, to discern the scope of FCC authority, we must start with the text of the statute. And that text here is straightforward.

As the former FCC Chairs understood, Congress gave the Commission broad authority, "as public convenience, interest, or necessity requires," to "[m]ake such rules and regulations. . .as may be necessary to carry out the provisions of" the Communications Act. Pursuant to this authority, the FCC starting in the 1940s enacted and subsequently modified several media ownership rules—including a version of the national ownership cap.

Congress has never disputed the agency's authority to adopt those rules. Rather, on two occasions, Congress has modified the agency's judgment on specific ownership limits while preserving the FCC's authority to change those limits as competitive circumstances require.

In the Telecommunications Act of 1996, the most comprehensive reform to date of the Communications Act, Congress directed that the agency "modify its rules" governing media ownership in several respects, including by adjusting the national cap at the time from 25 percent to 35 percent. That "modify its rules" formulation is critical. As the D.C. Circuit held in 2002, that language preserved the FCC's discretion to change or repeal the national cap, and if Congress intended to eliminate that discretion, "it need only have enshrined the 35 percent cap in the statute itself."

Two years after that decision, and presumably aware of the court's construction of the 1996 Act, Congress in an appropriations measure again directed the Commission to change its rule-based national ownership limit—which the FCC had by then modified to 45 percent—this time requiring the Commission to lower the limit to 39 percent. But in doing so, Congress did not enshrine the new cap in the statute, as the D.C. Circuit suggested it might do. Congress merely substituted the number "39" for "35" while keeping the "modify its rules" formulation in place.

In other words, Congress preserved the exact same language—"modify its rules"—that the D.C. Circuit had just determined was "only the starting point from which the Commission was to assess the need for further change." And that was no accident. When Congress passed that provision, it already had before it two bills in the House and Senate that would have expressly codified the national cap, but it ultimately adopted neither of those proposals.

Congress knows how to remove Commission discretion over broadcast policy when it wants to. In the Radio Broadcasting Preservation Act of 2000, for example, Congress directed certain minimum distance separations between broadcast channels and told the FCC it "may not . . . eliminate or reduce" those distances, except "as expressly authorized by an Act of Congress enacted after the date of the enactment of this Act." That could not be clearer. But Congress has never used any such express restrictive language in connection with broadcast ownership limits—not in 1934, 1996, 2004, or today. And there is a longstanding presumption against implied repeals of preexisting laws, especially in connection with appropriations bills.

Now, as a former FCC General Counsel, I am aware of how agencies under the old *Chevron* deference regime would try to drive trucks through any statutory ambiguity to enhance their power. To cite one example, prior administrations relied on *Chevron* to attempt to impose utility-style mandates designed for telephone monopolies on broadband Internet providers under the mantle of "net neutrality"—an effort that the FCC successfully reversed while I was GC. But *Loper Bright,* the case that overturned *Chevron,* recognized that there will be cases where Congress expressly delegates authority over a policy decision to a Federal agency. And the same Court that decided *Loper Bright* also decided *Consumers Research v. FCC* one year later—which expressly reaffirmed that Congress delegated "significant discretion" to the FCC in the Communications Act to adopt rules "in the 'public interest.'"

Ultimately, under *Loper Bright,* the search must be for the best reading of the statute. And here, there's one best reading by a mile: Congress provided the FCC with the authority to adopt ownership rules, repeatedly ratified that authority, and consciously used a "modify its rules" formulation that preserves that authority for the future.

While critics of the FCC's authority to modify the cap purport to invoke "textualism," their arguments are oddly unmoored from the text. They argue that a provision removing the cap from mandatory review every four years means that the FCC cannot modify the cap at all. But Congress did not say that. They argue that a provision prohibiting the FCC from exercising its separate forbearance authority means that Congress cannot exercise its rulemaking or waiver authorities. But Congress did not say that. They argue that a provision requiring companies in certain cases to divest enough stations to come into compliance with the cap within two years means the FCC cannot further modify the cap. But Congress did not say that either.

To quote Justice Alito, these arguments amount to "pirate ship" textualism—a method of interpretation that "sails under a textualist flag" but seeks to "update" a statute rather than interpret it. That is impermissible. Especially after *Loper Bright,* neither the FCC nor the courts may draw strained inferences from neighboring provisions in a statute to reach a policy outcome preferred by certain parties. To the contrary, the best reading of the text Congress actually adopted must prevail.

Here, that means affirming the FCC's longstanding authority to modify the national ownership cap.

Eliminating The Cap Will Enhance Competition In The Media Marketplace

The FCC not only *can* modify the national television ownership cap—it *should* do so.

When I was at the FCC, I saw firsthand how antiquated rules based on outdated assumptions can harm innovation, investment, and competition in an ever-evolving technological landscape. Take "net neutrality," for example. Proponents of the Obama-era "net neutrality" rules argued that we should apply the Communications Act's Title II framework—designed for the age of rotary phones and one major long-distance telephone network—to the modern broadband Internet economy. As we explained to the D.C. Circuit, those rules "hampered broadband innovation, investment, and deployment" and were unnecessary given that "transparency, market forces, and enforcement of existing antitrust and consumer protection laws" adequately protected against anticompetitive or other harmful conduct in the broadband industry.

Much the same could be said for the national cap today. When the FCC first adopted a similar rule in the 1940s, and even under the modern incarnation of the rule adopted in 1985, most Americans still got their news and other programming from one of the so-called "Big Three" broadcast networks—CBS, NBC, and ABC. The FCC intended that limits on national audience reach would help protect viewpoint diversity and constrain economic concentration by ensuring that then-dominant media voices could not monopolize the marketplace.

But advances in technology have now turned that original rationale on its head. Those networks increasingly distribute programming through their own streaming platforms online, none of which are subject to the FCC's audience reach limitation, rather than through their affiliated broadcast stations. Ironically, then, a rule originally intended to constrain the power of large networks now provides them with a competitive advantage over local stations that cannot scale as effectively or have the same bargaining power to distribute content via major online platforms.

Moreover, beyond the major networks, today's media landscape is littered with options for eyeballs and clicks that the FCC could not have imagined when it first started adopting ownership rules. First, there are the cable and satellite providers who offer pay-TV packages. Then, for the increasing number of cord-cutting Americans, there is an-ever expanding array of streaming services, social media networks, and virtual MVPDs like YouTube TV. Indeed, for the first time last year, streaming viewership surpassed both broadcast-and cable-television viewership combined. Meanwhile, social media recently overtook television as the principal place where more than half of Americans obtain their news.

These other media outlets face no similar arbitrary "audience reach limitation" like local broadcasters do. Imagine a rule that required Hulu or Netflix to limit subscribers to 39 percent of the public, or that cut off Facebook users at 39 percent of the Nation's population. According to recent Pew surveys, those services are currently used by 52 percent, 72 percent, and 68 percent of Americans, respectively. A similar ownership cap for digital media would require each of those services to divest consumers today. Yet local broadcast stations have operated under an equivalent cap for decades.

Broadcast stations do have one advantage—they remain the source of news and information that Americans trust the most. Local newsrooms continue to employ investigative journalists and content creators whose mission is to provide unbiased reporting on the day's events—freed from the algorithmic biases and politicized environments that infect much modern online social media. As Trinity Broadcasting Network, a Christian television broadcast licensee, put it in a comment submitted to the FCC supporting repeal of the national cap, "free, over-the-air television remains one of the few distribution platforms where religious expression can reach audiences without gatekeepers, paywalls, or platform bias."

Indeed, as FCC licensees using public airwaves, local broadcasters have a public interest obligation to serve their local communities. Precisely because of their special obligations and the unique place they occupy in the media ecosystem, broadcasters should not be encumbered by additional, arbitrary limits on their ability to compete with less regulated alternatives.

Eliminating the national ownership cap would provide stations with the flexibility to infuse additional capital into their operations and take advantage of economies of scale that could help them compete more effectively with today's modern media behemoths. While critics claim that additional station consolidation would threaten broadcast's local focus and mission, history tells a different story. The FCC has repeatedly concluded in record-based proceedings that stronger group ownership can benefit local programming. Indeed, to cite one recent example, when Nexstar acquired Tribune, the post-merger entity produced *more* local content than before, not less.

In any event, the alternative if the status quo continues is not a vibrant, thriving local news economy. The alternative is that broadcast remains an endangered species heading toward extinction. Local newspapers have already shuttered at exponential rates. Eliminating artificial media ownership rules imposed by the government—including the national cap—at least gives broadcast stations a chance to adapt and thrive in the new media environment under the same competition rules that apply to everyone else. The public interest, which the FCC is charged to protect by altering or repealing its rules as appropriate when competition evolves, demands no less.

Repeal Would Enhance Viewpoint Diversity—Including Conservative Voices

Some proponents of retaining the national cap argue that empowering local broadcasters would somehow hurt conservative voices in media. These arguments rely primarily on daisy-chain reasoning about how particular station groups might exert greater influence in persuading cable operators to carry certain programming affiliated with the station group. To the extent that occurs, the FCC has deemed such practices presumptively reasonable and there would be no political valence to them. But in any event, repealing the cap would benefit viewpoint diversity, including for conservatives.

Eliminating the national cap would empower station groups by enabling them to scale up and bargain more effectively with national programmers. That means affiliate groups that represent a broad cross-section of Americans would have more leverage to demand network programming that reflects conservative and moderate values—not the predominantly progressive politics of content creators from large coastal cities. Similarly, affiliate groups could bargain for more rights to "preempt" national programming in favor of local content, or more local control over what syndicated programming to air in what time slots. This too could exercise a gravitational pull on networks, which may be more inclined to offer programming that appeals to a broader audience.

A similar dynamic would play out on streaming media. Right now, the national broadcast networks use their leverage to obtain unfavorable terms from local stations for carriage rights on streaming services and virtual TV platforms. If station groups were allowed to expand unencumbered by the national cap, local broadcasters would be better positioned to obtain fair compensation for their content and bargain for retransmission rights on virtual platforms.

By contrast, who benefits from maintaining the status quo? It's the Big Tech and Big Media companies who dominate social media and other online platforms and whose politics lean decidedly liberal. If the content these companies produce turns a profit, it should be because it resonates with Americans, not because arbitrary government mandates crowd out potentially more popular options or allows these companies to acquire local content for pennies on the dollar.

As a case in point, consider the history of the FCC's Fairness Doctrine. Originally conceived as a way to ensure broadcasters would present balanced points of view on scarce public airwaves, it ultimately became weaponized in the 1960s as a means to silence conservative voices in radio. Following widespread public criticism, the rule's repeal in the 1980s led to an explosion in conservative talk show programs, led by Rush Limbaugh, that set the model for the conservative voices in cable news and online influencers that we have today.

The national television ownership cap has followed a similar trajectory. While conceived as a means to constrain the major networks, it now empowers them to the detriment of voices in local broadcasting. Repeal could help level the playing field and restore more balance in how television reports on the critical political and cultural issues of the day.

Any Concerns About Competition Or Localism Can Be Addressed Case-by-Case

Even if one believed that larger station groups would present competition or localism concerns in certain cases, it is quite an inferential leap—over a yawning chasm—to think that the solution is a prescriptive, across-the-board ownership limit pegged to 39 percent (a number that reflects a snapshot of decades-old market realities). One searches in vain for plausible defenses of ossifying for all time this precise Delphic ownership limit.

Eliminating the cap would simply level the playing field so that broadcasters are subject to the same competitive constraints as other companies throughout the media ecosystem. That does not mean no oversight over future broadcast deals. To the contrary, the Antitrust Division of the Department of Justice would still scrutinize deals that meet certain economic thresholds for compliance with competition laws—just as it does in every other sector of the economy. The Federal Trade Commission and related state authorities would continue to police unfair and deceptive practices. Any deals or business practices that are anticompetitive could still be enjoined, either by the government or in private lawsuits.

Indeed, because broadcasters are FCC licensees charged with operating in the public interest, any broadcast deals would have to undergo an additional independent review at the Commission. No other private companies to my knowledge undergo two layers of Federal competition review, but that will continue to happen for FCC licensees, regardless of whether prescriptive ownership rules remain in place. That is all the more reason why they shouldn't. And because the FCC's Congressional public interest mandate sweeps broader than concerns about competition, the FCC could continue to examine the effects of proposed transactions on localism and viewpoint diversity, two other areas of concern for national-cap proponents.

In short, good deals that would otherwise be blocked by the 39 percent cap could get approved, although only after vigorous review, while bad deals could still be blocked. Or as President Trump said this past weekend, "[l]etting Good Deals get done" will result in "more competition, and at a higher and more sophisticated level," with the large national networks that currently dominate the landscape for TV programming.

In closing, I want to thank you again Chairman Cruz, Ranking Member Cantwell, and Members of the Committee, for holding this important hearing and for the opportunity to testify. I look forward to answering your questions.

The CHAIRMAN. Thank you. Mr. Waldman.

STATEMENT OF STEVE WALDMAN, PRESIDENT, REBUILD LOCAL NEWS

Mr. WALDMAN. Thank you, Chairman Cruz, Ranking Member Cantwell, and other Committee members.

On average, two newspapers close every week in the United States. Three thousand five hundred have shut down in the last 20 years, and perhaps most importantly, in the last 20 years, there has been a 75-percent drop in the number of local journalists—that's in print, TV, digital—and the consequences for communities are really alarming. Studies show that areas with less local news have more corruption, more government waste, less civic involvement, less volunteering. People know a lot about national controversies, but not all that much about local issues: what the mayor did this year or even what the mayor's name was.

And there's one more thing that's a bit harder to measure but so important, is the vacuum is being filled by social media and national news, which are leaving communities more divided. As Senator Moran said last week about the *Plainville Times,* national journalism has the habit of tearing us apart; community journalism pulls us together. Yes, media consolidation is one of the causes. For instance, private equity firms in New York acquired lots of newspapers, then laid off the local reporters in the rest of the country, but the primary cause is the internet. Advertisers shifted spending toward Google, Facebook, and other tech platforms and then used their market clout to restrict competition and provide less revenue to local publishers.

And now comes another body blow: artificial intelligence. AI will further deplete the revenue of local news outlets. AI companies will suck in the local news content to train and ground the AI assistance, which then provide full answers instead of linking prominently off to the publisher websites. And those click-throughs are what have generated the traffic and the revenue for the local news outlets.

When the *Washington Post* announced its cuts, which included a 70-percent cut in the Metro staff, they noted that their search traffic had dropped by half in three years. And by the way, these drops in traffic are at conservative websites as well, but here's the horrible paradox of all this. As AI erodes local news businesses, that hollowness in turn will make it worse—will make AI worse. AI works well when it has massive amounts of data, but it really struggles when it's confronted with the condition called information scarcity, and local news suffers from that ailment exactly. Studies show AI routinely provides inaccurate information on local matters, and when malicious players are producing deepfakes and there are no local watchdogs, those will run rampant.

And to be clear, like, AI does offer tremendous opportunities to local newsrooms. It really does. I mean, the—these nearly magical tools can help local news outlets do more coverage with less money. But the tech industry has to go farther than that and help reverse the financial crisis, the revenue crisis that it helped to create, and I think there are a few ways to think about that.

First, AI companies must compensate local news organizations, including the small and medium-sized ones, for the content they use. Many of them have made deals with big media chains, but so far have left out thousands of smaller players. Second, we have the big controversies and energy over the construction of AI data centers. Well, there's an opportunity there, too. Here's an idea: have each data center contribute some money, a one-time donation to a community foundation to create an endowment that would help pay for local reporters, and those reporters can do the follow up. Did the AI companies actually buy from local businesses as they said they would or hire locally, or did they do the—pay their way on electricity as they said?

And finally, AI companies and social media platforms should pay, I believe, a mitigation fee to help finance the revival of community news. Even a tiny fee could help pay for something like Senator Cantwell's bill that would provide tax credits for the hiring of local news or tax credits for small businesses that advertise in local news, which is an idea we're seeing Republicans push in New Hampshire and Kansas right now.

Now, on the local TV ownership caps, our group has not taken a position on the question of whether or not Congress—FCC has the authority to do the caps on their own, but I would say this. First, I actually have some sympathy for both of these arguments. You know, the—it really is true that local TV news is incredibly important. In some places, it's the only thing left, and so we really agree that this ought to be looked at through the prism of whether or not it helps local news. On the other hand, there really is a lot of evidence that consolidation has gone in the other direction and actually hollowed out some newsrooms.

So, my advice would be to look at that question through the prism of whether it's good or bad for local news, and specifically look at whether it maintains or increases or reduces the number of local reporters and editors, not the number of hours because if you have less local reporters and more hours, what you actually have is more superficial local news or more copying. So, really look at the kind of capacity. And I think time is running out. We need to reverse this before nothing's left. We at heart need more human reporters living in the communities, accountable to and listening to their neighbors, and for that revival to happen, the biggest technology companies must quickly step up as well.

[The prepared statement of Mr. Waldman follows:]

PREPARED STATEMENT OF STEVEN WALDMAN, PRESIDENT, REBUILD LOCAL NEWS

Thank you Chairman Cruz for inviting me, and for your salient comments in the past about the importance of local news. And thank you Senator Cantwell for your strong leadership in trying to advance public policies to help local news.

Rebuild Local News is a nonpartisan group that develops and advocates First-Amendment-friendly public policies that strengthen community news. The Rebuild Local News Coalition includes 55 publisher associations, foundations, labor unions, journalists groups and civic groups. Together they represent 3,000 newsrooms and 15,000 journalists around the country—though the views here are my own and don't necessarily represent those of the member associations.

As you know, local news has collapsed. Approximately 3,500 newspapers in the past twenty years have disappeared, representing more than 40 percent of the total which have closed.[1] On average, two newspapers close each week. There's been a 75 percent drop in the number of reporters in the past 20 years.[2] In 2002, there were about 40 reporters per 100,000 people. Now, that number is 8.2.[3] According to the Local Journalist Index, 184 of Texas's 254 counties, about 72 percent, fall below the already anemic national average, while 20 of Washington's 39 counties, just over 51 percent, are in the same position.[4]

And of course, just to underline that no place is immune, last week we learned that *The Washington Post* would be reducing its metro staff by 70 percent, as part of a massive cut to their newsroom. The local news crisis is spreading.

As a result of the drop in the number of reporters and outlets, many communities have little or no local reporting on government, schools, courts, or public safety. This collapse has real consequences for how communities govern, how public dollars are spent, and how residents stay informed.

There are financial impacts. Communities with less local news had lower bond ratings, higher financing costs, and higher taxes.[5] They have more government corruption and more government waste.[6] [7] Communities that suffer from a loss of local news are also linked to increased regulatory violations and organizational wrongdoing.[8]

The civic life of communities is undermined. The contraction has contributed to a significant drop in local civic knowledge and participation in the United States. Those who follow local news closely are more likely to engage in activities with civic organizations such as sports leagues, church groups or charity organizations' civic

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[1] Medill School of Journalism, State of Local News/News Desert Project, Northwestern University. 2025. *https://localnewsinitiative.northwestern.edu/projects/state-of-local-news/2025/report/*

[2] Muck Rack and Rebuild Local News. 2025. The Local Journalist Index. *https://muckrack.com/research/local-journalist-index*

[3] Rebuild Local News & Muck Rack, Local Journalist Index.

[4] The LJI also shows that the statewide average journalist density is 5.9 in Texas and 7.7 in Washington, both below the national level. National, State and County-level journalist density is drawn from the Local Journalist Index (LJI), produced by Rebuild Local News in partnership with Muck Rack.

[5] Pengjie Gao, Chang Lee, and Dermot Murphy, "Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance," Journal of Financial Economics 135, no. 2 (February 2020): 445–467, *https://doi.org/10.1016/j.jfineco.2019.06.003.*

[6] Matherly, T., & Greenwood, B. N. (2024). *No news is bad news: The internet, corruption, and the decline of the Fourth Estate.* MIS Quarterly, 48(2), 699–714. *https://doi.org/10.25300/MISQ/2023/17869;* Filipe R. Campante and Quoc-Anh Do, "Isolated Capital Cities, Accountability, and Corruption: Evidence from U.S. States," *American Economic Review* 104, no. 8 (August 2014): 2456–81, *https://doi.org/10.1257/aer.104.8.2456.*

[7] Pengjie Gao, Chang Lee, and Dermot Murphy, "Financing Dies in Darkness?".

[8] Heese, Jonas & Pérez-Cavazos, Gerardo & Peter, Caspar David, 2022. "When The Local Newspaper Leaves Town: The Effects Of Local Newspaper Closures On Corporate Misconduct," Journal of Financial Economics, Elsevier, vol. 145(2), pages 445–463.

activities.[9] Evidence also suggests that the decline of local news is linked to higher loneliness, especially in rural communities.[10]

The basic health of the political system declines. Declines in local news result in less knowledge about public officials and less civic knowledge[11], voters are less likely to have an opinion about their member of Congress,[12] less likely to be able to name things they like or dislike about their representative.[13] In 1966, 70 percent of voters could name their mayor. In 2016 only 40 percent of voters could.[14] Communities with less local news have lower voting rates, and those that do regularly vote are more likely to follow local news.[15] [16] The members of Congress who get less coverage in the local press are less likely to appear as a witness before a congressional committee to advocate for their district.[17]

Just as important, studies have also shown that this contraction has exacerbated polarization and the nationalization of all news and disputes. The vacuum created by the loss of local news tends to be filled by national media and social media (which fuels polarization and is more polarizing and prone to spreading inaccuracies.) In communities with less local news, voters are more likely to vote on a party line basis[18] and have more polarized views.[19] As Senator Moran recently said, in speaking movingly about its recently-merged local newspaper, the Plainville Times, "I saw first-hand how the newspaper supported the community and brought neighbors, friends and even strangers together. Community journalism pulls us together. National journalism has the habit of tearing us apart."

There are multiple causes to the contraction. Some of it was self-inflicted by the news industry. As local papers were bought up by hedge funds or private equity firms based in New York, they cut reporters out in the rest of the country.[20] Mega mergers financed with massive amounts of debt contributed, too, as news organizations used profits to pay off loans instead of investing in digital transformation or local coverage. We have even seen the rise of local newspapers that have no local reporters at all.[21] In the case of both newspapers and local TV,[22] consolidation and nationalization in many cases has aggravated the local news crisis, leading to fewer reporters in communities and less, or more superficial, coverage of school boards,

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[9] Michael Barthel *et al.,* "Civic Engagement Strongly Tied to Local News Habits,".

[10] Hayes, Danny and Trivedi, Anusha, Loneliness and the Local News Environment (February 05, 2026). Available at SSRN: *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6183182*

[11] Danny Hayes and Jennifer L. Lawless, "As Local News Goes, so Goes Citizen Engagement: Media, Knowledge, and Participation in U.S. House Elections," *The Journal of Politics* 77, no. 2 (April 2015): 447–62, *https://doi.org/10.1086/679749.*

[12] Danny Hayes and Jennifer L. Lawless, "The Decline of Local News and Its Effects: New Evidence from Longitudinal Data," *The Journal of Politics* 80, no. 1 (October 18, 2017): 332–36, *https://doi.org/10.1086/694105.*

[13] James Snyder Jr. and David Strömberg, "Press Coverage and Political Accountability," *Journal of Political Economy* 118, no. 2 (April 2010): 355–408, *https://doi.org/10.1086/652903.*

[14] Hayes and Lawless, *News Hole,* 2.

[15] Jessica Bruder, "Is the Death of Newspapers the End of Good Citizenship?," Christian Science Monitor, November 11, 2012, *https://www.csmonitor.com/USA/Society/2012/1111/Is-the-death-of-newspapers-the-end-of-good-citizenship.;* Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," SSRN, Oct. 11, 2021, *https://ssrn.com/abstract=3939316.*

[16] Michael Barthel *et al.,* "Civic Engagement Strongly Tied to Local News Habits," *Pewresearch.org* (Pew Research Center, November 1, 2016), *https://www.pewresearch.org/journalism/wp-content/uploads/sites/8/2016/11/PJ_2016.11.02_Civic-Engagement_FINAL.pdf.*

[17] Snyder, Strömberg, "Press Coverage and Political Accountability," 355–408.

[18] Daniel J. Moskowitz, "Local News, Information, and the Nationalization of U.S. Elections," *American Political Science Review* 115, no. 1 (February 2021): 114–29, *https://doi.org/10.1017/s0003055420000829;* Joshua P Darr, Matthew P Hitt, and Johanna L Dunaway, "Newspaper Closures Polarize Voting Behavior," *Journal of Communication* 68, no. 6 (November 5, 2018): 1007–28, *https://doi.org/10.1093/joc/jqy051.*

[19] Darr JP, Hitt MP, Dunaway JL. Home Style Opinion: How Local Newspapers Can Slow Polarization. Cambridge University Press; 2021.

[20] Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," NBER Working Paper 29743 (2022), *https://doi.org/10.3386/w29743;* Steven Waldman, "The local news crisis illustrates the inadequacy of the current antitrust approach," Rebuild Local News, May 8, 2024, *https://www.rebuildlocalnews.org/the-local-news-crisis-illustrates-the-inadequacy-of-the-current-antitrust-approach/*

[21] Abernathy, "News Deserts and Ghost Newspapers: Will Local News Survive?," 34, *www.usnewsdeserts.com* (Chapel Hill: University of North Carolina, June 2020), *https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf;* Jessica Garrison, "As the Salinas Californian withers, a city yearns to know its stories," Los Angeles Times, March 27, 2023, *https://www.latimes.com/california/story/2023-03-27/as-the-salinas-californian-withers-a-city-yearns-to-know-its-stories.*

[22] Free Press, "Redacted Copy of NXST/TGNA Petition to Deny" (PDF), *https://www.freepress.net/download/redacted-copy-nxst-tgna-petition-deny-pdf* (accessed Feb. 6, 2026).

economic development, elections, social problems and civic activity.[23] Indeed, the revival and reformation of local news will require not just new business and editorial approaches—but new ownership models. We have seen that family-owned news organizations, smaller chains and nonprofits tend to do better on the local level.[24] It appears that local news often does better when it is in local hands.

But the primary reason for the collapse of local news business models is the rise of the internet. Local and regional advertisers shifted from local media to Google, Facebook and other tech platforms. Some 85 percent of local advertising now goes to non-local companies, Google, Meta and Amazon.[25] Not all Big Tech behavior was malicious. Some of these trends happened because the tech companies provided better services to local businesses. But it is also true that they then used that market clout to squelch competition and provide less revenue to local publishers.[26]

And blame aside, the reality remains that the digital disruption had many great benefits and also some serious downsides—one of which is the tragic undermining of community news. It's only fair that the big winners of the digital revolution help repair the damage, whether it was intended or unintended.

Unfortunately and amazingly, the local news business models are once again feeling another body blow—this time from artificial intelligence.

To be clear, AI will provide many truly amazing opportunities for publishers who use it ethically and creatively. Right now newsrooms across the country are experimenting with how to reinvent themselves—providing more coverage for less money, thanks to AI. We applaud and support that innovation.

But when it comes to AI and local news, there are also several overriding—and ominous—trends.

The first order economic impact is likely to be further erosion of the local news business models—yet another blow to community information and news.

Americans are indeed using AI search to get information about their communities. Last week, OpenAI reported that "the demand for reliable local news is already visible inside ChatGPT at a rate of about 1 million prompts per week." [27]

Unfortunately, under the current system, local news outlets will again end up financially wounded. AI companies hoover up content created by local news outlets—content that came about as a result of paying a human being journalist. The AI companies use that to train and ground their models. The AI assistants can replace referral traffic by providing summaries instead of links—so users don't have to click through to some other website. That's the key difference. In the olden days—like, a year ago—even though there was a clear power imbalance in favor of big tech, they did also at least give a prominent link, so the user might sometimes click through to the news site. That provided traffic that the news outlets could convert to revenue.

AI will grievously wound, if not kill, the click-through.[28] In announcing its layoffs, the *Washington Post* editors noted that their search traffic had dropped by one-half in just three years.[29]

And, by the way, this phenomenon is nonpartisan: conservative sites are seeing major traffic declines too.[30]

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[23] Free Press, "Comments of Free Press: In the Matter of 2022 Quadrennial Regulatory Review," Mar. 3, 2023, *https://www.freepress.net/download/free-press-2022-quadrennial-review-comments-pdf.*

[24] Ewens, Gupta, and Howell, "Local Journalism under Private Equity Ownership."

[25] Borrell Associates, "2025 Annual Report: Benchmarking Local Digital Media," May 2025, *https://borrellassociates.com/ip_releases/2025-annual-report/.*

[26] U.S. Department of Justice. (2025, April 17). *Department of Justice prevails in landmark antitrust case against Google https://www.justice.gov/opa/pr/department-justice-prevails-landmark-antitrust-case-against-google*

[27] OpenAI Global Affairs, "A Different Path on Local News," (2026, February 3) *https://openaiglobalaffairs.substack.com/p/a-different-path-on-local-news.*

[28] Pew Research Center, "Google users are less likely to click on links when an AI summary appears in the results," July 22, 2025, *https://www.pewresearch.org/short-reads/2025/07/22/google-users-are-less-likely-to-click-on-links-when-an-ai-summary-appears-in-the-results/.*

[29] Bauder, D. (2026, February 4). *Washington Post cuts a third of its staff in a blow to a legendary news brand.* Associated Press. *https://apnews.com/article/washington-post-staff-reduction-layoffs-cuts-923f87d4bd319c8a64b278165d0a6e27*

[30] Analysis of the top 50 U.S. news websites reveals that 37 sites experienced year-over-year traffic declines in May 2025, with only 13 showing growth. Press Gazette. (2025). *Most popular news websites in the US—monthly ranking* Retrieved December 19, 2025, from *https://pressgazette.co.uk/media-audience-and-business-data/media_metrics/most-popular-websites-news-us-monthly-3/*

Whatever the ultimate outcomes in the courts on questions of fair use, the fact will remain that the AI companies extract tremendous value from local news providers without giving much back to newsrooms—at a time when local news is already in an existential crisis.

If unaddressed, the collapse of local news will actually make AI lower quality and ultimately spread more misinformation.

AI struggles when there's a dearth of information on a topic.[31] It is more likely to be inaccurate and spread misinformation. The local news ecosystems in many communities suffer from this "information scarcity." We've invented whole new terms—"news deserts" and "ghost newspapers"—to capture how barren some of these areas are. Not surprisingly, AI has struggled to get local information right. Studies have found that AI assistants often flubbed[32] local elections[33] including information about how to register, where to vote,[34] the positions of candidates,[35] and how disabled people[36] could vote. In another study about elections in Switzerland and Germany, one-third of answers included "wrong election dates, outdated candidates, or even invented controversies concerning candidates.[37] Chatbots are generally not well suited to adapt to the local context or language." In Australia, a mayor sued OpenAI when ChatGPT declared, falsely, that he had been convicted of bribery.[38] The fact-checking and data analytics firm NewsGuard[39] *reported* that the error rate for AI search had actually gone up in the past year, and regularly *picked up* material from fake local sites created by Russia.[40]

Without local reporters, the deepfakes and malicious uses of AI on the local level will be much harder to combat.

A survey of thousands of AI researchers found that 86 percent had a "substantial" or "extreme" concern about the "spread of false information *e.g.,* deepfakes," and 79 percent worried about "manipulation of large-scale public opinion trends."[41] We've seen how easy it is to concoct videos or stories that seem real. At the national level, on big stories, news organizations may be able to catch them. But on the local level, if there are no watchdogs, deepfakes will run rampant.[42] In addition, AI will accelerate the rise of "pink slime" local news websites, misleading sites that have been

[31] Philip M. Napoli, "AI Needs Us More Than We Need It," Washington Monthly, Oct. 29, 2024, *https://washingtonmonthly.com/2024/10/29/ai-needs-us-more-than-we-need-it/*

[32] Democracy Reporting International, "Are Chatbots Misinforming Us About the European Elections? Yes," by Austin Davis, Michael Meyer-Resende, Duncan Allen and Ognjan Denkovski, March 2024, *https://democracyreporting.s3.eu-central-1.amazonaws.com/pdf/6628b70e0b124.pdf.*

[33] David Ingram, "AI chatbots got questions about the 2024 election wrong 27 percent of the time, study finds," NBC News, June 5, 2024, *https://www.nbcnews.com/tech/tech-news/ai-chatbots-got-questions-2024-election-wrong-27-time-study-finds-rcna155640.*

[34] Matt O'Brien and Ali Swenson, "AI chatbots provide many wrong answers about elections, report says," Associated Press, Feb. 27, 2024, *https://apnews.com/article/ai-chatbots-elections-artificial-intelligence-chatgpt-falsehoods-cc50dd0f3f4e7cc322c7235220fc4c69*

[35] Felix M. Simon, Sacha Altay, and Richard Fletcher, "The role and reliability of AI chatbots during the 2024 UK general election," Reuters Institute for the Study of Journalism, Sept. 2024, *https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2024-09/Simon%20et%20al%20Chatbots%20and%20UK%20Elections.pdf.*

[36] Benjamin Freed, "Chatbots often give wrong voting info for people with disabilities, research finds," StateScoop, July 18, 2024, *https://statescoop.com/chatbots-voting-disabilities-information-wrong-research-2024/*

[37] Salvatore Romano, Natalia Stanusch, Miazia Schüler, Riccardo Angius, Raziye Buse Çetin, Sonia Tabti, and Marc Faddoul, "Bing: It's Not You, It's Me," AI Forensics, Dec. 15, 2023, *https://aiforensics.org/work/bing-chat-elections.*

[38] Pranshu Verma, "An AI chatbot said a mayor was a felon. Now he's threatening to sue OpenAI," The Washington Post, April 6, 2023, *https://www.washingtonpost.com/technology/2023/04/06/chatgpt-australia-mayor-lawsuit-lies/.*

[39] NewsGuard, "NewsGuard's One-Year AI Audit Progress Report finds that AI models spread falsehoods in the news 35 percent of the time," March 5, 2024, *https://www.newsguardtech.com/press/newsguard-one-year-ai-audit-progress-report-finds-that-ai-models-spread-falsehoods-in-the-news-35-of-the-time/.*

[40] NewsGuard, "August 2025 One-Year Progress Report: AI False Information Rate Nearly Doubles in One Year," Sept. 4, 2025, *https://www.newsguardtech.com/wp-content/uploads/2025/09/August-2025-One-Year-Progress-Report-3.pdf.*

[41] Katja Grace, Johnathan Sandamirskaya, Zach Stein-Perelman, Beth Barnes and Jasmine Wang, "Thousands of AI Authors on the Future of AI," AI Impacts, Jan. 4, 2024, *https://aiimpacts.org/wp-content/uploads/2023/04/Thousands_of_AI_authors_on_the_future_of_AI.pdf.*

[42] National Association of Broadcasters, "NAB Applauds Senate Committee Passage of Journalism Competition and Preservation Act," June 15, 2023, *https://www.nab.org/documents/newsroom/pressRelease.asp?id=6913*

created to look like legacy local news outlets[43] while sneakily promoting bought-and-paid-for content by partisan activists. Newsguard has already identified 631 "unreliable AI-generated news" sites.[44]

We have a vicious cycle. AI undermines local news; the lack of local news, in turn, makes AI's quality worse.

Fortunately, a virtuous circle can be created: if AI helps *revive* local news, it will make its results higher quality. The AI industry ought to view itself as having a stake in reviving local news.

Some companies are working with news organizations to help them use the technology to better equip their reporters.[45] For instance, OpenAI is working with the American Journalism Project to train newsrooms to better use AI to reach new audiences. [46]

But the AI industry needs to go far beyond providing journalists with training on how to better use their products. It needs help to reverse the financial crisis.

First, they need to compensate local news organizations—including medium-and small-sized outlets—for the use of the content that they use to craft their answers to consumers.

Some major publishers have made deals with AI companies for the use of the content[47] but notably these companies have not made deals with the thousands of small and independent media, especially on the local level.[48] We're concerned that medium and small sized players will be once again left out.[49] Policymakers could consider ideas like those proposed by the Center for Journalism and Liberty such as allowing small publishers to bargain collectively and requiring AI companies to provide detailed summaries of training data sources.[50]

Second, local efforts around the construction of data centers should include the health of local information and journalism in the discussions.

Communities are understandably concerned about the impacts of data centers on electricity prices, water use and other impacts. Some[51] are trying to block data centers entirely, which is their right.[52] For those communities that want data centers—but only if certain benefits are guaranteed—here's a modest proposal. In addition to remediating the effects on those other major issues, ask for something simple: the money to hire a couple of local reporters. The reporters can help ensure that the commitments from the tech companies are met, and in general make communities

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[43] Priyanjana Bengani, "As election looms, a network of mysterious 'pink slime' local news outlets nearly triples in size," Columbia Journalism Review, June 11, 2024, *https://www.cjr.org/analysis/as-election-looms-a-network-of-mysterious-pink-slime-local-news-outlets-nearly-triples-in-size.php.*

[44] NewsGuard, "AI Tracking Center," Feb. 5, 2026, *https://www.newsguardtech.com/special-reports/ai-tracking-center/.*

[45] Local Media Association, "Paris Brown—The Baltimore Times Has Been Named Digital Innovator of the Year by Local Media Association," Local Media Association, May 2025, *https://localmedia.org/2025/05/paris-brown-the-baltimore-times-has-been-named-digital-innovator-of-the-year-by-local-media-association/* (accessed 02/06/2026).

[46] The Beacon, "The Beacon's illuminating experience in AJP's Product and AI Studio," Jan. 8, 2026, *https://thebeaconnews.org/stories/2026/01/08/the-beacons-illuminating-experience-in-ajps-product-and-ai-studio/*

[47] Sara Fischer, "The state of AI licensing," Axios Media Trends, September 9, 2025, *https://www.axios.com/newsletters/axios-media-trends-a73658e0–8d8c-11f0–840d-2fc12eb558cf.html?chunk=4#sto ry4;*Sara Guaglione, "Here are the biggest moments in AI for publishers in 2025," Digiday, Dec. 26, 2025, *https://digiday.com/media/here-are-the-biggest-moments-in-ai-for-publishers-in-2025/.*

[48] Journalism & Liberty, "The Value of Journalism to AI," May 2024, *https://www.journalismliberty.org/publications/value-of-journalism-to-ai.*

[49] David Buttle, "Publishers with AI licensing deals have seven times the clickthrough rate," Press Gazette, Oct. 1, 2025, *https://pressgazette.co.uk/comment-analysis/publishers-with-ai-licensing-deals-have-seven-times-the-clickthrough-rate/.*

[50] Courtney C. Radsch, "Frenemies: Global approaches to rebalance the Big Tech v journalism relationship," Brookings (TechTank), August 29, 2022, *https://www.brookings.edu/articles/frenemies-global-approaches-to-rebalance-the-big-tech-v-journalism-relations hip/* (accessed 02/06/2026) and Gordon Institute of Business Science (GIBS), "Big Tech and Journalism—Principles for Fair Compensation," GIBS, adopted July 14, 2023, *https://www.gibs.co.za/news/big-tech-and-journalism—principles-for-fair-compensation* (accessed 02/06/2026)

[51] NAACP, "Advocacy in Action: Artificial Intelligence Data Centers in Our Communities," May 2025, *https://naacp.org/sites/default/files/documents/Advocacy%20in%20Action%20AI%20Data%20Centers%20.pdf;* MediaJustice, "The People Say No: Resisting Data Centers in the South," September 2025, *https://mediajustice.org/wp-content/uploads/2025/09/MediaJustice-Data-Centers-Report.pdf*

[52] Mijin Cha, "The real race for an AI moratorium: stopping data centers," Tech Policy Press, April 4, 2024, *https://www.techpolicy.press/the-real-race-for-an-ai-moratorium-stopping-data-centers/*

better functioning—covering everything from small businesses to city hall to high school sports.

This can be done in a way that preserves editorial independence. Each data center would provide a one-time donation to create a perpetual endowment at a local community foundation. The independent community foundation would place two reporters in a local news area newsroom. Some companies have pledged special efforts to help the areas where data centers are based.[53] But if the AI companies don't do this themselves, communities should consider requiring that these be included in the Community Benefit Agreements.

Third, we should ask AI companies and other social media platforms to pay mitigation fees to help pay for the revival of community news.

A few years ago, Sen. Cantwell sponsored an excellent bill that provided tax relief for news outlets that hired local reporters. A similar bill was proposed by Republican Rep. Claudia Tenney in the House of Representatives.

Since then, state legislatures have been experimenting. Illinois and New York passed employment credits. The one in Illinois is off to an excellent start, having provided help for 120 newsrooms in the state. Two thirds of them have 6 or few employees.[54]

Sen. Cantwell and Rep. Tenney also proposed tax relief for small businesses that advertise in local news—a way of helping both restaurants, hardware stores *and* local papers. Recently, Republican lawmakers in Kansas and New Hampshire have proposed state versions of that plan.[55]

In other states, including Washington, the local governments have helped support fellowship programs, managed by the state universities, that place journalists into local newsrooms.

These are all approaches that don't involve the government creating a board of people who give out discretionary grants. They use objective standards, without consideration of editorial direction—they are relentlessly focused on local coverage.

To pay for these, we suggest Congress and state legislatures consider applying a mitigation fee on the biggest technology and AI companies. Several bills have proposed assessing fees on advertising, which makes sense, but the advent of AI requires some new thinking, possibly a mitigation fee based on the number of active unique users too.

In general, we have entered a world in which national media, big tech and local news are all becoming more concentrated in a smaller number of very powerful companies. In terms of the ownership of TV channels, the main topic of this hearing, our coalition has not taken a formal position about the appropriate levels of ownership caps but we would urge this: seek policies that will definitively maintain or increase the number of local reporters in a community. Don't just look at the number of stations or the hours of coverage. More hours of coverage with fewer local reporters is a recipe for more superficial news. Look at the actual investment in reporting capacity.

Senator Cruz once wisely said "big tech exercises a concentration of power that I believe is unknown in the history of mankind and that concentration of power is regularly used to trample on the little guy. To trample on companies they do business with and this instance to trample on local media organizations, whether you are talking about small town newspapers, whether you're talking about local broadcasters, anyone in the journalism spaces that is producing content . . . the idea that we would see monopoly control of public discussion in America to three or four billionaires in Silicon Valley, modern day American oligarchs, is profoundly dangerous."[56]

When it comes to local news, our hope is that local news will be in local hands, as much as possible. Public policies should gravitate toward that philosophy—a media system in which local news ownership and control is diffuse, fragmented and local.

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[53] Brad Smith, "Building Community-First AI Infrastructure," Microsoft On the Issues, Jan. 13, 2026, *https://blogs.microsoft.com/on-the-issues/2026/01/13/community-first-ai-infrastructure/*.

[54] Rebuild Local News, "Supporting local reporting in Illinois: early lessons and opportunities," May 22, 2024, *https://www.rebuildlocalnews.org/supporting-local-reporting-in-illinois-early-lessons-and-opportunities/*

[55] Kansas State Legislature, "House Bill 2276: Establishing the local news advertising tax credit act," Feb. 5, 2025, *https://kslegislature.gov/li/b2025_26/measures/hb2276;* New Hampshire State Legislature, "House Bill 1420: relative to a tax credit for local news advertising," Jan. 14, 2026, *https://legiscan.com/NH/text/HB1420/id/3288555*

[56] U.S. Senate Committee on the Judiciary, "Executive Business Meeting," Sept. 22, 2022, *https://www.judiciary.senate.gov/meetings/09/22/2022/executive-business-meeting*.

Despite all of the destruction, we have also seen a tremendous amount of innovation—hundreds of new local news startups.[57] They don't yet come close to filling the voids in information. But they do give some hope that if we can continue to improve the business and editorial models, draw in more money from philanthropy—and have smart public policy, we can construct a better local news system than we've had before.

Technology can help. But we also need actual human beings, living in their communities, accountable to and listening to their neighbors. To have that kind of revival of community news, the biggest technology companies will need to play a much bigger role in reversing this local news crisis.

The CHAIRMAN. Thank you. Mr. Ruddy, let's start with you. You said in your testimony that NewsNation has more than 5 times fewer viewers than Newsmax does, but that Newsmax nonetheless has paid substantially less for its content, even though it is producing 5 times more viewers. Those are striking numbers. What's the cause of that?

Mr. RUDDY. Market leverage and market power. NewsNation is owned by Nexstar, and Nexstar owns today about 200 TV stations, and they go in with the cable operators to negotiate their agreements for those TV stations. They have incredible leverage because they have so many stations. So, imagine if they're negotiating with Spectrum. Charter goes by the name of Spectrum, and they have 50 stations in the various markets and they want a certain retrans fee. So, when they're in negotiations, they say to Spectrum you better pay us the rate, otherwise we're going to take the stations off your cable system, and that could be devastating for a company like Spectrum. And then they also say we have a cable channel and we want you to pay us a certain amount, and if you don't pay us, we can go dark on our broadcast stations.

Nexstar is not the only company that does this. ABC-Disney has ESPN and a whole number of channels, Fox has a whole number of channels, and they all use and wield the leverage of their broadcast stations to get high fees for their cable channels. I'm an independent media company. I don't have the leverage that these broadcast companies. So, one of the reasons we had the cap was to reduce the leverage so that they couldn't overpower the cable operators. And this is why cable bills are up over a hundred percent in recent years because of the immense power that these companies have.

The CHAIRMAN. Mr. LeGeyt, do you agree with Mr. Ruddy? Do you agree that it is market power that is resulting in higher fees being paid?

Mr. LEGEYT. Absolutely not. I represent at the National Association of Broadcasters, Nexstar's broadcast interests, so I can't speak to NewsNation, but what I can say is this. When you look at the media landscape, we are distant stars in the solar system that is Meta, Google, Apple, Amazon, Netflix. Right now, this administration is reviewing a deal that would merge two streaming behemoths, right—Netflix, Warner Brothers—and I point that out——

[57] More than 300 over the past five years, according to Medill School of Journalism, State of Local News/News Desert Project. See Institute for Nonprofit News, *https://inn.org/about/who-we-are/;* LION Publishers, *https://lionpublishers.com/about/;* and American Journalism Project, *https://www.theajp.org/about/;* Local Media Association. "2024 Digital Innovation Award winners: Honoring excellence in local media." May 26, 2025. *https://localmedia.org/2025/05/2024-digital-innovation-award-winners-honoring-excellence-in-local-media/*

The CHAIRMAN. Mr. LeGeyt—Mr. LeGeyt, let me focus you on the specific question that I'm asking——

Mr. LEGEYT. Sure.

The CHAIRMAN.—which is, do you agree that the numbers Mr. Ruddy provided are accurate, namely that Newsmax has roughly 5 times as many viewers as NewsNation, and that NewsNation is paid more money than Newsmax is? Are those numbers accurate in your understanding?

Mr. LEGEYT. So, I don't have the viewership numbers in front of me, but I will—I will stipulate to that if he's documenting those, and I don't have any visibility into NewsNation's programming fees. That's not publicly available information.

The CHAIRMAN. Yes. Then let me ask, assuming those data are correct, do you have any explanation for why that would be the case other than market power? That explanation seems plausible to me. Is there another one other than leveraging the market power to extract those higher fees?

Mr. LEGEYT. I'm focused on ensuring that Nexstar actually has the market power it needs to compete with Big Tech, which has siphoned away from Nexstar and other broadcasters——

The CHAIRMAN. You, you don't want to answer that question. That's OK. Let's move on to a different question. This is a question for both Mr. LeGeyt and Mr. Ruddy. There has been a lot of discussion about local news. I believe—I agree local news is critically important. In both of your views, would eliminating or raising the media ownership cap strengthen or weaken local news, and would it increase or decrease diversity of views on air? Mr. LeGeyt.

Mr. LEGEYT. It would both increase competition for and production of local news, and it would increase diversity of voices, and the reason is simple: that right now, broadcasters are simply stifled in their ability to compete in this landscape. You have rules premised on the notion that broadcasters only compete against other broadcasters for advertising dollars, for audience, and for programming, and we know that that is not the case.

Over the course of the last 20 years, 70 percent of the local advertising marketplace has been siphoned away from traditional media by Big Tech. We are competing for programming, NFL games with Netflix and Amazon, and we're competing with—for audience with all of these streaming services. According to Nielsen, in December, streaming viewership was more—was nearly half of all television viewership. Broadcast, just 20 percent. So, we are competing against behemoths. The only way to invest in local news is to reverse this trend, gain some scale, and, and bring that revenue back to local broadcasting, and that is going to benefit local communities.

The CHAIRMAN. Mr. Ruddy, same question.

Mr. RUDDY. Well, I almost feel like I'm in a different universe than my respected guest member here, but let's go through that. TV is doing well. Nobody's denying they made almost $2 billion in 2024. They're projecting even bigger profits once this merger goes through. So, what is the aid that they need to do to upend the congressional law? Why are they going—running around using the bureaucracy rather than going to Congress? Because they know they have no support in Congress, and the public opinion polls show they have no support.

He said two things. One is, Nexstar, we know when they did the Tribune merger, ended up with 15—I think they're currently about 15 duopolies. In every case, they combined the two stations/newsrooms into one. That's the only way they make money. In their projections on the merger, they're saying because of the consolidation, they're going to have $300 million in savings, and a hundred—almost half of it, $135 million, comes from local programming consolidation. The only local programming local TV stations do is local news. That's pretty much the whole thing, so that's where this is all going. They can make fortunes, and it's local news that suffers, and——

The CHAIRMAN. Final question. In 2023, I criticized then FCC Chairwoman, Jessica Rosenworcel, for delegating to the media bureau and to an administrative law judge a decision on the standard general acquisition of TEGNA. At the time, I wrote with my House counterpart, Congresswoman Cathy McMorris Rogers, "First, to keep the Commission accountable to Congress and the public, a full Commission vote is required for certain matters, particularly those involving significant legal or policy consequences. Designating a multibillion-dollar transaction, such as the standard general TEGNA transaction for an ALJ hearing is precisely the type of serious decision for which Commissioners must take responsibility." This is a question for all four of you. Do you believe the FCC should have a Commission-level vote on the Nexstar-TEGNA merger? Mr. Ruddy.

Mr. RUDDY. Well, especially because they're subverting what Congress said, and it was a congressional issue. You know, Mr. Johnson worked for Ajit Pai when he was Chairman. Ajit said—he was Trump's Chairman at the time. He said several times it was congressional law. He didn't like the law, but he said we had to—his words, "The law must be obeyed." Chairwoman Rosenworcel, under, under the recent administration, nixed a Nexstar deal, saying that it violated the congressional law of the 39-percent cap. Brendan Carr was the ranking Republican at the time, and he offered a concurring opinion that did not dispute that.

The CHAIRMAN. OK. Mr. LeGeyt.

Mr. LEGEYT. The NAB doesn't advocate on any specific transaction, but we certainly support the full Commission voting to raise the national ownership cap.

The CHAIRMAN. Mr. Johnson.

Mr. JOHNSON. Under the Communications Act, Senator, the Commission has discretion to decide whether—with very limited exceptions, whether to decide something at the bureau or Commission level. Even when something is decided at the bureau level, there are mechanisms for review before the full Commission as well as ultimately in court.

The CHAIRMAN. Mr. Waldman.

Mr. WALDMAN. We haven't taken a position on that, but, in general, issues of this import should be at the Commission level.

The CHAIRMAN. Thank you. Ranking Member Cantwell.

Senator CANTWELL. Well, Mr. Chairman, I want to weigh in on that particular point before I start my questioning. I definitely believe the FCC should have a Commission level—if they are going to take action. I'm not making a statement as to whether they have that power or not. I'm simply saying if they do, it should be at a Commission level, and I think that Chairman Carr has practically prejudiced himself in an information process that's supposed to be independent if he's already made a decision. So, I don't—I don't like that. I don't like that.

But let's start with something maybe we can agree on. Do the witnesses think that right now—I mean, because I look at these viewpoints, I'm kind of—last week I was where Mr. Waldman was. I was like on this hand/on that hand, and what is it we really want to provide? And so, you know, I'm for elevating this larger context that Big Tech just has too much power, but I don't know. Do they have too much power in this marketplace, Mr. Ruddy?

Mr. RUDDY. Well, I think that consolidated Big Tech is a danger to the public interest. I think there should be more competition in Big Tech across the board, and there should be——

Senator CANTWELL. I just meant as it relates to now preserving local journalism and how much of the business model—I mean, I think, here, you have a cord-cutting problem. Mr. LeGeyt basically has a—has a, you know, a big moneymaker for himself right now, which I'm for. I am for broadcast sports, not because the Seahawks won.

[Laughter.]

Senator CANTWELL. I'm for broadcast sports because I do not want my consuming public to have to pay to see content they can just watch advertising to see. I want it to be cheaper. So, I'm for not allowing these people to put so much content behind a paywall and making consumers pay out the nose for it, so—but anyway. So, I just—on this point, do we need to do something here so that we have more level playing field? Are they the bigger issue here?

Mr. RUDDY. No, I think that local news is almost entirely by broadcast TV. Big Tech creates almost no original local news.

Senator CANTWELL. But Mr. LeGeyt——

Mr. RUDDY. So, we need to protect the diversity and competition in that field.

Senator CANTWELL. Right, but Mr. LeGeyt is telling you this is his moneymaker right now and is getting—he's getting eaten alive on this because of what's happening because of the digital advertising revenue, and the——

Mr. RUDDY. They haven't made the case. I'm sorry to say, Senator, they have not made the case that Big Tech has hurt their businesses. Their businesses have grown 500——

Senator CANTWELL. I know——

Mr. RUDDY.—500 percent in the past decade. How do you—how do you explain that? That's all during the Big Tech period.

Senator CANTWELL. Believe it or not, I'm going to agree with you in a minute, but on this point I don't, OK?

Mr. RUDDY. Yes.

Senator CANTWELL. And so, I think the point is—OK. Does anybody else want to comment on this quickly because I have another question?

Mr. LEGEYT. Big Tech has entirely undermined the advertising model for local broadcasting.

Senator CANTWELL. OK. Mr. Johnson.

Mr. JOHNSON. I think by eliminating some of these prescriptive rules, Senators, what you do is you give the affiliates better bargaining power negotiating at the table, so they can—in their discussion with MVPDs, with Big Tech, they can say we want more local control over programming.

Senator CANTWELL. Mr. Waldman.

Mr. WALDMAN. Yes, absolutely. Big Tech is a big part of the reason for the undermining of the local news business model for TV and local news, and it's about to happen again with AI.

Senator CANTWELL. Right. So, Mr. LeGeyt's key point, though, is that he—and, look, I've helped the broadcasters on good faith protections for broadcasters. I've actually sided with the broadcasters, you know, on these issues that now, you know, we're hearing complaints about. But again, in this world where the cord-cutting and streaming media is leading to this, I'm not sure that I believe that consolidating people so that you could then own three TV stations in one media market and then basically decimate that media market without competition, is the way to go.

And so, I have a concern, Mr. Waldman, that that is where—to your question which is you're asking me—us a question to consider, but I'm asking it back. Why would I want to support—now I'm not saying you have to have three TV stations in every media market, but I do want diversity, and why would I allow for more consolidation when our biggest problem has been concentration? Why would I go for that? Why would I go for this merger if, in fact, you're going to, basically, hand over more concentration, less diversity?

And if that means somebody's going to do general programming and give me less—and, Mr. LeGeyt, you made a good point about the number of eyeballs, power of growing because, like, digital did grow even with broadcasters, but that doesn't mean that we had all the local content or the diversity of voices. So, isn't this the crux of the issue that, basically, you're going to be able to own more media markets and concentrate three—own three TV stations and then, basically, decide how to blow them up and give me general programming from New York which I don't want?

Mr. WALDMAN. Which we are seeing more of, and, you know, Senator Cruz quoted President Reagan a while ago. I would quote President Reagan on another point which is, "Trust but verify." Yes, in some cases mergers might lead to more local news, but the evidence is that in many, many cases it goes the other way, that it cuts local news. So, if you're going to be—if Congress considers loosening these caps at all, it should be contingent on commitments that they maintain or increase the number of local reporters.

Senator CANTWELL. OK, interesting. I mean, this is the crux here. We can't be for a merger just to get bigger, to fight Big Tech on their eating up sports revenue, which they're putting behind a paywall that makes consumers pay more. I can't—you know, I can't be for that, but I do think that we have to also, you know, point out, Mr. Ruddy, that, like, I really don't want so much concentration of this marketplace by 80 percent, or whatever it is, ownership by these big corporations who then just generalize content out to my news stations. That's not even healthy for any of us in the ecosystem.

Mr. RUDDY. The National Hispanic Coalition did a poll in December, Democratic pollster, that found over 70 percent oppose the Nexstar merger and the consolidation. Only about—less than 7 percent supported it. A recent Republican poll, Public Opinion Strategies, found, again, 75 percent opposition to consolidation, only 7 percent. So, this is a bipartisan——

Senator CANTWELL. Well, I definitely support more diversity in voices. I'm not—we have to figure out how we're going to get there, so, but anyway, I appreciate. Mr. Chairman, thank you.

The CHAIRMAN. Thank you. Senator Capito.

STATEMENT OF HON. SHELLEY MOORE CAPITO, U.S. SENATOR FROM WEST VIRGINIA

Senator CAPITO. Mr. Chairman. Thank all of you all for being here. I'm around the corner here. I've been listening to the debate. Very interestingly, obviously, diverse opinions. I'm trying to think of my constituents listening to the same debate. I live in a small state, West Virginia, that has Nexstar stations and others, and I'm going back to the storm that we just had two weeks ago. What is everybody watching? They're watching their local broadcaster. They want to find out what roads are closed, what schools are closed, what can we anticipate coming forward.

And, you know, we all laugh about, you know, when you get older like I am, you know, you're all watching the Weather Channel all the time or the weather—the weather of your local weather. This is really important for local broadcasting. I agree with Senator Cantwell. The sports aspect of it is a huge aspect for a small state because we can't access—you know, sometimes if you don't buy the Big 12 Network, you can't watch West Virginia University play, which is like our pro team. We're not like the Chairman that has all kinds of teams in his state so—or Super Bowl winners, like the—like the Ranking. I'm trying to get in good with both of them, if you can tell.

[Laughter.]

Senator CAPITO. So, if I'm sitting there and I've just experienced—and I'm watching this hearing, I'm going to give it to all four of you because I'm interested to see how you would—how would your position help those people that desperately need to have that local programming in times of emergency, weather, outages, you know, and, and all other political news and everything? How would—and then we'll start with Mr. Ruddy.

Mr. RUDDY. OK. Well, let's imagine in one of those markets in your state, Senator, Nexstar owned two to four of these major highly rated stations, because in 30 markets across the country, they will have that type of dominance, and we know that in 15 already they just merged the newsrooms. So, if you go to channel—to the NBC channel, for instance, which they might have as an affiliate, and you see that they're covering the hospital and what's happening at the hospital as a result of the tragedy or the natural disaster, and then you watch the CBS station, which they also own, and they have the same reporter at the hospital, but they don't have the resources because they combined newsrooms, they're not at the school, which some kids were injured, let's say. So, they save money, but you have less content, less diversity of news, and that's the danger of both local consolidation and national consolidation.

Senator CAPITO. OK. Let me ask Mr. LeGeyt to answer that.

Mr. LEGEYT. Thank you, Senator.

Senator CAPITO. Mm-hmm.

Mr. LEGEYT. Mr. Ruddy's narrative is a compelling one, but it's a fiction because that is not what is happening in local communities. You know this well. WOWK, which Nexstar owns, is as committed a local station as exists in the country.

Senator CAPITO. True.

Mr. LEGEYT. And some of the combinations that we're talking about in local markets, they're the equivalent of one printing press being able to produce two newspapers. What we are—what we have shown over the course of the last decade in those markets where consolidation has occurred, is that it means more local news, and it means more local journalists. Now, certainly scale can mean some efficiencies when it comes to corporate overhead, but we as local broadcasters don't win if we're not producing the best local news in communities across the country. If we just become another nationalized media, we're losing that battle with Apple Plus, with Amazon Prime. That's not where Nexstar or any other local broadcast group is going to win in this media landscape. And the data shows that as we are able to get more revenue, whether it's from advertising or whether it's from retransmission consent, that that's being plowed back into local journalism, and it's also ensuring that we can provide expensive sports on broadcast television.

Senator CAPITO. All right. Mr. Johnson.

Mr. JOHNSON. Well, thank you for the question, Senator. Having spent a year out in West Virginia working for General Morrissey back in the 2017, I think it's very important that West Virginia communities get represented in these debates over media ownership. I think there are two ways in which removing some of these prescriptive ownership rules will help West Virginia communities. First of all, with respect to local news stories, as you say, the economies of scale that you introduce when you have larger station groups, that allows local affiliates to be more nimble. If there's a natural disaster, a pressing local news issue, they can often redirect resources to make sure that there's 24/7 coverage——

Senator CAPITO. Mm-hmm.

Mr. JOHNSON.—of whatever it is that's going on in a way that smaller independent stations sometimes cannot. The other thing is, it gives affiliates more leverage at the bargaining table, both with the national networks and with streamers and online platforms, or oftentimes right now, the networks really have the biggest seat at the table. So, that you're asking questions like can we have more local programming in West Virginia? Can we have more control over programming? That's going to ensure that those stations represent West Virginia values and not just California values.

Senator CAPITO. All right. Thank you, and then, Mr. Waldman, you want to take a swing at that?

Mr. WALDMAN. You know, I think in addition to what others have said, I would say—I know the topic of this hearing is the broadcast consolidation rules, but that's not the only factor that's going to affect whether you have local news in West Virginia.

Senator CAPITO. Mm-hmm.

Mr. WALDMAN. And so, we do also need to look at the bigger picture here, which is Big Tech and what's about to happen with—or it is starting to happen with AI and all the other ways that we can strengthen the local news environment. You know, we see around the country a flowering of new startups and efforts to help with local news, improving their business models, more philanthropy helping. But at the end of the day, I don't think we're going to get to what we need without Big Tech playing a role and public policy playing a role with creative solutions that will strengthen news in West Virginia and other places.

Senator CAPITO. Yes, I mean, I think that local broadcasting is absolutely essential to retain. When I see what's happened to our state's newspaper, we're down to 5 day, without being too critical of the newspaper, a lot of its national stories that are two days old. And so, I don't want to see that happen to our local affiliates, and I want to—I want to protect that the best way that I can. So, I appreciate the hearing. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Kim.

STATEMENT OF HON. ANDY KIM, U.S. SENATOR FROM NEW JERSEY

Senator KIM. Yes, thank you all for coming on out here. Mr. Ruddy, I wanted to follow up on something you had talked about. You had talked about the retransmission fees, and talking about the challenges there in terms of costs. I'm trying to think about this in terms of my constituents, in terms of the consumers, and what is raising their costs. I wanted to ask you, when you're talking about the retransmission fees, how much of that do you believe is being pushed on to the consumers in terms of the cost going up?

Mr. RUDDY. I think, ultimately, almost all of it goes because they have to pay—the cable operators have to pay that to the TV broadcast groups. And so, they need to make a profit, so they're going to have to pass those—most of those costs over. And we're seeing it in the cable bills, which are—have gone up enormously and the reduction of content in cable. There's been a removal of channels.

Again, there are so few independent media voices because they'll tell me, the cable operators we don't—we like Newsmax. We don't have any money left for you because we have to pay the retrans fees, or they have to pay companies like NewsNation that have very little ratings, high fees because of their market leverage of their broadcast outlets. So, it's not good for consumers.

Senator KIM. So, you're saying that media—like, I'm trying to think through how do we articulate, you know, the—what is happening to the consumer. So, the media consolidation is leading to these retrans fees increasing due to the leverage that these companies now have, and that's being passed on to the consumer. Is that the argument that you're putting together here?

Mr. RUDDY. A little bit more than that. What we find is, the bigger the station, group or network, the more leverage they have, the higher fees. So, when Nexstar went above the cap several years ago and went to 70 percent, it was like a boon to the company, and that's where they went up from $300 million in EBITDA to almost $2 billion. And they're so greedy, they now want to go to 80 percent because they'll know they have even more market leverage. And now you're seeing other companies in the broadcasting industry wants everyone to have this opportunity. Ultimately, who gets screwed, frankly, is the consumer, right? We have to pay those bills, and it's market manipulation, market abuses that are causing this.

Senator KIM. Mr. LeGeyt, I wanted to bring you in on this. I wanted to ask you about, you know, another thing that Mr. Ruddy said, and then I'll go back to what we just talked about. He was talking about how if this consolidation does go forward, that he believes that there'll be really just, you know, two or three companies that really just dominate the space nationally. I understand what you're saying about the competition with the tech companies, but at least in terms of just what happens if we sort of game out what happens if we lift up this cap, do you agree that we're going to see sort of two to three companies kind of dominating nationally?

Mr. LEGEYT. I can't see the future in that regard——

Senator KIM. Yes.

Mr. LEGEYT.—but I can tell you that the status quo is untenable. And I think it's important to acknowledge here the—that these restrictions on the 39-percent cap, those are—that's an ex ante restriction, meaning before you can even get to the merits at the FCC or the Justice Department of making the case for your transaction, you're not at the table if you are proposing a transaction that violates these restrictions. So, what the NAB is advocating for is for those ex ante restrictions to be removed. I also think it's important to acknowledge here that over the last 3 years, industry wide, retransmission consent revenues have actually decreased year over year. Local news is funded by two——

Senator KIM. Can you say that one more time just so I get it right?

Mr. LEGEYT. Across the——

Senator KIM. Yes.

Mr. LEGEYT.—broadcast industry, the retransmission consent fees that is being represented we have this enormous market power to extract, have actually decreased year over year over the last 3 years, and the reason is simple. We're competing with Google, Apple, Netflix, Amazon for audiences. Our audiences have fragmented. Local broadcasters are competing against Google and Facebook for advertising dollars.

So, this narrative—and Chairman Cruz asked me the question directly earlier, and so I want to state my answer unequivocally, no, Nexstar does not have market power. They are competing against global behemoths for both audience, advertising, for programming rights. No broadcaster has market power in this media landscape.

Senator KIM. Yes. No, thank you. Look, I know my time's running out—but, Mr. Waldman, I'll just ask you a question for the record, if you can get back to me later, but just about, yes, what we talked about earlier about, you know, my state of New Jersey, the news deserts that we're continuing to have, the difficulties. I'm really just trying to get a sense of painting the picture of what would happen to my state, to the market that already is struggling to be able to find local news and to be able to have people in New

Jersey understand what's going on in our community. So, if you don't mind, we can follow up with that later.

Mr. WALDMAN. Yes, thank you.

Senator KIM. With that, I'll yield back, Mr. Chair.

The CHAIRMAN. Thank you. Senator Moran.

STATEMENT OF HON. JERRY MORAN, U.S. SENATOR FROM KANSAS

Senator MORAN. Chairman, thank you. Thank you to you and the Ranking Member for holding this hearing.

Mr. LeGeyt, let me start with what you just indicated in your response to the senator. So, this—what we're talking about is the threshold. The actual determination, there are still other factors that come into play that would allow for an acquisition or a merger to occur if it—but it first has to be allowed by this standard, this threshold.

Mr. LEGEYT. That's absolutely correct, Senator. The——

Senator MORAN. And those items would then protect competition, would be among other—it and other things that would be considered.

Mr. LEGEYT. The FCC still maintains the authority to review every transaction and assess whether it is in the public interest on a case-by-case basis. The Justice Department will examine the procompetitive and anti-competitive impact of any proposed transaction. Nothing that we are advocating for in terms of eliminating these decades-old restrictions will change that authority to review transactions on a case-by-case basis.

Senator MORAN. Mr. Johnson, call on you as you're—in your previous capacity. Would you expand on the history of the FCC's actions in updating the national cap? Where does the FCC derive its authority to change the cap and why elimination of the national cap is necessary for continued health of local broadcasters?

Mr. JOHNSON. Thank you very much, Senator. I appreciate the question. So, the FCC has been adopting ownership rules and some version of the national cap since the FDR era pursuant to its general rulemaking authority to adopt rules to carry out the purposes of the Communications Act in the public interest, and Congress has never disputed that it has that general authority to adopt ownership caps. In fact, on two occasions, by directing the Commission to modify its rules to set a different cap level, the Commission—excuse me—Congress essentially ratified, yes, FCC, you have this authority to adopt these kind of rules. And here we think, based on the current marketplace realities, that the rule should be set at a different level.

So, Congress made that determination in 1996. The D.C. Circuit, as I said, it took a look at the text of that statute, and it said—based on an argument the FCC came in and said we don't have to make any adjustments or we can't make any adjustments to it, the Court said no. In fact, this language retains your discretion to modify the cap to a different rule—to a different amount. Two years later, only two years later, in 2004, Congress again changes the statute but keeps that key formulation, modify its rules in place, showing that Congress, in fact, did not intend to take off the table future FCC changes to the rules. In fact, there was a House bill and a Senate bill. Both of them would've expressed expressly enshrined the cap into law, as the D.C. Circuit suggested. There was another statute 4 years before 2004 in which Congress explicitly told the Commission you cannot change the minimum separation distance between broadcast channels unless and until Congress further acts.

So, Congress knows how to take away FCC discretion when it wants to, to use that clear language, but it didn't do so here. And so, in my view, the FCC retains that discretion.

Senator MORAN. Thank you. Mr. Waldman, tell me what the world looks like with a cap being increased, and tell me what the world looks like in—if a cap isn't increased?

Mr. WALDMAN. Well, you know, we've heard testimony that said in the past, when you've had consolidation, it's led to more local news, and we've heard testimony saying that in the past when we've had more consolidation, it's led to less local news. The reality is both things could happen, and so when we're talking about what the FCC's authority is there, it's not just about the cap. It's also about the very definition of "localism." We can't keep paying lip service to localism, that——

Senator MORAN. Let me—let me interrupt you and say that that goes back to the point that Mr. LeGeyt was making about there's more to come regardless of what the cap is. The FCC determines—makes the determination about whether a merger or an acquisition is in the best interest of——

Mr. WALDMAN. Yes, that's true. And I would just say that I would feel more comfortable if the FCC, in making those determinations, was centering local news, the fate of it, and how many local reporters there are in a community because if mergers were really looking at that, I think we'd be pointing in a much better direction.

Senator MORAN. So, that is a task that perhaps Members of Congress who care about local news can make that case to the FCC, which is really an issue perhaps somewhat separate from the topic of whether or not to increase the cap?

Mr. WALDMAN. Or Congress itself can declare statutorily that the health of local news is part of the core definition of "localism" that should be at the heart of any merger discussion.

Senator MORAN. Nice to know that there's someone who thinks that Congress can still legislate. Thank you.

Senator CANTWELL [presiding]. Senator Rosen.

STATEMENT OF HON. JACKY ROSEN, U.S. SENATOR FROM NEVADA

Senator ROSEN. Well, thank you, Ranking Member Cantwell, and I want to thank Chairman Cruz for holding the hearing, all of you for being here. And as one person who loves our local news, I will say this is a really important issue and at the heart of each and every one of our communities, right, because—and I just want to say the media environment has changed dramatically since media ownership caps were first established and since Congress last changed them in 2004. While the ownership cap may need to be revisited to better align with today's media market, I want to be crystal clear: just because large corporations like Nexstar and TEGNA want to merge, it doesn't mean they can simply ignore the laws that Congress has put in place. In order for there to be a merger that results in ownership above the 39-percent cap, Congress would have to change the law.

So, I'm going to give my first question to you, Mr. Waldman. This isn't the first large media merger or media merger attempt that we've seen in recent years, right? So, when massive mergers like Nexstar-TEGNA have happened, what has been the impact on local jobs, consumer prices, our local newsrooms, and what happens if there are no other—well, if there aren't—if there aren't multiple newsrooms in one market? What happens to our local news? What happens to the flavor of our communities and our—not just our jobs, our union jobs, or jobs around the, again, the fabric of our communities?

Mr. WALDMAN. Well, you know, you see, in certain circumstances, you'll have two TV stations, and to a consumer, it looks like there are two different operations and there's—they may be even competitors, when it's actually they're using the same news broadcast. They're using the same content. So, part of what happens with consolidation is you have the mirage of lots of diverse voices but the reality of less and less original reporting.

Senator ROSEN. Mm-hmm.

Mr. WALDMAN. And, you know, whether—on the question of whether or not removing the caps would lead to more situations like that or less, you know, the evidence is more in the—in the category that it's going to lead to less. You give someone money, it doesn't determine what they're going to spend it on, and if local news stations or station groups have more clout and more scale, there might be some that would use that for local news, but there's certainly no guarantee of that. And the evidence is actually in the other—in the other direction. And so, you end up in places like Nevada where, if you look at the whole local news ecosystem, you have the repetition of the—of the local TV, you have the newspapers declining, and the result is, like, a 75-percent drop in the number of reporters in Nevada.

Senator ROSEN. I think it's very sad for our communities and for our—everybody who lives there. I want to move my next question to you, Mr. LeGeyt, because I want to mitigate the negative impact of the rules changes because the FCC and Congress established media ownership caps to protect consumer prices, to protect media diversity, protect jobs in journalism. It is, again, I believe, really important foundationally to our democracy, and I recognize that as the media landscape changes, Congress should, of course, reevaluate whether the rules need to be updated. Things are always changing.

So, my question to you again, Mr. LeGeyt, is if Congress changes or removes the ownership cap, how can we ensure that we keep media affordable for consumers, protect our local newsrooms, our journalists' jobs, give them that independence to focus on stories that matter to the neighborhoods, to the local community, right, and just improve media diversity and those independent voices that really focus on what matters? And if the current rules in place aren't working today, how do we protect the values? What's our alternative?

Mr. LEGEYT. Senator, thank you for the great question. I think, first, we need to level set with where we are today——

Senator ROSEN. Mm-hmm.

Mr. LEGEYT.—in local broadcast. If they are measured as a standalone, meaning local stations independently in each market, irrespective of who owns them, more than half of local broadcast newsrooms in this country are currently is a standalone, not profitable, and that number is worsening every day.

Senator ROSEN. Mm-hmm.

Mr. LEGEYT. So, the only way to ensure that communities across this country, many markets where individual stations would not be viable in terms of their own providing the local news, is to give those owners some scale so that they can take those efficiencies and plow them into local newsrooms.

Senator ROSEN. Mm-hmm.

Mr. LEGEYT. I also think we're being prejudiced here in this debate by what's happened in the newspaper industry——

Senator ROSEN. Mm-hmm.

Mr. LEGEYT.—and certainly, that is a cautionary tale. But in broadcast, the data shows the exact opposite, where over the last 10 years where broadcast groups have been able to gain more scale, it has actually resulted in more local news. And as Mr. Waldman alludes to, if you don't want to measure that success by hours of local news, let's look at our newsrooms—the employment in our newsrooms themselves.

Senator ROSEN. Mm-hmm.

Mr. LEGEYT. You know, we're employing more than 27,000 people in broadcast newsrooms.

Senator ROSEN. Mm-hmm.

Mr. LEGEYT. That's more than our print counterparts, our digital news counterparts. Broadcasters truly are the last bastion of local journalism. Those numbers actually increased after the FCC in the first Trump administration took some actions to relax those cross-ownership rules. So, those broadcast newsrooms, even following the scale, some of the transactions that were done in the wake of those rule changes seven years ago, we continued to grow our newsrooms. It has only been over the last 3 years that the numbers have flattened out a little bit. I'm looking forward to more scale that eliminating this cap will allow so that we can continue to grow those newsroom numbers.

Senator ROSEN. Thank you. Finding that balance, it's going to be up to all of us. So, thank you all for being here. Madam Chair.

Senator CANTWELL. Senator Young.

STATEMENT OF HON. TODD YOUNG, U.S. SENATOR FROM INDIANA

Senator YOUNG. Thank you, Madam Chair. I thank our witnesses for being here today. There are a number of reasons why I regard this hearing as important. If members of my community don't have access to their local news, it can be an impediment to useful information and the decisions they make, the actions they take. Our sense of community can be undermined if we don't have access to information or our sense of solidarity with our neighbors, but I actually think what's most at stake is our democracy. If I don't know what's happening in the local planning meeting, if I don't know what's happening in the school board, if I don't know where monies are being invested locally as it relates to road projects, it's hard for me to cast informed votes at the ballot box. It's hard for me to meaningfully engage in, in democracy at the local level. Mr. Waldman, you've spoken to this issue of localism. Could you just take the predicate I've laid and unpack a bit more, say in the next 30 seconds or so, why this hearing is so important to you and should be important to my constituents?

Mr. WALDMAN. Well, you put it very eloquently. On some level, there are really concrete harms—literally more government waste and corruption—there's less knowledge about things, but it is also about community and cohesion of community. What we are seeing now as local—as local news has contracted, it's actually led to more polarization, and that's because you don't have the news about the things that bind us together.

Senator YOUNG. Right.

Mr. WALDMAN. Whether it's the high school sports team, or the new theater experience, or that inspiring teacher that just passed away that you learned about, these are things where—make people, instead of looking at their neighbors as cartoon characters——

Senator YOUNG. Yes.

Mr. WALDMAN.—or caricatures as actual neighbors.

Senator YOUNG. And we have this twisted phenomenon—it strikes me as twisted—others have, I think, come to regard it as just the way things are—where even local news is becoming nationalized——

Mr. WALDMAN. Exactly.

Senator YOUNG.—fitting into a national narrative, completely unhealthy, superficial I should add, in terms of how we look at some local issues, and it sells short our citizens. As we try and provide them the feedstock to be engaged members of the community, they don't have access, we don't have access—I'll personalize it oftentimes—to engage in local issues.

Mr. WALDMAN. There was a study that came out just yesterday that pointed to exactly this paradox, which is that people actually feel like it's easy to get information about national news and harder to get news about their own neighborhood.

Senator YOUNG. So, this is—I just—I thought it was really important to cover that for my constituents and for others, because I think we make a mistake if we just regard this as an issue for business people and investors. It is that, it's a very important consideration, but we also need to be able to debate the merits and demerits of ownership decisions and caps within the context of community.

Mr. WALDMAN. Exactly.

Senator YOUNG. So, Mr. LeGeyt, if the status quo as it relates to the ownership cap, something we've discussed at some length here, were to remain the same, what would be the impact to local broadcasters 10 years down the road, and what would that mean to my constituents in the state of Indiana?

Mr. LEGEYT. Thank you, Senator. And just to follow on from your initial remarks, what local stations are doing—what local broadcast stations are doing in your community throughout Indiana is providing that local trusted news, bringing communities together when other forms of media are monetizing division. We are combating mis- and disinformation. That's what local broadcasters do best, and we don't have a business if we are not exceptional in the service we're providing in local communities.

If you were to look market-by-market across the country, the number one station in those markets is the station that is most devoted to those community services. So, that is what we are fighting for today is that trusted local journalism, but it needs scale, right? I alluded to it previously and in my testimony, but today, as a standalone, more than half of local broadcast newsrooms in this country are not profitable. We are competing for advertising dollars with Google and Facebook, global behemoths. We're competing for eyeballs with Netflix and Amazon. We need scale in order to better compete, and that scale is going to pay for that localism, that investment in communities that is expensive. No one else in media has boots on the ground when that storm rolls through, both in anticipation, during the storm, and then in the aftermath to help the communities rebuild, and we need scale to compete with these nationwide pay TV providers. Otherwise, we can't fund that journalism, and we certainly can't pay for premier sports like the Super Bowl and keep them on broadcast.

Senator YOUNG. I regret I'm already over my time, but I would love to ask all of you questions in this forum. Thank you, Madam Chair.

Senator CANTWELL. Thank you, Senator Young. Senator Klobuchar, are you ready?

Senator KLOBUCHAR. Yes.

Senator CANTWELL. OK, great. Senator Klobuchar.

STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thank you all. I'm sorry I missed some of it. I'll catch up. I was at—a ranking member on a hearing in Judiciary, so I guess I'll start with you, Mr. LeGeyt. As you know, I lead the Journalism Competition and Preservation Act to ensure that broadcasters and news publishers can negotiate for fair compensation with the Big Tech platforms, including some generative AI platforms. So, it's becoming to me more and more important we go forward with this, and we know there has been profiting off of news content across the board. The National Association of Broadcasters has said that this legislation would level the playing field by enabling fair negotiations and increased investment in local newsrooms. Why is it so critical for local news to empower news creators to negotiate their fair share of advertising revenue with Big Tech platforms? As you know, I lead that bill with—in the past with Senator Kennedy.

Mr. LEGEYT. Thank you, Senator, for the question. Over the course of the last two decades—and I—and I think this is an item that everyone on this panel can agree with—the Big Tech platforms have siphoned billions of dollars out of—out of local communities. More than 70 percent of the ad marketplace has gone from traditional media over to Big Tech, and that's undermining our ability to fulfill that local obligation that has been the topic of today's hearing. The JCPA is an extremely meaningful way to allow for leveling that playing field, allow us to negotiate fair compensation when our content is accessed through those platforms and increasingly through the generative AI platforms. But that lack of scale is also a symptom of what we are talking about here today, which is that broadcasters lack that scale to compete with these global behemoths in every context. And an important first step is for the FCC to update these broadcast ownership rules which would allow us to better compete with the tech platforms as well.

Senator KLOBUCHAR. OK. Thank you. Sort of along these lines, as you know, Senator Cruz and I passed the—passed our bill, the Take It Down Act regarding nonconsensual porn, both AI created and actual. We've seen so many suicides of kids over this, and we passed it and the President signed it into law this last year. The next step to me is the deepfakes bill that Senators Coons, Blackburn, Tillis, and I have put forward that would establish rules of the road to give artists, musicians, anyone control over their own voice. In a previous hearing you told about—story about how people had created deepfakes of local news broadcasters. Could you talk—while I know this is a little off the focus, but not actually because all of this stuff is making it harder for the real news to get out there—the effect of this and the need for some rules on AI?

Mr. LEGEYT. Thank you, Senator. I'm happy to talk about it because it's existential. You know, a local broadcaster is only as good as the trust that we have in our local communities, and these deepfakes, especially of local news anchors on our radio stations, local voices risk undermining that trust. So, we are significant supporters of your NO FAKES legislation, look forward to working very, very closely together and advocating to get that over the finish line because it is—it is absolutely essential to ensure maintaining that trust on local stations as opposed to what's going on online.

Senator KLOBUCHAR. Thank you. Mr. Waldman, we've seen AI developers enter into licensing agreements with some of the largest publishers: *New York Times, Associated Press, Wall Street Journal.* I'm concerned, however, that smaller papers, which we still have a number of them in Minnesota——

Mr. WALDMAN. Yes.

Senator KLOBUCHAR.—that lack resources to protect their intellectual property are not benefiting from similar deals. What role should companies that profit from AI models that use news content play in ensuring journalists and newspapers are fairly compensated?

Mr. WALDMAN. I share that concern. There have been deals with big corporate media, but medium- and small-sized players have been left out——

Senator KLOBUCHAR. Well, didn't——

Mr. WALDMAN.—and the AI companies have said they're too small.

Senator KLOBUCHAR. Didn't *USA Today* do some study that—you know, going off script here, always trouble—but just showing that it's some of the smaller markets that were getting things stolen more because there's no way for them to access that, so instead of making agreements with them, they're taking the content?

Mr. WALDMAN. It's easy. The papers and the TV stations don't have the resources to fight it. They don't know how to track it. And so, yes, they're being——

Senator KLOBUCHAR. And the AI companies don't have that data on some of the smaller stuff. I know this from checking. Like, you go in an area, small town, where there's a flood and they have tons of stuff wrong all the time.

Mr. WALDMAN. Well, that's the——

Senator KLOBUCHAR. Yes.

Mr. WALDMAN.—great riddle here is that local news is degrading. AI is making it worse potentially, and that will make AI worse, you know, because AI needs to have accurate local information.

Senator KLOBUCHAR. So how can we ensure—last question—that smaller newspapers are paid for their content by AI companies?

Mr. WALDMAN. Well, one is bills like yours or other efforts to require that local folks are treated evenly and that they have the ability to organize collectively. I would also say that you would want to look at things like mitigation fees placed on Big Tech companies that could be used to finance legislation and support local media.

Senator KLOBUCHAR. Did you put your thumb up, Mr. Ruddy, or your hand up?

[Laughter.]

Mr. RUDDY. No, I'm sorry. I was just—somebody waved to me,——

[Laughter.]

Mr. RUDDY.—one of the photographers. I figured I'd wave back.

Senator KLOBUCHAR. OK. That's a very good move. All right. Very good. Well, I just—I mostly just think we need to think of this. There have been a bunch of Republicans and Democrats willing to talk about this. There has been a bunch of more conservative news organizations that we've been able to work on on this. And just to sit there, to me, the potential of—outside of this merger issue, that the AI potential here, too, if we do legislation that we make sure we're evening the playing field. I believe Senator Fischer's up for questions.

STATEMENT OF HON. DEB FISCHER, U.S. SENATOR FROM NEBRASKA

Senator FISCHER. Thank you, Senator Klobuchar, and thank you, too, to our witnesses who are here today. The hearing's trying to explore what's needed from Congress in its oversight of the FCC to update the video marketplace. What I see are clear competitive imbalances, especially between the broadcasters and Big Tech streaming services. Congress and the Commission must also be mindful of the big picture ripple effects of modernizing the outdated regulations.

Mr. LeGeyt, broadcast ownership caps were originally adopted to promote viewpoint diversity and localism. And I know that the Chairman touched on this topic as well, but I'd like to add a little Nebraska color in here.

Senator KLOBUCHAR. Whoa.

Senator FISCHER. Whoa?

Senator KLOBUCHAR. Yes.

[Laughter.]

Senator FISCHER. I get extra time now.

Senator KLOBUCHAR. [Off mic.]

Senator FISCHER. Oh, no. It's like 67 in Nebraska today, so, but——

Mr. LEGEYT. We should've done a field hearing.

Senator FISCHER. Yes, we should have. We should have. But we had a large broadcast group and they closed, closed off the Scotts Bluff news station, KNEP, and that happened in early 2024. And it was one of the very few broadcast stations—TV stations that we have in the panhandle of Nebraska. Looking at small location stations like KNEP, would lifting the broadcast ownership cap raise or lower their chances of survival?

Mr. LEGEYT. It would increase their chances of survival very simply, and there are markets all across the country. We have local broadcasters in 210 different media markets. Not all of them are Washington, D.C. or even Omaha. You are talking about very, very small markets where the economics as a standalone just don't necessarily exist to support a local newsroom. And what we have seen is that in those instances where broadcast owners have been able to gain some scale, you are seeing more journalism happening in those communities, more production of local news, and it benefits your constituents.

Senator FISCHER. Thank you. Today, the policies of broadcast ownership caps and retransmission consent, I think they're very entangled in practice, that we see. We know that ownership caps limit how large a broadcast group can get. We also know that retransmission consent gives value to scale. Mr. Ruddy, should Congress view those two policies as operating in tension, and if so, what guardrails, if any, would be necessary, do you think, to prevent any unintended consequences if the ownership limits were lifted?

Mr. RUDDY. Well, Senator, the—it's pretty clear we've talked about Nexstar having—already they've bypassed the cap. They're at 70 percent reach, and they're making a fortune, right? They're getting it—they get among the highest retrans fees of anyone in the industry, I'm told, and they're doing about $2 billion in profit. And again, it's all these big groups, and there's not—they're not alone, right? We have TEGNA has made $893 million in EBITDA profits, Sinclair $800 million in 2024, Scripps almost $600 million.

There's this discussion here by the broadcast industry, they keep saying this untenable situation. What's the—they have given no data that they are being hurt in these markets and that the licenses are not worth anything. And the other thing that we keep hearing on the Big Tech issue, which I'm very concerned about Big Tech consolidation, but I don't understand why Brendan Carr at the FCC says, well, we should help the TV industry to fight the Big Tech, create more consolidation. As free market people, we shouldn't be, as I believe, trying to bolster one industry against the other. We should be holding Big Tech accountable and more competition.

Senator FISCHER. Mr. LeGeyt, you look like you want to answer.

Mr. LEGEYT. What we're asking for at the FCC is not to help one industry versus another. This is to allow us to compete. You know, these are artificial restrictions on a broadcaster's ability to gain national scale and to gain some local scale that don't exist on any of our other competitors in the media landscape. This is about creating broadcasters viable so that we can invest in that local news and so that we can invest in that must-have sports programming.

Senator FISCHER. And, Mr. Johnson, if these limits were relaxed, how do you think that's going to affect consumer prices, local station autonomy, and do you have any evidence that would guide how you're assessing this?

Mr. JOHNSON. Sure. Well, in my view, I mean, I think it's going to be good for local station autonomy and, ultimately, for consumer prices. I mean, the evidence shows, and the FCC has actually looked at this on multiple occasions—at least three occasions of which I'm aware, that economies of scale brought by larger station groups tend to benefit the values that the Commission looks at in its public interest analysis, including competition, including localism. What I would like to see is affiliates having a larger role at the bargaining table in their negotiations with major networks or in negotiations with streamers, which, right now, those negotiations are dominated by the major networks. I'd like them to be able to bargain for more ability to preempt national programming that might not reflect the values of people in different communities across the country, right? I'd like them to be able to reflect for more ability to choose what syndicated programming are we airing.

So, I think that you open up those possibilities more when you remove some of these artificial restrictive limits. I mean, the—kind of one of the questions raised by this back-and-forth is when you have this old ossified 39-percent ownership cap, do you regulate up or regulate down? I don't think the answer is you impose a 39-percent cap on the streamers that's pegged to decades-old market realities based on a snapshot in time back in the 1990s or early 2000s. It's let's put everyone on the same playing field. Continue to have competition review at the DOJ. You're going to still have public interest review at the FCC. That's going to give these broadcasters and these local stations a chance to survive and to thrive.

Senator FISCHER. Mr. LeGeyt, if I could just get a—hopefully a short answer from you back to the retransmission consent fees that are there. Do you believe that the increased broadcast consolidation would have no material effect on the consent fees, or do you think that such effects would probably exist but should be tolerated? Where are you on that?

Mr. LEGEYT. I'm focused on the value that retransmission consent provides to local communities and local viewers. It is those dollars that are being plowed into local journalism. Without retransmission consent, there is no business model for local journalism, so that is my focus.

Senator FISCHER [presiding]. Thank you very much. We've been joined by Senator Merkley. You are recognized.

STATEMENT OF HON. EDWARD MARKEY,
U.S. SENATOR FROM MASSACHUSETTS

Senator MARKEY. And you've been joined by Senator Markey as well.

[Laughter.]

Senator MARKEY. There's no—this Merkley-Markey thing is very confusing, you know?

Senator FISCHER. We have been joined by Senator Markey, who is——

Senator MARKEY. No problem.

Senator FISCHER.—who is a good friend and colleague.

Senator MARKEY. No, I had—I had——

Senator FISCHER. I am so thrilled you are today.

Senator MARKEY.—Congressman Merkley-Markey for years, and I thought I escaped it when I came over to the Senate. So, thank you.

So, I'm glad that the Senate Commerce Committee is holding today's hearing on media consolidation because throughout my career, I have been very skeptical of media consolidation because I believe localism is essential to our democracy, and when ownership is local, journalism is local. When decisionmaking moves further away, communities lose coverage, accountability, and trust, and that was true decades ago when I was opposing consolidation, and it's still true today.

And right now, we're facing a real crisis in local journalism. Newsrooms are shrinking, reporters are losing their jobs, entire communities are becoming news deserts, and the same time, we're hearing calls to solve this crisis by eliminating the Federal Communication Commission's national ownership rule and allowing even more consolidation at the national level. That would be a mistake. We need a much broader conversation about this because just as eliminating the national ownership cap won't solve the local journalism crisis, neither will protecting the status quo, especially as new technologies, such as artificial intelligence, continue to undermine the news industry's business model. So, today I want to focus on one core question: how do we actually fix the local news crisis, not grow national media empires, but revive local journalism?

So, Mr. Waldman, you and your organization have been working on this issue for years. Do you agree that local journalism is strongest when news outlets are deeply rooted in the communities they serve with reporters physically present and accountable to local audiences?

Mr. WALDMAN. Absolutely. Local news in local hands works best. It builds trust. It's more accurate. It's more fair.

Senator MARKEY. When policymakers are consolidating—are considering different approaches to the local news crisis, including enabling greater media consolidation, do you agree that those policies should focus on getting more journalists on the ground covering local communities?

Mr. WALDMAN. Exactly. That should be at the center of the debate is whether or not there are enough journalists in those communities.

Senator MARKEY. And I completely agree with that, and I think we need to start considering ideas for how the government can invest in local journalism. The states are ahead of the Federal Government here, and I know that you have examples from Illinois and Kansas to demonstrate that. Unfortunately, the roll call is on right now, and I'm going to have to run over. But for those of us who care about local papers and broadcast stations, the responsibility is clear: we have to pursue solutions that actually rebuild local reporting capacity. And that means that as people are talking about media consolidation, we also have to ensure that it's not going to accelerate the disappearance of local journalism jobs, and it means identifying and advancing new ideas to solve the local journalism crisis.

And that's why I've been working on legislation to invest in local journalism with a strong role for the states as the laboratories of democracy, to distribute these funds to local news organizations to hire local journalists because if we are serious about saving local news, then the money needs to go to journalists who do the shoe-leather reporting and aren't scared to ask tough questions, rather than simply increasing the size or reach of large media companies.

So, I look forward, Mr. Chairman, to working with you on these issues. I think this is a very important discussion for us to have, and with that, I yield back because I really have to run over and make the roll call on the floor. Thank you.

The CHAIRMAN [presiding]. Thank you. Senator Moreno.

STATEMENT OF HON. BERNIE MORENO, U.S. SENATOR FROM OHIO

Senator MORENO. Thank you, Mr. Chairman, for acknowledging you saved the best for last. I appreciate that, right? Is that—that was what you said?

[Laughter.]

The CHAIRMAN. You may extend your remarks at your leisure.

[Laughter.]

Senator MORENO. Perfect. All of you are in the media, entertainment, and broadcast business, whether directly or indirectly. So, as we approach the end of this hearing, give me the 20- to 30-second reason why the cap should or should not be increased, starting with you, Mr. Waldman.

Mr. WALDMAN. Well, I think—our group actually hasn't taken a position on whether or not they have the authority to do that.

Senator MORENO. You can—feel free to.

Mr. WALDMAN. But I would say this, that if you look at liberalizing the cap, don't just assume that scale will lead to more local news. If you believe that's a possibility, then require it. Require that liberalization is tied to guarantees that it will lead to more hiring of local reporters.

Senator MORENO. Thank you. Mr. Johnson.

Mr. JOHNSON. Senator, I dealt with a very similar issue when I was General Counsel of the FCC under Chairman Pai. We repealed these prescriptive net-neutrality rules that were, industry-wide, applied to everyone, every Internet service provider of every shape and size. The problem with prescriptive rules like these media ownership rules is that they quickly become outpaced by technological change. This 39-percent number is pegged at what networks look like, broadcast groups look like 20, 25 years ago before this whole explosion of online streaming content. In order to have a prescriptive rule like that, you need to have pervasive evidence of market failure. We don't have that here. You need a scalpel instead of a sledgehammer. If there are competition concerns, let's handle that through the Department of Justice, through the FCC's existing public interest review, not through these outdated prescriptive rules.

Senator MORENO. Thank you. Mr. LeGeyt.

Mr. LEGEYT. Modernizing these ownership rules, including elimination of the national cap, is existential for the future of local broadcasting. Our industry is competing for advertising dollars with Google and Facebook, global behemoths. We are competing for audience and for programming with Netflix and Amazon and simply put, we are doing it with one hand tied behind our back because we can't even gain scale nationally to allow us to compete in those markets.

Senator MORENO. Mr. Ruddy.

Mr. RUDDY. Well, Senator, I think there are several reasons. One is Congress set the mandate. Michael O'Rielly, the former commissioner, just said overwhelming number of commissioners said it's law. Ajit Pai had said it's law. Brendan Carr had signed a concurring opinion saying it was law. They don't cite any legal experts that I'm hearing from that are saying that you could just change it by a bureaucratic act of the FCC. We've been sold a bill of goods. The FCC was mandated to do these public TV licenses to serve the local communities. In my mind, there has to be a tremendous emergency for this to all be waived so that big—three or four big companies can own all of these licenses. And so far, the broadcast industry has not told the Senate one—any data that provides that they're in crisis. In fact, Nexstar made $2 billion.

If you look at all the other—the top seven TV station groups all made pretty much in excess of $500 million in EBITDA in 2024. There is no crisis. They're inventing this because they know they can make billions of dollars by waiving the rule, and it doesn't serve the public interest, competition, or the diversity of voices that the public would like, especially with local news.

Senator MORENO. All right. Well, thank you. I'll turn it back over to Mr. Chairman. Thank you.

The CHAIRMAN. Thank you, Senator Moreno, and I will recognize Senator Luján. And I will point out that Senator Moreno made the observation that this committee was leaving the very best for last. Senator Luján.

[Laughter.]

STATEMENT OF HON. BEN RAY LUJÁN, U.S. SENATOR FROM NEW MEXICO

Senator LUJÁN. Mr. Chairman—I don't know what you're up to today, Mr. Chairman, but——

[Laughter.]

Senator LUJÁN.—Bernie, I appreciate that, sir.

Senator MORENO. I knew you were coming in.

[Laughter.]

Senator LUJÁN. Thank you, Mr. Chairman. Mr. Ruddy, when Chair Carr appeared before this committee, I asked if the Federal Communication Commission was an independent Agency, and he responded, "It is not formally independent." Now, frankly, his answer isn't surprising given his willingness to do the President's bidding, I would say. As a matter of fact, the FCC's website stated that it was an independent agency until I asked him the question. And while I thought Chairman Carr was the decisionmaker at the FCC, clearly he's not because someone that was over there, they changed the website. That aside, a few days ago, the President posted on Truth Social regarding the Nexstar-TEGNA proposed merger, "Get that deal done," and Chairman Carr responded on X, "President Trump is exactly right. The national networks like Comcast and Disney have amassed too much power. For years, they've been pushing this Hollywood and New York programming all over the country with no real checks. Let's get it done and bring real competition to them."

Now, my question is, are you concerned about Chair Carr's willingness to rubber stamp this merger? And let me just go on to say that I certainly agree that I think in your filed testimony that Congress is the one that's established the 39-percent threshold here, but my question is, are you concerned about Chair Carr's willingness to rubber stamp this merger?

Mr. RUDDY. Well, you make a lot of good points. I do believe it's an independent agency. And even as an independent agency, they should be listening to the President, Members of Congress, and others, and they certainly should take that into account in their decision-making. He is not alone at the Commission. As you know, there's another member, and hopefully there'll be a—another Democratic member soon and another Republican member. I think Chairman Carr has not given the President good advice. I mean, on the face of it, he says that he wants to increase competition by allowing massive consolidation, so we move from seven TV companies to two or three? How does that increase competition? The purpose of competition and deregulation is to lower prices, but what we're seeing is when you—in a closed market—there are only four major licenses in every market—that they increase prices because they have so much market dominance and power. It makes common sense.

I believe that the Chairman has been inconsistent. For example, I think he was right to criticize Jimmy Kimmel. I don't believe in the censorship on Jimmy Kimmel, but I think that, you know, he'll say that I'm involved in this. He's calling for him to be fired because he says it's in the public interest, these are public licenses, but at the same time, he's saying the public interest doesn't matter. We should just allow three or four companies to own all the licenses.

I think there should be a consistency. I think he should encourage all of these major networks that, when it comes to politicized comedians, they should show balance, and I think it's unfair that we've had several that have just bashed President Trump for the 15 years without response. But I think the answer, again, is not censorship, and it's a balanced interest for the public interest. That's what these licenses are all about, and I think the merger of Nexstar has already proven it's bad for consumers. The prices have gone up, passed on the cable fees. It's led to the decimation of newsrooms in markets where they own more than one—two stations.

You know, when—before they did the merger with Tribune back a few years ago, they had 16,000 employees. Within one year, they went down to 12,000 employees. If you're a journalist working for Nexstar, you should be starting to post your resume if this merger goes through. It's going to be thousands of jobs, but, ultimately, again, it's the local communities that get hurt because of the lack of news diversity.

Senator LUJÁN. Well, to your point on that, sir, the President recently expressed his support for the Nexstar-TEGNA deal, yet was silent on the ownership cap. Have you talked to President Trump about the TV ownership cap?

Mr. RUDDY. I have talked to him in the past. I have not talked to him since he made that post, but——

Senator LUJÁN. Can you share what he said?

Mr. RUDDY. But let's go back. He was very emphatic. Back in November, he posted to Truth Social that bigger media is not good, that less media—less bigger networks is better, and that he supported, essentially, the ownership cap. In the Nexstar deal, he makes no reference to the—to the ownership cap. I believe that Nexstar is already in violation of the ownership cap. They're at 70-percent reach. They want to go to 80 percent. I think the President—I think the President makes a lot of good decisions, and he does when he's fully informed. I think Chairman Carr has not informed him and advised him well on this issue. And I have a disagreement with Chairman Carr very significantly, and I think he's not—he's not playing by commonsense rules, which is, more diversity of companies leads to more competition and lower prices.

Senator LUJÁN. I appreciate that, sir. Mr. Chairman, I have other questions. I'll submit them into the record because of time.

The one thing that I'll share based on your response, Mr. Ruddy, that I didn't get a chance to share with Chairman Carr is, if you watched that hearing, you saw how Chairman Carr was very critical of President Biden. He said President Biden made one bad decision after another. Well, if I had Chairman Carr in front of me again, I would remind him that one of the worst decisions he made was nominating Brendan Carr to the FCC. Thank you for the time.

The CHAIRMAN. Thank you. Since there is apparently a virtue in being last——

[Laughter.]

The CHAIRMAN.—I will take the Chairman's prerogative to do so. I want to go back to a question that I opened with, and I want to ask a specific yes/no. We talked about whether the FCC should make this decision at a Commission-level vote or at a bureau-level vote, and several of the answers said any decision to change the ownership cap should be at the Commission-level vote. I want to ask each of you, yes or no, should the FCC have a Commission-level vote on the Nexstar-TEGNA merger? Mr. Ruddy.

Mr. RUDDY. It should be a Commission-level vote with the full public process.

The CHAIRMAN. Mr. LeGeyt.

Mr. LEGEYT. I don't have a position on that.

The CHAIRMAN. Mr. Johnson.

Mr. JOHNSON. So, in transparency, Mr. Chairman, my firm represents Nexstar in this deal. I just want to say that for the record. I'm not speaking for the client. From my personal view, my answer is the same, that it's a matter of Commission discretion under the Communications Act.

The CHAIRMAN. Mr. Waldman.

Mr. WALDMAN. Yes.

The CHAIRMAN. Two yeses, two dodges. OK.

[Laughter.]

The CHAIRMAN. Let's get to the substance of the law. There is a disagreement about whether the FCC can change the 39-percent cap. Let's review what Section 629 of the 2004 Consolidated Appropriations Act did to the Telecommunications Act broadcast ownership rules. It changed the national television cap in the statute from 35 percent to 39 percent. It gave businesses two years to come into compliance with the 39-percent limit. It barred the FCC from using its forbearance authority to waive the cap, and it expressly excluded the 39-percent cap from being part of the FCC's established regulatory review process.

This is a question for both Mr. Ruddy and Mr. LeGeyt. Yes or no, on the day after the enactment of this 2004 law, did the FCC have the statutory authority to adopt rules that set the national television audience cap to say, 42 percent or 50 percent, or was the FCC instead bound to follow the 39-percent cap fixed by statute? Mr. Ruddy.

Mr. RUDDY. The reason Congress set it at 39 was that the FCC, after the 1996 Act, tried to raise it 45 percent by fiat, and they said, wait a minute, you can't do this. And they—there was a—basically bipartisan support for the 39 percent. So, I don't believe they have the authority, and several legal scholars have said they don't. And so, I'm not a legal expert, but it appears pretty black and white that they said it, and it should be—remain law.

The CHAIRMAN. Mr. LeGeyt, the day after the 2024 law was passed, could the FCC have set the cap at some number substantially higher than 39 percent?

Mr. LEGEYT. Legally, possibly, but as a matter of practicality, given that it was an appropriations directive from Congress, no, but importantly——

The CHAIRMAN. Well, you say "legally possibly." How legally possibly?

Mr. LEGEYT. Because the—because Congress didn't set the 39-percent cap in statute. They directed the FCC to adjust their regulations from a 35- to 39-percent cap. It is not codified in statute.

The CHAIRMAN. How did they direct them to make it 39 percent?

Mr. LEGEYT. Through that appropriations act that you just referred to in 2004.

The CHAIRMAN. And an appropriations act is not statute?

Mr. LEGEYT. What the language of the Act did was that it directed a modification of the regulation.

The CHAIRMAN. But did it say any modification, or did it say modify it to 39 percent?

Mr. LEGEYT. Modify to 39 percent, but, importantly, it did not remove the FCC's authority, which had previously been upheld by the D.C. Circuit, to modify that number on an ongoing basis.

The CHAIRMAN. Well, it did explicitly exclude the 39-percent cap from being part of the established regulation review process.

Mr. LEGEYT. It did. It modified the requirement that the FCC review the cap, but it did not remove the affirmative authority on an ongoing basis to review it.

The CHAIRMAN. All right.

Mr. LEGEYT. It's a distinction with an important difference.

The CHAIRMAN. Next question. The NAB's position is now the FCC could use other authorities to get around that cap, which presumably are the same authorities the FCC had and could have used in 2004/2005 to change the cap. Put another way, the NAB's position on the 39-percent ownership cap is that, that which is not prohibited is permitted. This is a question for both Mr. Ruddy and Mr. LeGeyt. If we assume that Congress did not clearly bar the FCC from using its general authority to change the statutory cap, is there any legal limit to what the FCC can do with the cap? Mr. LeGeyt.

Mr. LEGEYT. No, there's not.

The CHAIRMAN. Mr. Ruddy.

Mr. RUDDY. Well, again, I'm not a lawyer, but if the—if you—if a court were to rule that the FCC was not bound by the 2004 law, I'm assuming that it could create a new cap number as it had in the past, but I do believe the 2004 law is binding and a matter of legal statute.

The CHAIRMAN. Mr. LeGeyt, could the FCC, the day after the law was adopted, decide that the ownership cap could be 100 percent of U.S. households? Could it choose zero percent?

Mr. LEGEYT. The FCC as an administrative agency obviously needs to go through a period of notice and comment and appropriate administrative procedures, but nothing in the Act would prohibit the FCC from doing so.

The CHAIRMAN. So, it is—it is NAB's position the day after the statute passed that said change it to 39 percent, the FCC could have come in and said we're changing it to 100 percent?

Mr. LEGEYT. I think it's unrealistic that that APA process could take place in a single day, but again——

The CHAIRMAN. They initiate the process and it takes the time it does, and they could immediately then raise it to a hundred. Is that your position?

Mr. LEGEYT. Senator, I'd like to follow up on the question because I do think in the context of an appropriations directive, obviously you are talking about a Fiscal Year—a directive to the FCC. So, realistically, whether they had that authority on the next day, I'd like to dig into that a little bit more, but there's no question that the FCC maintained the authority to review the cap on an ongoing basis following the passage of that law.

The CHAIRMAN. Well, you'll certainly have an opportunity to follow up on that. And we're going to have written questions for the record, and I would welcome a more fulsome response. These are important and difficult questions.

Mr. Ruddy, same question. Could the FCC have decided right after the 2004 law was passed that the ownership cap should not be 39 percent, but rather, it should be 100 percent?

Mr. RUDDY. It sounds like it would be rather ridiculous if they just flouted what Congress voted and put into statute, and again, you have commissioner after commissioner, chairman after chairman. I mentioned earlier Ajit Pai, who was President Trump's first Chairman, repeatedly said that the cap was law, a matter of law, that he didn't like it, but he couldn't change it, and that, his words, "We had to obey the law." Chairwoman Rosenworcel, made a opinion against Nexstar and one of their transactions saying they violated a congressional law and that the Congress only could change it, and Brendan Carr, who was the Ranking Member at the time, offered a concurring opinion and did not disagree with that.

So, I think you have a consistent trail here where logic—and I would really encourage the broadcast industry, if they really want this change, it's so important for them, go to the People's House, go to the Congress and the Senate, make their argument that they should do this, but they don't want to do this. They want to use the bureau level, the bureaucrats, and they don't even want to respond. Why can't we have an open process? Why are the broadcasters so afraid for the full Commission to look at this, and they want to have no opinion on it? Have transparency on this matter.

The CHAIRMAN. OK. Final question. If the FCC decides that it has the authority to set aside the statutory cap of 39 percent and to raise it substantially above what the statute says, what is the likelihood that that decision will be challenged in litigation, and what is a reasonable estimate for how long that litigation will take and what the consequences of that litigation will be? Mr. Ruddy and then Mr. Legeyt.

Mr. RUDDY. I am prepared to litigate the matter. I believe that it's just a blatant violation of congressional law, and I think it's a very dangerous thing that the—that they—that a, basically, industry group that stands to make billions of dollars can just circumvent what Congress has said, that the public overwhelmingly supports my position and the current law, that they would like less consolidation, and they want more diversity in media.

The CHAIRMAN. And, Mr. LeGeyt, you get the final word, which I guess, given the Committee's rule, means you're the best that is here.

Mr. LEGEYT. Thank you, Mr. Chairman. I think if history is a guide here, every modification that the FCC has made to its ownership restrictions has been challenged in court on one side or the other, so I would certainly expect that here as well. But we would certainly ask that that judicial review be expedited because this is an existential crisis for local broadcasters. Our competitive landscape is one in which broadcasters are competing with one hand tied behind our back because of the scale of these global tech companies: Netflix, Amazon, Google, Facebook. They are siphoning away our advertising revenue. They are pulling away our viewers, and the only way we can invest in local communities like yours, and continue to do the invaluable work being done across the many markets in your state, is with more scale.

I mean, I made the point separately, but I want to leave the Committee with this: that if judged on an independent, standalone basis, more than half of the broadcast newsrooms in this country are not profitable. They would not exist as standalone businesses. The only way that we can continue to serve communities in the 210 markets in this country is to have some scale to do so and elimination of these rules, which are not—you know, nine decades old, last reviewed more than 20 years ago. This media landscape's been completely reshaped, and we need to compete.

The CHAIRMAN. OK. I want to thank all the witnesses for their testimony today. This hearing, I think, was quite helpful to the Committee.

Senators will have until the close of business on February 17 to submit questions for the record. The witnesses will have until the close of business on March 3 to respond to those questions.

This concludes today's hearing. The Committee stands adjourned.

[Whereupon, at 12:21 p.m., the Committee was adjourned.]

A P P E N D I X

CONSUMER TECHNOLOGY ASSOCIATION
Arlington, VA, February 9, 2026

Hon. TED CRUZ,
Chairman,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Dear Chairman Cruz, Ranking Member Cantwell, and Members of the Committee:

In advance of tomorrow's hearing to examine broadcaster consolidation, the Consumer Technology Association (CTA), urges the Committee to approach any relaxation of broadcast ownership limits with significant caution. CTA represents the U.S. consumer technology industry and is North America's largest technology trade association.

Broadcast television uses exclusive access to publicly owned spectrum, a finite resource the Federal government must manage in the public interest. Changes to ownership rules that further consolidate control of local broadcast licenses should not occur without a corresponding reassessment of whether broadcast spectrum is being used efficiently and in a manner that best serves American consumers and the broader economy.

As a recently released study by the National Association of Broadcasters (NAB) reveals, just 9 percent of consumers surveyed say they use an antenna to access live television, including local broadcast TV stations, a big drop from when the Federal Communications Commission's (FCC) ownership rules were first put in place in the 1940s.[1]

CTA market research also shows that approximately 8 percent of video content viewers rely on a TV antenna as the only source of video content.[2] Ironically, while these findings confirm the reality of how most consumers choose to access local TV stations, the questions posed in NAB's recent survey on public support for relaxing ownership caps are so contrived, they stand in stark contrast to other reputable studies which show the opposite: consumers want to preserve the localism that comes from local TV stations.[3]

We ask this Committee to consider the obvious: local broadcast TV spectrum remains increasingly underused in many markets, as consumer viewing habits continue to migrate toward streaming, mobile, and on-demand platforms. Yet, demand for licensed and unlicensed spectrum to support next-generation wireless services, innovation, and economic growth is growing. Allowing greater consolidation of broadcast ownership without addressing this imbalance risks entrenching inefficient spectrum use while foreclosing opportunities for higher-value applications.

The NAB's push for loosened ownership restrictions and new mandates requiring the inclusion of a NEXTGEN TV tuner in all televisions and a mandate of AM ra-

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[1] *See* National Association of Broadcasters (NAB), *New National Survey: Voters Say Outdated Broadcast Ownership Cap is Unfair to Local Stations* (February 2, 2026), available at: *https://www.nab.org/documents/newsRoom/pressRelease.asp?id=7389.*

[2] *See* CTA *2025 U.S. Consumer Technology Ownership & Market Potential Study* (May 2025), available at: *https://www.cta.tech/research/2025-us-consumer-technology-ownership-market-potential-study/.*

[3] *See* TVB Television Bureau of Advertising, *Survey Finds that 95 percent of Respondents Believe Accessing Local News on Their Local TV Station is Important* (September 29, 2025), available at: *https://www.tvb.org/wp-content/uploads/2025/10/Survey-Finds-that-95-of-Respondents-Believe-Accessing-Local-News-on-Their-Local-TV-Station-is-Important-.pdf;* Pew Research Center, *Views of local news* (May 7, 2024), available at: *https://www.pewresearch.org/journalism/2024/05/07/views-of-local-news/* ("most U.S. adults (85 percent) believe local news outlets are at least somewhat important to the well-being of their local community, including 44 percent who say they are extremely or very important.").

dios in cars reveals a misuse of valuable public spectrum and a reliance on Washington largesse at the expense of consumers. If the spectrum broadcasters are using were being put to its best use in 2026, broadcasters would not be seeking government action to force consumers to buy receivers they do not want.

CTA believes that if Congress or the FCC considers relaxing the broadcast ownership rules, such action should be paired with meaningful measures to return underused broadcast spectrum to the Federal government and should not include mandates that force consumers to buy features they do not want. This would help ensure that the public receives fair value for the use of the airwaves and that spectrum policy keeps pace with modern consumer and economic needs.

Ownership rules were created to promote localism, competition, and diversity. Relaxing those rules without securing tangible public interest benefits—particularly improved spectrum efficiency—risks hurting those objectives while delivering limited consumer benefit.

CTA stands ready to work with the Committee to advance a forward-looking spectrum policy that balances the needs of broadcasters with the urgent demand for spectrum to support wireless innovation, economic competitiveness, and consumer choice.

We appreciate your attention to this important issue.

Respectfully submitted,

GARY SHAPIRO,
Executive Chair and CEO,
Consumer Technology Association.

FREE PRESS ACTION
Washington, DC, February 10, 2026

Chairman TED CRUZ,
Ranking Member MARIA CANTWELL,
U.S. Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Re: Free Press Action Submission for the Record for Full Committee Hearing Entitled "We Interrupt This Program: Media Ownership in the Digital Age"

Chairman Cruz, Ranking Member Cantwell, and Members of the Committee:

Free Press Action submits the attached comments, filed by Free Press in August 2025 with the Federal Communications Commission, for your consideration as a submission for the record of today's hearing.

We filed these comments when the agency sought to refresh the record in its proceeding on the National Television Multiple Ownership Rule, better known as the broadcast television national audience reach limit or the "national cap." In announcing today's hearing, Chairman Cruz explained that it would focus "particularly" on "one rule limiting a single broadcaster from reaching beyond 39 percent of U.S. television households nationwide." He also noted that many stakeholders "contend . . . that the current 39 percent cap is statutory, meaning it can only be changed by an act of Congress and not through regulation" at the FCC.

What the Chairman referred to as an expert contention is in fact the obvious reading of the law at issue today. When Congress set this limit in 2004, it instructed the FCC to adopt a rule to this effect instead of placing the limit in the body of the Communications Act. Based on nothing more than this slender difference in the *manner* of Congress's unmistakable pronouncement, some suggest that the agency can choose to ignore it. This is a remarkable and untenable position, especially when there is no ambiguity whatsoever in the figure Congress set. Should industry advocates have their way, it would beg the question: what is the expiration date on congressional enactments? And when do agencies (especially after *Loper Bright*) get to ignore the plain meaning of legislation? The answer is clear: they do not.

As the attached comments explain in great detail, it is not merely Free Press that holds this position. Several broadcasters themselves have argued that the Commission has no power to waive or eliminate the congressionally set national cap, as has former Republican FCC Commissioner Michael O'Rielly (who worked as congressional staff on the 2004 law that set it).

Any brazen attempt by the FCC to ignore this law would be an affront to congressional authority. As our comments explain, it also would have devastating consequences. Nothing about the march of media technology into the Internet and streaming era has diminished the importance of local broadcasting. The national cap is an important structural tool that mitigates large ownership groups' market incentives to abandon localism. This is not mere conjecture. There is ample evidence demonstrating the harms to localism that follow consolidation.

Most notably, despite rising revenues, the number of broadcast TV stations producing original local news has declined since 1996. Furthermore, research demonstrates how national consolidation diminishes competition, localism, and viewpoint diversity. One study our comments cite shows that large national chains achieve their post-consolidation synergies by replacing original local news with duplicated and out-of-market programming. Another survey of local TV newsroom managers demonstrates how consolidation undermines the public interest, depletes journalism and working journalists, and creates a race to the bottom.

Broadcasters' statements to Wall Street show that their companies are in great financial health, regardless of the different tune they sing inside the Beltway. While they lament supposed competition with "Big Tech," all available evidence—including broadcasters' own comments—shows local TV firms are not in the same product market as online companies like Google, Meta, Amazon, or Netflix. None of those tech firms produce local news. Eliminating the national cap would harm localism but not mediate the issues created by large tech firms' practices.

Finally, as our attached filing documents in copious detail, broadcast representatives have repeatedly told investment analysts how resilient their live sports and local news programming are even in the face of changing viewing patterns. Broadcasters' premise that national consolidation begets more local news is completely unfounded. Local broadcast revenues rose far faster than the rate of general inflation during the Internet era. But employment in local TV newsrooms did not grow with owners' increasing fortunes.

Broadcast firms have in many cases outperformed the broader market and other advertising-supported companies on metrics like return on capital, profit margins, and stock price. The national cap is not a barrier to continued financial prosperity. Broadcast 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, new technologies, and what Nexstar's CEO labeled the "unparalleled local moat" broadcasters enjoy.

We thus submit the attached FCC filing to counter broadcast representatives' unfounded claims regarding the supposed justifications for changing the national cap that Congress set, as well as the fanciful suggestion that this change is within the FCC's authority.

Sincerely,

MATTHEW F. WOOD,
VP of Policy & General Counsel,
Free Press Action.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Section 73.3555(e) of the	)	MB Docket No. 17-318
Commission's Rules, National Television	)	
Multiple Ownership Rule	)	

COMMENTS OF FREE PRESS

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August 4, 2025

EXECUTIVE SUMMARY

The law is clear: Congress fixed the maximum reach of broadcast television license holders at 39 percent of TV households nationwide, and it specifically removed this national cap from the Commission's congressionally-mandated quadrennial review of all other broadcast ownership policies. But despite this clarity, the new Commission is requesting a refresh of the record in an eight-year-old proceeding, in which any changing external market conditions are simply not germane to the law, and in which any fair analysis of the television broadcasters' own economic data shows them in no need of the relief they seek.

But as Chairman Carr's tenure so far demonstrates, his Commission is not going to let little things like the law, settled precedent, or even the First Amendment get in the way of its partisan and ideological aims. Chief among these is following the Trump administration's dictate to use the Commission's licensing authority to exert total control over the media. Media consolidation and deal approvals are now explicitly a way for President Trump to further consolidate his dictatorial power, through explicit loyalty tests and pledges to use the public airwaves as a propaganda tool against the American public. Chairman Carr has made it known that every FCC-licensed firm's continued existence will now be contingent upon that company's editorial and internal personnel decisions aligning with the White House's wishes.

As the saying goes, "all politics is local," and though media markets are changing, local broadcast TV news stations (and their websites) remain the dominant source that Americans use to inform themselves about electoral politics. This is why this proceeding—one whose very initiation ignores the congressionally-set national cap—threatens democracy and freedom. Chairman Carr is placing a "for-sale" sign on the public's airwaves, and inviting media companies to monopolize the local news markets as long as they agree to pay the price of political fealty to Donald Trump and the MAGA movement.

Though the law that binds the Commission in this proceeding does not turn on contemporaneous policy arguments, in these comments we demonstrate how the national cap remains good policy today. It continues to promote competition, localism, and diversity. This greater competition and diversity of sources remains critical, in part because local TV news broadcasts continue to have a disproportionate impact on public opinion and voting behavior.

Promoting the public interest, as the Communications Act requires, and fostering a vibrant marketplace of ideas at the local level requires a jurisprudence standard beyond antitrust analyses alone. Public airwaves remain a scarce resource, and those privileged enough to hold a broadcast TV license have an outsized impact on many facets of life including voting and democracy itself. The national cap and policies that limit how much local broadcast media one owner can control are therefore necessary to promote the public interest, and help the Commission to strike a balance between private profits and democracy's needs.

Nothing about the march of media technology into the Internet and streaming era has diminished the importance of local broadcasting. And the national cap is an important *structural* tool that mitigates large ownership groups' market incentives to abandon localism. This is not mere conjecture. There is ample evidence demonstrating the harms to localism that follow consolidation. Most notably, *despite rising revenues, the number of broadcast TV stations producing original local news declined since 1996.* Furthermore, other research demonstrates how national consolidation diminishes competition, localism, and viewpoint diversity. A recent study shows that large national chains achieve their post-consolidation synergies by replacing original local news with duplicated and out-of-market programming. A separate recent survey of local TV newsroom managers further demonstrates how consolidation undermines the public interest, depletes journalism and working journalists, and creates a race to the bottom.

Though the continued application of the national cap is not tied to television licensees' balance sheets, their own evidence and statements show that broadcast television companies are in great financial health. The push for national consolidation has nothing to do with enriching viewers' lives—only shareholders' wallets. Despite the Commission and the broadcast industry lamenting the existence of "Big Tech," all available evidence—including comments from broadcasters themselves—shows that local TV firms are not in the same relevant product market as online companies like Google, Meta, and Amazon.

Nor are local TV broadcasters in the same relevant product market as online video distributors like Netflix. None of those tech firms produce local news. Eliminating the national cap will only serve to harm localism, and will do nothing to mediate the myriad issues created by the various large tech firms' behavior and practices. While viewership of linear television on the whole is in decline, this trend is not observed equally among all linear television sectors. Online television continues to take a larger share of viewing time, but virtually all at the expense of time previously spent watching linear cable networks. Indeed, broadcast companies representatives have repeatedly told investment analysts in the past year how resilient their live sports and local news programming are in the face of changing viewing patterns.

And the broadcasters' central premise—that national consolidation is in the public interest because it begets more local news—is completely unfounded. The local broadcast TV industry's revenues have risen far faster than the rate of general inflation during the Internet era. But unlike the local newspaper sector, employment in local TV newsrooms did not grow with the owners' increasing fortunes. RTDNA published data indicating that TV newsroom employment has been essentially flat since the industry rebounded from the Great Recession, at approximately 28,000 jobs both in 2012 and in 2024, as their revenues grew much faster.

The fact is that while under the national ownership cap, broadcast TV firms have in many cases outperformed the broader market and other advertising-supported companies on metrics like return on capital, profit margins, and stock price. This historical financial performance shows that the national cap is 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 consolidation. 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. And broadcasters expect the new ATSC 3.0 transmission technology to further enhance their bottom line.

In sum, the Commission has no authority to increase or eliminate the national cap. Doing so would be a disaster for localism.

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V. Conclusion

I. Introduction

On June 18, 2025,[1] the Federal Communications Commission requested updates to the record in a proceeding it did not have any legal basis to conduct in the first place. The law is unambiguous: Congress fixed the maximum reach of broadcast television license holders at 39 percent of TV households nationwide, and it specifically removed this policy from the Commission's congressionally-mandated quadrennial review of all other broadcast ownership policies.[2]

But as Chairman Carr's tenure so far demonstrates, his Commission is not going to let little things like the law, settled precedent, or even the First Amendment get in the way of the Trump administration's plan to use the Commission's licensing authority as a tool to exert total control over the media.[3] Media consolidation and deal approvals are now explicitly a way for President Trump to further consolidate his dictatorial power, through explicit loyalty tests and pledges to use the public airwaves for propaganda against the American public.[4]

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[1] *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) ("*Public Notice*" or "*Notice.*").

[2] *See infra* Section II (complete discussion of the legal history of the national cap); *see also* Dana A. Scherer, "Federal Communications Commission (FCC) Media Ownership Rules," Congressional Research Service, R45338 (June 1, 2021) ("[In 2004] Congress enacts the 2004 Consolidated Appropriations Act, 2004 (P.L. 108–199), which directs the FCC to increase its national TV ownership cap to 39 percent of national audience, thereby preempting FCC's rule that would have raised the cap to 45 percent. The act also directs the FCC to review its media ownership rules every four years (instead of every two years), exempting rules related to the ownership cap from the review. [In 2003 the] U.S. Court of Appeals, 3rd Circuit, finds that new law makes challenges to the FCC's UHF discount moot. Court finds that barring congressional intervention, the FCC may decide the scope of its authority to modify or eliminate the UHF discount outside the context of its quadrennial media ownership review."). As we detail in Section II, *infra,* the Third Circuit delineated the Commission's authority to consider the UHF discount policy outside of the Quadrennial Review, but not the percentage itself.

[3] *See* Comments of Free Press at 33–35, MB Docket No. 25–73 (filed Mar. 7, 2025).

[4] *See, e.g.,* Office of Commissioner Anna M. Gomez, *Commissioner Gomez on Unprecedented FCC Approval of Paramount Transaction,* FCC (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 Amendment and the law

Continued

This proceeding is a farce. Chairman Carr long ago made up his mind to dismantle what's left of the Commission's ownership rules, and made it abundantly clear both before the Media Bureau issued this *Notice*[5] and before the November 2024 election in his political campaigning benefitting then-candidate Trump.[6]

Large broadcast TV firms are already moving ahead with deals,[7] knowing this Commission will grant waivers of its remaining ownership rules,[8] which—because of the roadblock to autocracy known as legal due process—cannot be immediately dismantled,[9] even as the Chairman strains to find more and more streamlined ways to "delete, delete" important public safeguards.

The only price for consolidation is bending the knee, and the line starts outside of the FCC Chairman's office. Trump's vanity and autocratic demands seemingly have no bounds, and Carr apparently has no qualms about satisfying them. Carr's grossly partisan and deeply hypocritical water-carrying for Trump have forever stained the agency, making it clear that the Commission is no longer independent, impartial or fair. Carr once suggested of elected Democrats' actions that their alleged questioning regarding "a private entity's decision about what news to carry cannot be reconciled with bedrock principles of free speech and journalistic free-

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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.").

[5] *See, e.g.,* George Winslow, "FCC's Carr Calls Station Ownership Caps 'Arcane' and 'Artificial,'" *TV News Check* (May 7, 2025) (quoting Carr in an interview stating, "we have these arcane, artificial limits on how many TV stations any one company can own. But of course, that doesn't apply to big tech. So you have, you know, relatively small TV station groups that are competing with Google and Facebook and others in the advertising part. So I want to ultimately empower those local stations and, frankly, constrain some of the power of those national programmers."). As we discuss below, the notion that local TV chains compete in the same economic product market as online search and social media firms is both wrong as a matter of basic economics, and also unmoored from the Communications Act's public interest policy framework applied to firms that are given government-sanctioned monopoly control over this portion of the public airwaves.

[6] *See, e.g.,* Joshua Benton, "What would Project 2025 do for (or to) journalism? From defunding NPR and PBS to kicking reporters out of the White House, it's an array of conservative priorities and Trumpian retreads," *Nieman Lab* (Sept. 25, 2024).

[7] Though the Commission's local multiple ownership rule still nominally prohibits top-four co-ownerships, TV station groups are banking on waivers and ploughing ahead with the formation of new duopolies. *See, e.g.,* Michael Johnson, Justin Nielson & Mike Reynolds, "Gray Media and Scripps TV station swaps could be a precursor to more dealmaking," *S&P Glob. Market Intel.* (July 11, 2025) ("In a deal that could set the stage for similar transactions, Gray Media Inc. and The E.W. Scripps Co. intend to swap stations in five small and mid-sized markets. The moves will bolster the companies' strategic positions in these markets and create duopolies at a time when the broadcast industry is pushing for relaxation or changes to decades-old rules that have limited ownership and reach. . .With this pending transaction, Scripps President and CEO Adan Smyson has indicated that deal approval will likely occur through a waiver.").

[8] *See* Comments of Perry A. Sook, Founder, Chairman & CEO, Nexstar Media Group, Inc., Nexstar Q1 2025 Investor Call (May 8, 2025) (Sook Q1 2025 Comments) ("Obviously, any action that Congress would take would put whatever those rule changes were out of reach of judicial review, which would be nice as well. But I also think that the Chairman has indicated his willingness to consider waivers during either the pendency of rule-making or waivers just in general. So I think you'll see all of those levers be pushed as time goes on this year, and I do think you'll see M&A activity come into focus as the year goes on."). Sook was then asked, "are you comfortable sort of putting pen to paper and beginning to transact when the process is at that phase, but maybe does still face some challenges in the courts?"—to which he answered, "as it relates to your question, would we be willing to put pen to paper during the pendency of an NPRM, I think, again, depends on the circumstances and having a willing counterparty that was willing to do so as well. But I think you've seen this company take risk, acceptable risk, calculated risk for an opportunity. So I don't think you'd see any change in our behavior as we move through this year and the deregulation of our industry." *Id.*

[9] *See, e.g.,* Johnson *et al., supra* note 7; Comments of Christopher S. Ripley, President & CEO, Sinclair, Inc., Q1 2025 Investor Call (May 7, 2025) ("That said, in terms of M&A in the meantime, just the rules that we have on the books today. Which include things like the UHF discount, which include ownership of two big fours subject to a big four waiver, but it's—the rules as they exist today do actually afford most players, including Sinclair, a significant amount of flexibility for M&A. So I think that, at least from our perspective, you're going to see more activity from us. You've already seen some, right? We announced a sale of five markets, a station swap—but you're going to start seeing more in the weeks to come, we will start filing for some of the JSA buy-ins that I've been talking about before, and that's a very accretive trade that should add tens of millions of dollars to our bottom line with very little cash out the door. I think station swaps are going to happen in the meantime, while we wait for some of these rules to change and even large-scale M&A or mergers, are on the to-do list, I think, for many broadcasters and I don't think many and depending on the situation, *I just don't necessarily have to wait for the rules to change."*) (emphasis added).

dom." [10] He said their inquiry was "a chilling transgression of the free speech rights that every media outlet in this country enjoys," because "[a] newsroom's decision about what stories to cover and how to frame them should be beyond the reach of any government official, not targeted by them." [11] My how times have changed, now that Carr is the one doing the targeting at this president's bidding.

Chairman Carr has made it known that every FCC-licensed firm's continued existence will now be contingent upon that company's editorial and internal personnel decisions aligning with the White House's wishes.[12] Carr's actions disregard the First Amendment and the Communications Act.[13] Mob-style government is back, and this time without the need to face the electorate again unless a "Trump 2028" run defies yet another constitutional provision, the administration is unshackled from any pretense of respect for the laws and institutions like the First Amendment that actually make America unique.[14]

Chairman Carr insists that his *quid pro quo* exercise of power and intrusion into the First-Amendment-protected editorial decisions of the news media is simply required to restore "trust" in the media, even as he ominously notes that "we will be watching." [15] But it is not the greater public who express a decline in trust of the media; this distrust is heavily partisan. It is a view widely held by Republican Party voters who have had their minds poisoned against journalists, scientists, civic institutions, people of color, LGBTQ+ persons, Democrats, any Republicans who inves-

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[10] Office of Commissioner Brendan Carr, *FCC Commissioner Carr Responds to Democrats' Efforts to Censor Newsrooms,* FCC (Feb. 22, 2021).

[11] *Id.*

[12] *See* Michael J. Socolow, "ABC and CBS settlements with Trump are a dangerous step toward the commander in chief becoming the editor-in-chief," *Nieman Lab* (July 15, 2025) ("It's not certain what the ABC and CBS settlements portend, but many are predicting they will produce a 'chilling effect' within the network news divisions. Such an outcome would arise from fear of new litigation, and it would install a form of internal self-censorship that would influence network journalists when deciding whether the pursuit of investigative stories involving the Trump administration would be worth the risk."). This article was written shortly before the Commission's final approval of the Skydance-Paramount merger, an order that desecrates the First Amendment by conditioning the government's approval of the license transfer on Skydance's installation of an ombudsman to monitor CBS's news content to ensure it doesn't anger Donald Trump, even though there's a lengthy history of basic facts upsetting his fragile narcissistic ego. *See* Ashley Belanger, "Skydance deal allows Trump's FCC to 'censor speech' and 'silence dissent' on CBS," *Ars Technica* (July 25, 2025); *see also* Comments of The Foundation for Individual Rights and Free Expression at 7–8, MB Docket No. 25–73 (filed Mar. 7, 2025) ("[T]he Commission's request for public comment lacks any legitimate regulatory rationale, but its realpolitik purpose is sadly transparent. This proceeding is designed to exert maximum political leverage on the CBS network at a time when President Trump is engaged in frivolous litigation against it over the same 60 Minutes broadcast, with the FCC using other regulatory approvals the network needs to exert added pressure. This is not just unseemly, it is precisely the sort of unconstitutional abuse of regulatory authority the Supreme Court unanimously condemned in *NRA v. Vullo* There is a name for this kind of thing—it is called a show trial. When proceedings become a performative exercise conducted to further a political purpose, they forfeit any claim to legitimacy. Show trials tend to be retributive rather than corrective and are designed to send a message, not just to their unfortunate victims, but as a warning to other would-be transgressors. There is a dark and deadly history of such showcase proceedings in authoritarian regimes around the world, ranging from Stalin's purges of perceived political opponents to China's trials of 'rioters and counterrevolutionaries' after the 1989 Tiananmen Square protests. In our own country, similar tactics were employed during the Red Scare with investigations and hearings aptly described by the Chairman of the House Committee on Un-American Activities as 'the best show the committee has had yet.' Those who staged the proceedings 'were not seeking justice but staging a show trial to accuse, indict, and punish.' And while the stakes of a sham FCC proceeding obviously differ, the perversion of the rule of law is the same.") (internal citations omitted).

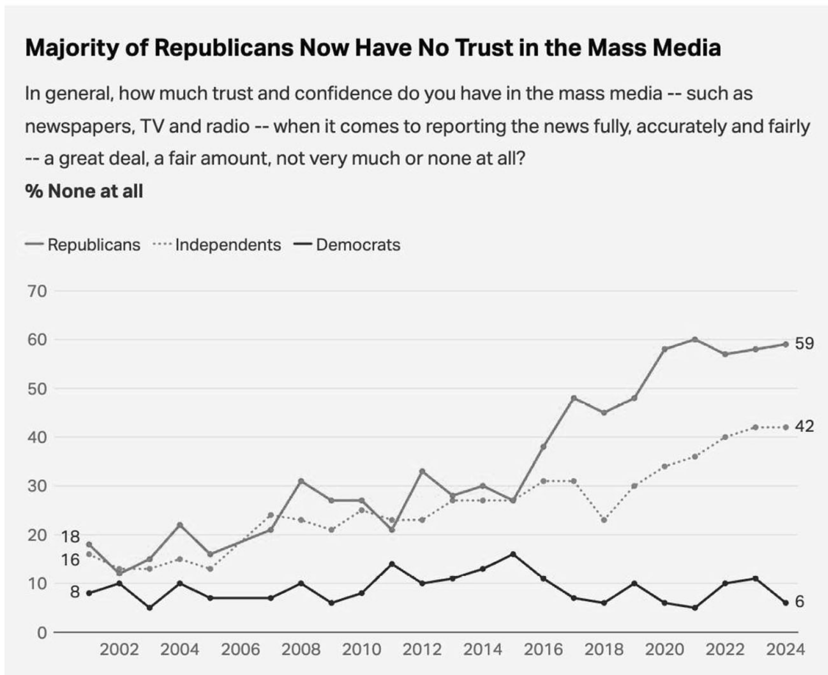
[13] Chairman Carr's actions in his baseless CBS 60 Minutes "news distortion" investigation, which was launched during the review of the Skydance-Paramount merger, along with the final deal approval amount to a backdoor violation of Section 326. *See* 47 U.S.C. § 326 ("Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication."); *see also* Comments of Free Press, MB Docket No. 25–73, at 32–33 (filed Mar. 7, 2025).

[14] Of course, Trump's first term also posed threats to press freedom and open Internet policies as well, along with a slew of other harms. Amidst a flurry of open corruption and norms violations in this second Trump term, it is all but forgotten that the Trump administration already secured a deal with one of the largest U.S. local TV chains ahead of his first term. *See, e.g.,* Josh Dawsey & Hadas Gold, "Kushner: We struck deal with Sinclair for straighter coverage," *Politico* (Dec. 16, 2016).

[15] *See* Ted Johnson, "'Trump Transaction Tax': Skydance's FCC Saga Raises Fears That It's The Template For Future Media Merger Reviews," *Deadline* (July 25, 2025).

tigated the January 6, 2021 insurrection, sexual assault victims, and any other groups or individuals that Fox News deems worthy of hating (see Figure 1).

Figure 1: Distrust in the Media by Political Party ID[16]



Source: Gallup

The Chairman's intrusion into CBS News' editorial decisions, his hassling of public media stations, and his thuggish "investigation" of NBC are not going to restore anyone's trust in the news media.[17] But query whether that is truly his goal. Much of the right-wing media "entertainment" ecosystem (left untouched by Carr) amounts to propaganda and demonstrable falsehood,[18] and constantly feeds viewers a distorted version of reality they wouldn't readily find from legitimate journalism operations.[19] Though now with the Commission's Skydance-Paramount "deal," there is legitimate reason to question whether other established outlets have crafted their news coverage to curry favor with Trump as well, or to not run afoul of the presi-

[16] *See* Megan Brenan & Lydia Saad, "Five Key Insights Into Americans' Views of the News Media," *Gallup* (Feb. 27, 2025).

[17] *See, e.g.,* Austin Fuller, "FCC chair requests investigation into NPR, PBS underwriting," Current (Jan. 30, 2025); *see also* "FCC Chairman Opens Inquiry Into Comcast-NBC Affiliate Practices With Local Broadcasters," Newsmax (July 29, 2025).

[18] *See, e.g.,* Dan Froomkin, "Fox News isn't news: A new study suggests Fox News viewers aren't just manipulated and misinformed—they are literally being made ignorant by their consumption habits," *NBC News* (Apr. 9, 2022).

[19] *See, e.g.,* David Folkenflik, "You Literally Can't Believe The Facts Tucker Carlson Tell You. So Say Fox's Lawyers," *NPR* (Sept. 29, 2020); David Bauder, Randall Chase & Geoff Mulvihill, "Fox, Dominion reach $787M settlement over election claims," *Associated Press* (Apr. 18, 2023) ("Dominion set out to prove in the lawsuit that Fox acted with malice in airing allegations that it knew to be false, or with 'reckless disregard' for the truth. It presented volumes of internal e-mails and text messages that showed Fox executives and personalities saying they knew the accusations were untrue, even as the falsehoods were aired on programs hosted by Maria Bartiromo, Lou Dobbs and Jeannine Pirro. Records released as part of the lawsuit showed that Fox aired the claims in part to win back viewers who were fleeing the network after it correctly called hotly contested Arizona for Democrat Joe Biden on election night. One Fox Corp. vice president called them 'MIND BLOWINGLY NUTS.' During a deposition, Murdoch testified that he believed the 2020 election was fair and had not been stolen from Trump.").

news coverage to curry favor with Trump as well, or to not run afoul of the president and his FCC henchman.

The late Speaker of the House Tip O'Neill famously quipped that "all politics is local." Whatever the ultimate truth of that statement, it is certainly the case that local broadcast TV news stations (and their websites)[20] are the dominant source that Americans use to inform themselves about electoral politics.[21] Certainly all *broadcast television* is local, and the privilege to use these portions of the public airwaves for constitutionally protected speech is limited to very few speakers because broadcast spectrum remains scarce.

This is why this proceeding—one that ignores the congressionally-set national cap limit—threatens democracy and freedom. Chairman Carr is placing a "for-sale" sign on the public's airwaves, and inviting media companies to monopolize the local news markets as long as they agree to display political fealty to Donald Trump and the MAGA movement. These and other Trump administration actions have landed the U.S. "on a watchlist for urgent concern over the health of its civic society, alongside Turkey, Serbia, El Salvador, Indonesia and Kenya."[22]

Perhaps Chairman Carr believes this despicable use of executive power by his own party won't one day be turned around, and used by other partisans against Trump and his ideological brethren. However, by opening the door to broadcast TV monopolization, Carr will have unleashed a force that is near impossible to control. Billionaires have recently gone on a spree of buying local media outlets. Most of those billionaires have largely expressed fealty towards Donald Trump and MAGA, but not all (much to the Chairman's disdain).[23] But as Elon Musk's more recent actions show, oligarchs answer to no one.[24] Handing even more media control to a handful of conglomerates and billionaires already so dominant in the space is a wildly dangerous idea no matter who holds the presidency, even as Trump and his captured FCC have tightened their grip on what those media moguls do and say for now.[25] And as we explain in the section below, doing so by increasing or eliminating the broadcast TV national audience reach cap set by Congress is outside of this Chairman's authority.

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[20] "2024 Local Broadcast TV News Study," TVB (2025) ("There is duplication between local broadcast TV news viewers and those who access local broadcast TV station news websites/apps. 76 percent of TV station news website/app users also view local TV news on TV. 46 percent of TV station news viewers also access websites/apps. *Local broadcast TV news is the #1 source for news, not only for local news, but for all news in general."*) (emphasis added).

[21] *See, e.g.,* Elisa Shearer *et al.,* "Americans Changing Relationship with Local News," *Pew Rsch. Ctr.* (May 7, 2024); Elisa Shearer *et al.,* "Americans Views of 2024 Election News," *Pew Rsch. Ctr.* (Oct. 10, 2025); Danilo Yanich & Benjamin E. Bagozzi, "Reusing the News: Duplication of Local Content" at 6–7, University of Delaware, (May 2025) ("Yanich 2025 Study") ("Americans use several sources for local news. Still, almost two-thirds (64 percent) get local news from TV news stations, more than online forums (52 percent); radio (52 percent) or daily newspapers (33 percent). However, those data obscure an important reality: the stories that are consumed online are overwhelmingly produced by legacy mass media sources. For example, almost one-quarter of the public who viewed local TV news in 2019 did so online. For daily newspapers, that proportion was even higher, at 43 percent. In 2024, the proportion of online use by local television consumers rose to 38 percent. That pattern is evident in the prominence of newspapers and local television websites in television markets. The size of the market affects the prominence of newspapers and television as the main sources of local news. In the largest 22 markets in the country (excluding New York and Washington, DC, with their national newspapers), local newspaper websites were the most popular in 14 of them; local TV websites led in the remaining 8 markets. Further, that dominance extended to a sample of 37 smaller television markets (between #25 and #150), where local television led in 23 and local newspapers led in 13 markets.") (internal citations omitted).

[22] *See* Betsy Reed, "US placed on rights watchlist over health of its civil society under Trump," *The Guardian* (July 30, 2025) ("'The United States appears to be sliding deeper into the quicksands of authoritarianism. Peaceful protests are confronted with military force, critics are treated as criminals, journalists are targeted, and support for civil society and international cooperation have been cut back,' Mandeep Tiwana, Civicus's secretary general, said in a statement. . . . Tiwana also pointed to the Trump administration's latest attacks against media networks, including funding restrictions on public broadcast stations including PBS and NPR.").

[23] In a comment made during an appearance on Fox News last fall, Carr played to his audience's predispositions, stating that "for too long in this government, particularly over the last couple of years, *your last name* dictated how the government treated you If your last name was Soros, well, the Commission bent over backwards and gave you a special, unprecedented Commission-level shortcut to buy 200 radio stations. If your last name was Musk, then you lost $800 million contracts that you lawfully got." Kristen Altus, "Trump's pick for FCC chairman vows to take 'very hard look' at broadcast operations, Soros radio takeover," *Fox News* (Nov. 24, 2024).

[24] *See, e.g.,* Dave Smith, "Elon Musk says Trump 'is in the Epstein files. That is the real reason they have not been made public,'" *Fortune* (June 5, 2025).

[25] See generally Tim Karr, "A More Perfect Media: Saving America's Fourth Estate from Billionaires, Broligarchy and Trump," *Free Press* (July 2025).

II. The Commission Does Not Have Authority to Increase or Eliminate the National Audience Reach Cap.

A. Congress Set a Specific 39 Percent National Audience Reach Limit in the Consolidated Appropriations Act of 2004. Only Congress Can Change this Number.

The law is rarely as clear as it is on the central issue of this proceeding. Congress specifically set the national audience reach limit for broadcast television licensees (the "national cap") at 39 percent of U.S. television households.[26] Contemporaneous reporting suggested that Congress had definitively set the cap, and precluded the FCC from altering it[27]—a conclusion with which consumer advocates[28] and broadcasters themselves[29] repeatedly agreed. Following the plain and uncontroversial meaning of this congressional enactment, as several of the largest broadcast conglomerates in the country have long interpreted it, ought to be simple for a Chairman that likes to don the guise of a humble regulator.

Yet here we are with a request from that same Chairman to refresh the record of an eight-year-old proceeding, in which the changing external market conditions are simply not germane to the law. As former Commissioner Mike O'Rielly noted in 2016, the national ownership cap "remains one of the few media ownership rules specifically set by statute and the only one exempted from the Quadrennial Review process governing the other ownership rules, in order to protect a tenuous compromise from the whims of the Commission."[30] Rejecting the too-cute-by-half argument that Congress's action in the Consolidated Appropriations Act in 2004 ("CAA") simply removed the cap from the Quadrennial Review proceeding but not from other Commission revisions, Commissioner O'Rielly noted that "such a reading is preposterous as it would effectively create one of the biggest backdoors in the history of legislating."[31]

It may be tempting for some of the broadcasters who argued a few short years ago that the Commission had no authority to change the national cap to now change their own tune, because they see an administration ostensibly willing to raise or eliminate that cap instead of lowering it. As we discuss below, those regulatory favors will not be free, as the Trump FCC and Brendan Carr have taken every opportunity to strain the First and Fourteenth Amendments and exact an exorbitant political price alongside literal bribes to get deals approved.

Yet it's remarkable how proponents of lifting the cap now must contort themselves to make this legal argument. As Commissioner O'Rielly described last time around, it requires people to believe that the FCC is free to change any number set by Congress itself unless Congress also wrote into the law "and the agency can't change this figure either." That kind of drafting requirement would make a mockery of almost every clear pronouncement in statute. Congress need not specify "and we really mean it" in the law, by taking the extra step of explicitly disallowing agency changes to its rules.[32] Yet that's essentially what Congress did in this instance,

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[26] *See* Consolidated Appropriations Act of 2004, Pub. L. No. 108–199, § 629(1), 118 Stat. 3 (2004) ("CAA").

[27] *See, e.g.,* Frank Ahrens, Democrats Decry 'Compromise' on FCC Rule, *Wash. Post* (Nov. 25, 2003), archived at *https://archive.ph/ambG5* ("The new language means that the cap would no longer be set by regulation but by Federal law, making it more difficult to challenge in court. Several media companies have already had success in getting courts to block enforcement of the existing FCC regulations, in part because the limits are not spelled out in law.").

[28] *See, e.g.,* Comments of Free Press at 5–6, MB Docket No. 13–236 (filed Dec. 16, 2013).

[29] For example, when Sinclair was worried a different FCC might *lower* the 39 percent figure, it told the Commission "[t]he CAA also stripped the FCC of its authority to modify the 39 percent cap by explicitly carving out the ownership cap from the FCC's statutorily-mandated review process." Comments of Sinclair Broadcast Group at 6, MB Docket No. 13–236 (filed Dec. 16, 2013). Likewise, in 2013 ION Media argued that the national ownership cap was foreclosed from future revision by the Commission, noting that CAA's Section 629 "stands as an ongoing directive to the FCC to maintain the national ownership cap at 39 percent." Comments of Ion Media Networks at 12, MB Docket No. 13–236 (filed Dec. 16, 2013). And at the time, Fox Broadcasting argued that the CAA "unequivocally converted the Cap into a statutory limitation of 39 percent potential audience reach," and that "these efforts were designed to ensure that the FCC would have no further independent authority to modify the Cap." Comments of 21st Century Fox, Inc. and Fox Television Holdings, Inc. at 2, MB Docket No. 13–236 (filed Dec. 16, 2013).

[30] *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule,* MB Docket No. 13–236, Report and Order, 31 FCC Rcd 10213 (2016) ("*UHF Discount Repeal Order*") (Dissenting Statement of Commissioner Michael O'Rielly).

[31] *Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule,* MB Docket No. 17–318, Notice of Proposed Rulemaking, 32 FCC Rcd 10785 (2017) ("*2017 UHF Discount NPRM*") (Statement of Commissioner Michael O'Rielly).

[32] *Cf. UHF Discount Repeal Order,* 31 FCC Rcd 10213, at ¶ 21. The Wheeler FCC suggested not only that it could modify or eliminate the UHF discount calculation, but that it even had "the authority to modify the national audience reach cap" more generally, because "no statute

writing a “no-backsies” policy into the admittedly unusual structures of forbearance, the media ownership rules, and the quadrennial review.

Indeed, the manner by which the current national cap came to be is a rare example of Congress swiftly acting to directly and unambiguously overrule Commission action. When Congress overhauled the Communications Act with the Telecommunications Act in 1996, it placed a 35-percent limit on any broadcast television license holder’s national reach.[33] In 1998, the Commission retained this cap in its first biennial review,[34] a decision that the D.C. Circuit remanded in the *Fox I* case because the Commission had failed to show that retaining the specific 35-percent limit was in the public interest pursuant to the court’s understanding of the then-biennial review requirements in Section 202(h) of the 1996 Act.[35] In response to this remand and subsequent agency review, the Commission then increased the cap to 45 percent in July 2003.[36]

Mere days later, the FCC’s action was met by a rapid and stern Congressional rebuke,[37] led by Senators Ted Stevens (R–AK), Trent Lott (R–MS), and Byron Dorgan (D–ND).[38] After the bicameral congressional actions and resolution of disapproval that immediately followed the FCC’s 2003 decision, Congress’s eventual response[39] in the CAA passed in early 2004 consisted of five clear actions. That law moved the cap to 39 percent,[40] and set parameters for how firms exceeding the cap should come into compliance through timely divestitures;[41] it barred the Commission from using its Section 10 forbearance authority to allow firms to exceed 39 percent national reach;[42] it changed the omnibus biennial media ownership rule review requirement to a quadrennial review;[43] and it barred the Commission from considering the national cap in the quadrennial review, clearly addressing and routing around the D.C. Circuit’s decision in *Fox I*.[44]

Despite this clear congressional intent to cement the national cap at 39 percent and remove it from the congressionally required review of all other media ownership rules, the current Commission is contemplating a transparently corrupt attempt to change that national cap and enable massive consolidation of local news markets by the Nation’s biggest broadcast conglomerates. If it obliterates the national cap in this fashion, the Commission will be open for business: Broadcasters who wish to swap, sell, or buy TV licenses will need to gain approval from the FCC, an agency that is currently led by a radical ideologue who has repeatedly demonstrated his willingness to use the deal-approval process as a way to ensure fealty to Donald Trump and his fascist agenda. That means deal applicants must become supplicants

bars the Commission from revisiting the cap. . .in a rulemaking proceeding so long as such a review is conducted separately from a quadrennial review of the broadcast ownership rules pursuant to Section 202(h) of the 1996 Act.” As we explain below, this view is incorrect when it comes to the cap figure set by Congress itself as opposed to the Commission’s home-made UHF discount. Contrary to Commissioner O’Rielly’s assertion on this specific point in his *2017 UHF Discount NPRM* statement, Free Press never made any such argument with respect to the 39 percent national audience reach figure itself. *See* Comments of Free Press at 6 n.8, MB Docket No. 17–318 (filed Mar. 19. 2018).

[33] Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56, § 202(c)(1)(B) (1996).

[34] *1998 Biennial Regulatory 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. 18–349, Report and Order, 15 FCC Rcd 11058, 11072–75 ¶¶ 25–30 (2000) (*“1998 Biennial Review Order”*).

[35] *Fox Television Stations, Inc. v. FCC,* 280 F.3d 1027, 1042–43 (D.C. Cir. 2002) (*“Fox I”*).

[36] *2002 Biennial Regulatory Review—Review of the Commission’s Broadcast Ownership Rules,* GC Docket No. 02–277, Report and Order, 18 FCC Rcd 13620, ¶ 583 (2003) (“*2002 Biennial Review Order”*).

[37] Ahrens, *supra* note 27 (“Many members of Congress and advocacy groups said the change would allow the big media companies to grow too big, potentially at the expense of local broadcasters. Sen. Ted Stevens (R-Alaska) added a rider to an omnibus spending bill under consideration that would fix the 35 percent cap in Federal law. In July, the House passed a spending bill with language identical to Stevens’s.”).

[38] On September 16, 2003, the Senate adopted a resolution of disapproval concerning the FCC’s *2002 Biennial Review Order* on a 55–40 basis. *See* Roll Call Vote 108th Congress 1st Session, Vote No. 348, concerning S.J.Res.17, “A joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership” (2003); *see also* Frank Ahrens, Compromise Puts TV Ownership Cap at 39 percent, *Wash. Post* (Nov. 25, 2003), archived at *https://archive.ph/FPaXR*.

[39] The Senate’s final compromise on the national cap in the 2004 CAA first appeared in the Conference Report after the Senate adopted the CAA. *See* H.R. Rep. No. 108–401, at 98 (2003) (Conf. Rep.).

[40] CAA § 629(1).

[41] *Id.* § 629(2).

[42] *Id.*

[43] *Id.* § 629(3).

[44] *Id.*

to a dictatorial president, and show fealty by changing their corporate diversity policies[45] as well as their editorial news coverage.[46]

To illustrate the unlawfulness of the big broadcasters' current push to have the Commission increase or eliminate the national cap, consider the following hypothetical: It is January 24, 2004, mere hours after President Bush signed the CAA into law setting the cap at 39 percent. Imagine that Chairman Powell then issued a new NPRM (outside of the Quadrennial Review) to increase the cap from 39 percent to 40 percent. It would have been the ultimate act of regulatory hubris, even if Chairman Powell had asked questions in this hypothetical NPRM about how the market had changed in the intervening months since Congress acted. No judge worthy of their robe would have blessed such a move.

The hypothetical is no less absurd today if we merely lengthen the time period between the CAA becoming law and the Commission issuing a public notice to revisit Congress's decision. It does not matter whether it is eight months, eight years, or eight decades since Congress put the "39 percent" figure into the law and directed the FCC to adopt this figure in its rules. Nor does it matter that a future FCC would take such potential action outside of the quadrennial review. In light of the *Fox I* history, the CAA's removal of the national cap from the quadrennial review was not merely a superfluous step designed to build just one additional speed bump for agency reconsideration. Congress set a specific value for national reach, and barred the FCC from substituting the agency's judgement for Congress's own.

B. Though the Law Bars the Commission from Altering the 39 Percent National Audience Reach Value, It Retains the Authority to Determine How That Reach Is Calculated.

In the instant *Notice,* the Commission asks if it "retains the cap in any form, should [the cap] include a UHF discount or any other form of discount?"[47] The premise of this question is off-base, as the 2004 CAA forbids the Commission from deciding not to retain the 39-percent value chosen by Congress. However, as the courts have affirmed, Congress left the manner by which a license holder's national reach is determined to the Commission's reasoned judgement (so long as alterations to that method are made outside of the quadrennial review).[48]

When the Commission established the UHF discount in 1985, it did so based on the physical realities of UHF and VHF analog signal transmission and reception, and the former's limitations.[49] In other words, the UHF discount was the best available method for calculating for a license holder's *actual* reach at a time when the overwhelming majority of U.S. households accessed broadcast stations via an antenna.[50] Thus, the Commission's framing in the instant *Notice* is inappropriate because the UHF discount was *never* intended as an *economic* modification of the national ownership cap. Other than impacting how many people a single license actually is capable of reaching via over-the-air or pay-TV transmission pathways, changing market realities have nothing to do with the rationale for the discount; the discount was predicated solely on technological realities.[51] And the DTV transition up-

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[45] *See, e.g.,* Karr, *supra* note 25 at 8.

[46] *Id.* at 6, 17.

[47] *Notice* at 2.

[48] Shortly after the CAA became law in 2004, the Third Circuit held that all objections to the Commission's 2002 action in the *Biennial Review Order* to change the national cap from 35 to 45 percent were rendered moot. However, the Third Circuit further held that the Commission retained authority to consider regulations defining the UHF discount outside of the context of the quadrennial review. *See Prometheus Radio Project v. FCC,* 373 F.3d 372, 397 (3d Cir. 2004) ("*Prometheus I*") ("Although we find that the UHF discount is insulated from this and future periodic review requirements, we do not intend our decision to foreclose the Commission's consideration of its regulation defining the UHF discount in a rulemaking outside the context of Section 202(h). The Commission is now considering its authority going forward to modify or eliminate the UHF discount and recently accepted public comment on this issue. Barring congressional intervention, the Commission may decide, in the first instance, the scope of its authority to modify or eliminate the UHF discount outside the context of § 202(h).").

[49] *See Amendment of Section 73.3555 of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations,* GN Docket No. 83–1009, Memorandum Opinion and Order, 100 FCC 2d 74, 88–94, ¶¶ 33–44 (1985) ("*1985 UHF Discount Order*").

[50] In 1985, only approximately 32 million of the 87 million U.S. households subscribed to cable television service. *See* Television & Cable Factbook, *Warren Comm'cns News, Inc.,* archived at *https://archive.ph/z005A; see also* Federal Reserve Bank of St. Louis, U.S. Census Bureau, Total Households (retrieved from FRED, July 11, 2025).

[51] A licensee's *actual* reach is impacted by the market realities of pay-TV adoption (and carriage of a broadcast station on pay-TV systems). In other words, though the UHF vs. VHF signal disparity issue remained a technological reality until completion of the DTV transition, a UHF licensee's *actual potential* population reach via the combination of over-the-air and pay-TV dis-

ended this technological reality, making the current discount an utter anachronism. As the Commission found in 2016, "experience since the DTV transition demonstrates that UHF channels are equal, if not superior, to VHF channels for the digital transmission of television signals. Thus . . .the UHF discount can no longer be supported on technical grounds."[52]

We note that when Congress set the national cap at 39 percent (5 years prior to completion of the DTV transition), it was well aware of the Commission's prior determination that "the digital transition will largely eliminate the technical basis for the UHF discount."[53] Thus there is no hidden meaning to be gleaned from the fact that Congress did not mention the UHF discount in the 2004 CAA; to Congress, limiting a single licensee's *actual potential reach* to 39 percent was the sole policy objective.[54] The Commission's ongoing use of the cap some 16 years after completion of the DTV transition is methodologically indefensible, especially given the technological superiority of UHF digital signal transmission compared to VHF digital coverage. To faithfully comply with the law, the Commission should adopt a reach-calculation methodology that better captures a licensee's *actual* potential reach, and enforce the statutorily imposed 39-percent limit based on that more technologically defensible methodology.

III. Limiting Broadcast Television Licensees' National Reach Remains Critical to Promoting Competition, Localism, and Diversity.

A. Local TV News Stations Have a Disproportionate Impact on Public Opinion and Voting Behavior.

As noted in the previous section, only Congress can change the national ownership cap. Therefore, any discussion of the supposed rationale for the policy changes the Commission here contemplates is irrelevant. But the national cap itself remains an incredibly important policy, and its elimination would further harm the health of our democracy.

The axiom that "a well-informed electorate is a prerequisite to democracy" is often attributed to Thomas Jefferson,[55] though the actual quote is even more salient: "wherever the people are well informed they can be trusted with their own government; that whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights."[56] A functioning democracy that is healthy enough to thwart totalitarian forces requires the free flow of news and information from diverse and independent sources, as well as representatives who act with integrity and courage to uphold the rights of all. The public requires this diverse array of high-quality journalism in order to inform itself on pressing political issues at both the national and local levels. This principle is the basis of the First Amendment, and remains as true today as when that amendment was conceived in the late 18th century.

In fact, even with the Internet having torn down publishing barriers, this principle is more important than ever to protect and promote. Changes in technology and advertising-supported media markets do not eliminate the need for media ownership limits, especially the national cap. Despite the prominence of social media and online streaming, local television stations remain the most important sources of local news and information.[57] Indeed, with the secular decline of the local newspaper industry and dramatic decline in the number of working print journalists,[58] local broadcast television stations are in many places the only well-resourced producers of local news. With the President and Republican-led Congress's recent cal-

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tribution was some degree higher than simply a maximum *potential* reach of 50 percent of the television households in a given Designated Market Area ("DMA").

[52] *UHF Discount Repeal Order,* 31 FCC Rcd 10213, at ¶2.

[53] *2002 Biennial Review Order,* 18 FCC Rcd 13620, at ¶591 ("[I]t is clear that the digital transition will largely eliminate the technical basis for the UHF discount.").

[54] We use the term "potential" here to reflect that the 39-percent national reach value was established without regard to whether or not a household does tune into a given station, but instead what broadcast TV signals a given household could tune into.

[55] *See, e.g.,* Moshe Marvit, "A Well-Informed Electorate Is a Prerequisite for Democracy," Century Found. (May 2, 2013).

[56] Letter from Thomas Jefferson, to Richard Price (Jan. 8, 1789) (on file with the Library of Congress).

[57] Yanich 2025 Study at 4–5.

[58] According to Free Press's analysis of the Bureau of Labor Statistics Occupational Employment Survey, the total number of persons employed in the occupation category "news analysts, reporters and correspondents" working at newspaper publishers declined from 36,270 in 2002 to 15,250 in 2023. *See* Bureau of Labor Statistics, Occupational Employment and Wage Statistics, Occupational Employment Survey.

lous move to defund public broadcasting, local commercial television stations will be even more dominant as a source for local news.[59]

Nothing about the changes in technology and in Americans' general media consumption habits has diminished local TV news' impact on voters. Certainly, the absolute deluge of candidate and Political Action Committee ads that fills the commercial time around local news broadcasts before every election is a testament to how local TV impacts and shapes public opinion.[60] According to Pew, "regular voters' pathway of choice is local TV," and local TV was by far the most-used news source among survey respondents, including people who describe themselves as "highly active" in local politics.[61] A study by Gallup and the Knight Foundation reported that "Americans who primarily access news online are less likely than those who mostly rely on newspapers or TV to say they are highly knowledgeable about issues facing their local community. . . . Differences by media platform are smaller or nonexistent when people are asked how knowledgeable they are about issues facing the country as a whole."[62]

The conclusions of these studies still hold today. According to a TVB survey of voters in nine swing states following the November 2024 election, "TV was the most important influence throughout the voter decision process. This was true of all political parties and all age groups, as well as Hispanic and AA-Black voters. Of those that cited TV as most important in the awareness stage, seven out of ten picked broadcast TV over cable, eight out of ten for Democrats and AA-Black voters. For local news and information, the websites of choice were local TV stations' sites."[63] Only eight percent of these swing-state voters cited social media as influencing them to vote for a candidate.[64]

We expect broadcasters to file comments in this proceeding with similar data reflecting the importance of local TV news; but where we will almost certainly disagree with them is in our assessment of the financial state of their industry, and of the impact of the national cap and consolidation on the news itself and the public who watches it. Broadcast-TV firms routinely lump their business in with local newspapers in policy discussions on local news (particularly those involving potential subsidies). But the financial trajectories of local print and local TV are in *opposite* directions.

Because print journalism has declined while broadcast revenues and profits have grown,[65] local TV stations arguably have even more of a disproportionate impact on public opinion than they did when Congress fixed the national cap at 39 percent in 2004. Yet there's no indication that the Carr Commission even considers the negative impact that consolidation could have on the health of our democracy. For Chairman Carr, there apparently is one gigantic media market, and he's going to help his Republican-friendly broadcast TV chains further consolidate the airwaves, in order to supposedly help them compete with the big tech firms that dominate their respective online search and social media markets. Of course, it is patently ridiculous and economically ignorant to draw a formal market boundary around every single firm that generates revenues from advertising (as we discuss below in Section IV). But discarding the realities and economics of the local marketplace of ideas like Carr proposes, all to suit the interests of a small number of politically connected and profitable corporations, is simply not in the public interest. American communities will pay a hefty price if the Commission jettisons the national cap. Doing so would unleash market forces that diminish localism while giving a small number of for-profit corporations undue influence over the public through those companies' control over local news sources.

B. The National Cap and Local Broadcast Ownership Limits Remain Vital Policies that Promote the Public Interest and Strike a Balance Between Private Profits and Democracy's Needs.

Broadcasting is a unique form of media, in part because spectrum (or more colloquially, "the public airwaves") is a finite and scarce resource. This scarcity justi-

[59] *See, e.g.,* Timothy Karr, "Defunding Public Media Makes Perfect Sense If Destroying Democracy Is the Goal," *Free Press* (July 18, 2025).

[60] *See, e.g.,* "The 2024 Voter Funnel Study," TVB (2025), archived at *https://archive.ph/00h1t* ("2024 Voter Funnel Study") ("80 percent of respondents took some action after seeing/hearing a TV ad, including word of mouth, online use and even voting!").

[61] Michael Barthel, Jesse Holcomb, Jessica Mahone & Amy Mitchell, "Civic Engagement Strongly Tied to Local News Habits," *Pew Rsch. Ctr.* (Nov. 1, 2016).

[62] "American Views 2020: Trust, Media and Democracy: A Deepening Divide," Gallup & Knight Found (Nov. 9, 2020).

[63] *See* 2024 Voter Funnel Study.

[64] *Id.*

[65] *See infra* Section IV.

fies government regulation,[66] as does broadcasting's pervasiveness.[67] In *Red Lion,* the Court held that "differences in the characteristics of new media justify differences in the First Amendment standards applied to them."[68] 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."[69]

Nothing about the ongoing march of technology in the half-century since that case 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.[70] Broadcast license holders have a unique statutory obligation to serve the public interest, convenience and necessity. This obligation to serve the interests of a local community of license implicates quite a bit more than simply airing a newscast filled with content produced for airing across multiple localities.[71] The law—the Communications Act of 1934, along with the 1996 Telecommunications Act and its amendments to the 1934 Act, and the CAA's further amendments to it in 2004, all—require the FCC to pursue the goals of competition *in broadcasting* (not merely video), and to promote localism, diversity of opinion and diversity of ownership in broadcasting as well.[72] In other words, broadcasting is a fundamentally distinct form of media, in terms of both the information market in which it resides and in legal terms too.

C. Promoting a Vibrant Marketplace of Ideas at the Local Level Requires a Jurisprudence Standard Beyond Antitrust.

Broadcast-TV licenses are a special class of spectrum licenses;[73] and as with all such licenses, there tend to be far fewer licenses than potential speakers wishing to access these public airwaves. This scarcity, and the potential "tragedy of the commons" it creates, serve as the original impetus of the "public interest, convenience

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

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

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

[69] *Id.* at 389.

[70] The different advertising strategies during the 2024 national election cycle certainly reflect this reality. *See, e.g.,* Shane Goldmacher & Nicholas Nehamas, "Harris, With an Online Avalanche, Outspends Trump by Tens of Millions," *N.Y. Times* (Sept. 20, 2024) ("Mr. Trump is also being outspent on television—but by smaller margins. Part of that spending emphasis reflects Mr. Trump's own worldview. Mr. Trump, who starred in the network television show "The Apprentice," has said privately that he thinks digital spending is a waste and has urged his campaign to spend more on TV, according to a person who has heard him make such remarks and insisted on anonymity to discuss his private comments."); Kiara Alfonseca & Soo Rin Kim, "Trump and allies are pouring millions into anti-trans election ads as election nears," *ABC News* (Oct. 21, 2024) ("[T]he Trump campaign and Republican groups have spent more than $21 million on anti-trans and anti-LGBTQ television ads as of Oct. 9, nearly a third of roughly $66 million television ad spending during that time period, media tracking agency AdImpact told ABC News. However, transgender issues are among the least important issues motivating voters to head to the ballot box, according to a Gallup poll.").

[71] *See infra* Section III.E.b. (discussion of the growing trend of local broadcast news sharing within and across markets).

[72] *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)).

[73] 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 unjustly or unreasonably discriminating against, or giving "any undue or unreasonable preference or advantage to any particular person" accessing these portions of the public airwaves. Thus common carriers are important *mediums* that carry the public's speech. In contrast, broadcasters use the public airwaves to transmit *their own* 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).

and necessity" language in the Act.[74] The Commission's local multiple-ownership policies and Congress's statutory limitation on a broadcast-TV licenseholder's national reach act in conjunction to balance broadcasters' commercial incentives and the public's interest.

In other words, by preventing monopolization of the public airwaves, these policies promote the Act's goals of competition, localism, and diversity. This standard is rightly *far more* 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."[75]

The marketplace of ideas is fundamentally different from the marketplace for goods and services. The local news market that would result from elimination of the national cap would not be one that produces journalism in service of democratic values, such as an informed electorate and robust debate on issues of local and national importance. What's more, without a national cap, the local television market would not serve all audiences efficiently and fairly.[76] Broadcast-TV news firms have a strong incentive to maximize profit, which in today's media market favors maximizing share of the most frequent local TV news viewers, doing so at the lowest possible cost.[77]

First Amendment jurisprudence for decades has supported the premise that media policy is about more than economics[78] and concerns both the preservation of robust debate[79] and the airing of a diversity of views[80] on a broad swath of issues.[81] What's more, the uniqueness and civic importance of local news requires policy makers to consider both the potential long-term *and* short-term effects of consolidation. Long-term effects include the neglect of certain issues, as well as increased vulnerability to government censorship.[82] But the short-term and transitory effects are equally dangerous to democracy. Local TV news is a critical source of information

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[74] *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.'").

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

[76] *See infra* Section III.D.

[77] Recent survey-based research from the Shorenstein Center 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" 11, Harv. Kennedy Sch. Shorenstein Ctr. on Media, Pol. & Pub. Pol'y, (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.'").

[78] *See, e.g., Associated Press v. United States,* 326 U.S. 1, 20 (1945) ("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. Surely a command that the government itself shall not impede the free flow of ideas does not afford non-governmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom."); *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.").

[79] *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*").

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

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

[82] 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.

for voters as they solidify their opinions in the final weeks of an election.[83] What stories a licensee chooses to emphasize and explain at a substantive level, and what PAC attack ads they choose to accept, reject, or fact-check, can determine electoral outcomes.[84] This necessitates a more careful regulatory approach for broadcast television ownership than a general antitrust, even if the geographic and economic product markets are properly defined.

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 barriers. 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."[85] Indeed, the Supreme Court articulated this "positive vision" of the First Amendment[86] 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, aesthetic, moral and other ideas and experiences which is crucial here."[87] 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."[88]

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."[89] Furthermore, "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."[90]

In sum, the Commission's ownership policies are chiefly concerned with promoting competition, localism, and diversity *in broadcasting.*[91] Economic concentration is only one of several dangers that the Communications Act as amended and the Commission's rules intend to avoid.[92] Excessive influence over public opinion, diversity, and ensuring high-quality journalism and service to local communities are additional goals. Economic efficiency, already at the core of antitrust policy, is—and must be—a secondary concern to these core precepts of the Communications Act that governs this Commission's actions.

D. The National Cap Is an Important Structural Tool that Mitigates Large Ownership Groups' Market Incentives to Abandon Localism.

The physical realities of over-the-air transmission make broadcasting a local medium. Because of these physical realities, U.S. policy has long focused on ensuring

[83] *See, e.g.,* 2024 Voter Funnel Study.

[84] 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, "Left in the Dark: Local Election Coverage in the Age of Big-Money Politics" 7, *Free Press* (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.").

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

[86] 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.").

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

[88] *Id.* at 385.

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

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

[91] *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) ("*2002 Biennial Review Order*") ("We identified diversity, competition, and localism as longstanding goals that would continue to be core agency objectives in this area.").

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

that broadcasting serves the diverse needs of local communities.[93] 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." [94] 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.' "[95]

As we've noted, nothing about the march of media technology into the Internet and streaming era has diminished the importance of local broadcasting. 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."[96] And it should be exceedingly clear that national conglomerates serving more and more television markets have every 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.

The D.C. Circuit in *Sinclair* highlighted the necessity of the Commission's focus on localism in promoting the public interest.[97] The growth of online media has not made localism any less important; in fact, America's growing diversity makes localism more important than ever. The civic issues that are most salient to people living in smaller metropolitan areas along the southern border are going to be distinct from those that most concern people living in Great Plains farming communities or in the dense Northeast I–95 corridor. 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.

Thus, 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.

While we do not expect the Commission will expressly discard its past findings on the importance of localism because of changes in the broader media markets, the *Public Notice* reflects a dated and over-simplified understanding of how present market forces and consolidation work *to* disincentivize localism.[98] The Commission seems to believe (or to espouse, for purely political and partisan purposes) that broadcast-TV localism is merely a question about the relationship between national broadcast networks and their news-producing affiliated stations.[99]

The localism rationale for the national cap articulated in the *2002 Biennial Review Order* did indeed incorporate the thesis, as stated by NAB, that "the cap is necessary to counteract the networks' strong financial incentive to promote the widest distribution across the Nation of network programming irrespective of the tastes of one or more particular local cities." [100] Yet as those same national networks

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[93] 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).

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

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

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

[97] 284 F.3d at 160.

[98] *Notice* at 2 ("In the [2017] National Cap NPRM, the Commission discussed economies of scale made possible by expansion of station ownership that may help broadcast television remain competitive in the marketplace and deter the migration of expensive over-the-air programming to other video programming distributors. The Commission also reasoned that, by placing limits on the expansion of network owned and operated station groups, a national cap would preserve a balance in the marketplace between the networks and their local affiliates. Do these prior conclusions remain accurate in 2025, and can they be expected to remain valid going forward? If so, and the Commission retains a national audience reach cap, should common ownership of stations that are not affiliated with major national broadcast networks (*i.e.,* ABC, CBS, NBC, or FOX) be excluded from the cap?").

[99] *Id.* at 2, n.7 ("Specifically, the Commission noted its prior conclusions, dating back to 2003, that a national cap would promote localism by enabling local affiliates to influence programming decisions by the networks and to exercise their rights to preempt the airing of network programming in favor of programming better suited to their local communities' needs.").

[100] *See 2002 Biennial Review Order* ¶ 541; NAB/NASA Comments at 9, 33, MB Docket No. 02–277 (filed Jan. 2, 2003).

shift away from linear programming in all but the sports and news categories, following viewers' changing demand and consumption patterns, and the networks thus sink billions of dollars into their subscription video on demand (SVOD) internet-delievered services, this analysis is far too simplistic. Because of viewer demand for live sports (and the cost to for this content, either directly through the networks' deals with sports leagues, or indirectly through the affiliates' reverse retransmission fees), *both* the national networks and local affiliates have a strong incentive to air that programming live over local stations. But the networks are less incentivized today to preempt local programming with other national content, either on their owned stations or affiliates, because they are better able to reach and satisfy a wider audience for this entertainment fare by steering viewers interested in such non-sports and non-news programming to their SVOD services. Contrary to Chairman Carr's blithe assertions and saber-rattling, the "Big 4" networks may have more incentive today to forge direct relationships with subscribers and viewers of their entertainment programming; but they actually have *less* incentive and ability to impact (much less dictate) what the local TV affiliates they do not own may air outside of live sports and national news blocks.

However, the rationale of the *2002 Biennial Review Order* about the incentives of the networks is now apt for the *national* broadcast chains such as Nexstar and Sinclair. These and other national chains have a strong financial incentive to promote the widest distribution of *their own news and vertical network programming* irrespective of the tastes of one or more particular local cities. Sinclair offers a prime example of how this incentive translates in the increasingly concentrated local TV market.[101] And Nexstar, now owner of The CW and NewsNation (formerly WGN), has also made it abundantly clear that its business model favors distribution of centrally produced programming to their local stations, and repurposing already overworked local reporters to spend more time working for NewsNation.[102]

The broadcasting industry's push to eliminate the national cap is 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 the premiums these firms will have to pay to acquire smaller station groups. The synergies that have these firms pushing for national consolidation are found in programming. The evidence strongly suggests that as station groups become larger, *economies of scale favor greater production and distribution of national content.*

As Sinclair grew larger it implemented its so-called "news directive," and forced its "News Central" and later "National News Desk" programming onto its local affiliates.[103] It also expanded its programming portfolio by purchasing the Tennis Channel and Fox's former Regional Sports Networks, and by launching a number of national broadcasting digital subchannel networks such as Comet, Charge!, Roar, and The Nest. As Nexstar grew, it took its increased profits and bought a national broadcast network (The CW) and a national basic cable network (WGN). This growth not only undermined localism incentives, it also gave these firms increased market power to impose exponential increases in retrans rates.[104]

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[101] *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).

[102] *See, e.g.,* Comments of Perry A. Sook, Founder, Chairman and CEO, Nexstar Inc., Bank of America 2024 Media, Communications & Entertainment Conference (Sept. 5, 2024) ("Sook Sept. 2024 Bank of America Comments") (When asked about synergies between local news departments and NewsNation, Sook noted the company had "built a facility in Washington, D.C. at 400 North Capitol, which is steps off of the Hill . . . where . . . a senator can come in and do a national interview for NewsNation or *The Hill,* can go sit with a correspondent for the Hill . . . and we can deliver that to 70 percent of the U.S." Sook also emphasized the synergies from putting local reporters to work for NewsNation, stating "we have the largest newsgathering organization collectively in the United States of any company in the world. And that those 5,500 journalists that are spread across 40 states could augment the coverage of [NewsNetwork] and provide resources that other folks simply wouldn't have. So it has been profitable from day one, given that we had embedded distribution revenue in WGN America that we've substantially improved on. The advertising is sold at a higher cost per thousand in news than it is in entertainment programming. And so we've been the beneficiary of that.").

[103] *See* Fortin & Bromwich, *supra* note 101; *see also* Elizabeth Jensen, "Sinclair Broadcast Group thrusts itself into the news," *L.A. Times* (May 8, 2004);Andrew Heyward, "All news may be local—but more and more of it is going national," Knight Cronkite News Lab (Sept. 2, 2021).

[104] *See, e.g.,* Justin Nielson, "Retransmission-per-subscriber rates continue to climb in Q4 2024," *S&P Glob. Market Intel.* (May 7, 2025) (showing that between the fourth quarter of 2023 and the fourth quarter of 2024 the weighted average monthly per-subscriber retrans fee rose 16 percent for the entire industry, but Nexstar led the pack with a 50 percent increase, with Sinclair's one year increase amounting to 18 percent). These increases are impacted by the tim-

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Therefore today, this "balance in the marketplace between the networks and their local affiliates" has more to do with how these very profitable companies divide up the growing retransmission consent fee "pie" than it does with the core public interest concern of localism.[105] Networks need affiliates to reach sports viewers, and affiliates need the network's marquee sports programming.

When the FCC concluded in the *2002 Biennial Review Order* that "a local station maximizes its income by providing programming desired by its local community irrespective of national programming preferences"[106] that was theoretically plausible *only under the conditions in which local broadcasters were statutorily prohibited to grow beyond a certain size.* Indeed, consider the case of ION (then Paxson). Because of its greater national reach, thanks to the UHF discount, its financial incentives were heavily tilted towards building its own national network *that aired very little local content.*[107]

In sum, the dividing line between large national networks and local station ownership groups does not lie exclusively along the axis between traditional Big 4 networks' owned and operated ("O&O") stations on one side, and other network affiliates owned by broadcasters other than ABC, CBS, Fox and NBC on the other. Nexstar and Sinclair—two of the largest U.S. broadcast ownership groups—each have a history of regularly using their tremendous reach to acquire, shutter, and consolidate local newsrooms; each have acted in ways demonstrating that their economic incentives favor centralized content. Thus the notion raised in the *Notice* of applying the national cap to "Big 4" O&O firms but not other licensees[108] is completely unjustifiable, and the Commission cannot find any source of authority in the law for any such differential application.[109] Any weakening of the national cap, whether impermissibly tailored in this fashion or simply applied to all license holders, would do irreparable harm to localism.

E. Broadcast TV Consolidation Has Harmed Localism.

a. 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 national cap in the name of "saving local news" is the fact that the number of broadcast TV stations producing original local news declined since consolidation accelerated following the changes to broadcast ownership limits specified in and precipitated by the Telecommunications Act of 1996. Dr. Bob

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ing of retrans negotiations with cable, satellite and virtual distributors. But the industry's double-digit gains reflect local TV broadcasters' strong bargaining position even in the streaming media era. *See, e.g.,* Comments of Christopher S. Ripley, President & CEO, Sinclair, Inc., Deutsche Bank 32nd Annual Leveraged Finance Conference (Sept. 24 2024) ("We just reiterated our net retrans guidance over the next couple of years of mid-single digits. And that's having gone through a very significant renewal cycle that we currently have completed about 75 percent of all of our Big 4 traditional subscriber renewals and they've all been either meeting or exceeding our internal expectations. So again, back to momentum, a lot of operating momentum there on the advertising side, on the retransmission side.").

[105] *Notice* at 2.

[106] *See 2002 Biennial Review Order* ¶392.

[107] Paxson did eventually make some news sharing agreements in 2000 that involved tape-delayed re-airing of other local station's broadcasts. But the Commission's elimination of the main studio rule in 2019 was predictably followed by Ion stations closing local studios and consolidating operations in E.W. Scripps' national facilities. *See, e.g.,* Brian Lowry, "Pax TV Is Giving Reruns a Whole New Meaning," *L.A. Times* (Apr. 22, 2000); Jon Ellis, "FCC/CRTC Monitor: New FM Signal in Brainerd, New LPTV in Fargo," *N. Pine* (Oct. 31, 2021) (noting several FCC filings by E.W. Scripps notifying the Commission of relocations of Ion affiliate studios to the company's Cincinnati facility).

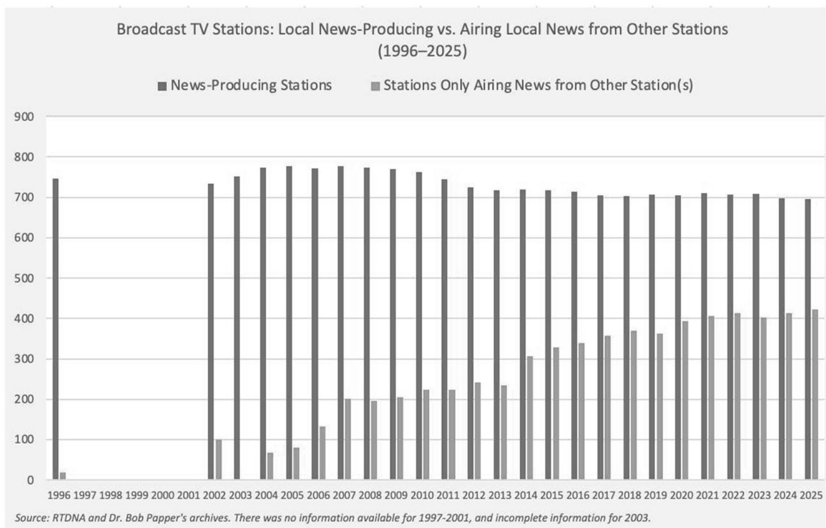
[108] *Notice* at 2 ("If . . . the Commission retains a national audience reach cap, should common ownership of stations that are not affiliated with major national broadcast networks (*i.e.,* ABC, CBS, NBC, or FOX) be excluded from the cap?").

[109] As discussed in Section II, when Congress enacted the CAA in 2004 it removed the Commission's authority to increase the 39 percent cap. The Commission retains the authority to determine how this reach is calculated (*e.g.,* with or without the UHF discount), so long as this change is deliberated and made outside of the Quadrennial Review. *See Prometheus I,* 373 F.3d at 396. But it would be completely arbitrary and capricious for the Commission to calculate reach differently depending on whether or not a licensee owns one of the Big 4 networks. The text of the CAA, directing the Commission to adopt the 39 percent cap in its rules, says nothing about national network owners or local affiliates. In straightforward fashion, the resulting rule simply forbids grant transfer, or assignment of a commercial television broadcast station license to *any* party if it would result in that party exceeding the 39 percent national audience reach cap. 47 C.F.R. §73.3555(e)(1). And there's nothing in the CAA to suggest the Commission retains authority to use a technical determination when calculating reach in order to implement an economic policy goal. What's more, the economic arguments about the cost differential between UHF and VHF that the Commission relied on in the *2002 Biennial Review Order* are not valid for digital television transmission. *See 2002 Biennial Review Order* ¶591.

Papper, Professor of Broadcast and Digital Journalism at Syracuse University, on behalf of the Radio and Television Digital News Association ("RTDNA"), has conducted an annual survey of U.S. broadcast station news directors since 1995. As a part of this research, Dr. Papper also conducted an annual census of *all* U.S. broadcast television stations to determine if they aired *any* 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 *massive* increases in revenues and profits (nominal and inflation-adjusted),[110] the number of local TV stations *originating* news declined from 746 in 1996 down to 695 in 2025.[111] 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 2).[112]

Figure 2:



These trends clearly reflect that as broadcast TV ownership further consolidated—with deals promised not only to bolster the bottom line but to 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. 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 from its unlawful exploration of eliminating the national cap in this proceeding, and any plans to otherwise decimate what remains of its local ownership limits in other dockets.

[110] See *infra* Section IV for full discussion of the broadcast TV industry's financial performance during the past three decades.

[111] *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).

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

b. Research Demonstrates How National Consolidation Diminishes Competition, Localism, and Viewpoint Diversity. 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,[113] or that without consolidation, local news will decline.[114] But this is nonsensical. 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, news sharing, greater use of social media clips in the news instead of original reporting, emphasis on partisan and sensationalistic content, substitution of local coverage with national content, and less investment 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.[115]

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 the push to do so. 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?" As we discuss below, 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

[113] *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 show that these increased hours are simply repeated stories. What's more, local stations bring in more advertising revenue during local news day parts than they would 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) ("2019 DOJ Workshop") (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.").

[114] 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 U.S. 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 percent 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.'").

[115] *See, e.g.,* Gregory J. Martin & Joshua McCrain, "Local News and National Politics," 113 Am. Pol. Sci. Rev. 372, 372(2019)("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."); Price, *supra* note 114 ("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 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.").

executives at publicly-traded companies),[116] 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 programming.[117] Thus, ten or even twenty newscasts that all serve up the same 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, compiled from surveys of news directors and from a detailed study of the actual content of local news broadcasts, demonstrates clearly that large broadcast chains prioritize increasing their own profits over increasing localism and diversity. A recently released Shorenstein Center survey of local TV news directors from many major U.S. broadcast news firms offers a window into how corporate strategies are harming localism. The survey "asked respondents to indicate the degree to which their stations relied on 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."[118] These stations in "large ownership groups" were far more likely to rely on third-party content to fill their newscasts than either network O&O stations or independently owned stations.[119]

A groundbreaking study by University of Delaware Professor Danilo Yanich and his co-author Benjamin E. Bagozzi provides a detailed look into the extent of this type of "news sharing."[120] Yanich and Bagozzi 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.[121] 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."[122] And their standard for duplication was very conservative. Duplication required "50 percent of the broadcast news content (excluding sports, weather and commercials) of a station pair" to be a match.[123]

The study first classified stations into those who "originated local news" and those stations which "only presented news," or so-called "non-originators," based on RTDNA's 2019 census.[124] Yanich and Bagozzi's data indicated that "three quarters of the stations (n=647) were originators with the remaining one quarter (n=214) being non-originators."[125] This figure is similar to, though slightly lower than, RTDNA's census of originators (n=706, 66 percent) compared to non-originators (n=363, 34 percent) in 2019.[126] The difference between the two estimates is explained by the difference in the total sample size. RTDNA's analysis included all stations that aired news in early 2019 (n=1,069), while Yanich and Bagozzi's sample (n=861) was smaller, limited by the availability of transcripts from the firm TVEyes.

After a rigorous analysis of the database transcripts, Yanich and Bagozzi found "96 duplicating station pairs involving 182 unique stations (some stations had multiple arrangements)." Over half of these duplicating station pairs (52 percent) were stations in a so-called "shared services agreement" ("SSAs").[127] 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

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

[117] *Red Lion,* 395 U.S. at 389–95.

[118] *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.").

[119] *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.").

[120] Yanich 2025 Study.

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

[122] *Id.*

[123] *Id.*

[124] *Id.* at 10.

[125] *Id.*

[126] *Supra* Figure 2.

[127] 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, "Cease to Resist: How the FCC's Failure to Enforce Its Rules Created a New Wave of Media Consolidation," *Free Press* (Mar. 2014).

larger markets."[128] 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."[129]

Notably, the authors found that "just four station groups controlled over half (53 percent) of the duplicating station pairs."[130] And the largest U.S. broadcast chain "Nexstar was the most active controller of duplicating station pairs (22 percent)."[131]

Because the most common form of news sharing arrangements involves duopolies, SSA station pairs, or other connecting agreements for stations operating in the same DMA, it is not surprising that the study found that "in a significant majority of cases, 86 percent (83 out of 96 duplicating pairs), the duplication occurred inside the market. In the other 14 percent (13/96) there was at least one station whose duplicating partner was outside the market."[132]

However, that they found any different-market pairs of stations duplicating content is notable for a study of local TV news. What's more, the study found that the prevalence of sharing was higher between out-of-market duplicating pairs than it was for those inside the same DMA. "For the outside-of-market station pairs, the average duplication of content was 80 percent over 83 percent of the rolling 3-day windows. For markets in which the duplicating pairs were inside the DMA the average duplication of content was 68 percent on 61 percent of the rolling 3-day windows."[133]

The finding of a higher level of content duplicated by these out-of-market pairs is highly germane to this proceeding, as it speaks to the economic incentives and the balancing act broadcasters strike in these arrangements. The owners of the stations in these combined operations are incentivized to air the minimal amount of locally produced content that makes it seem local (particularly weather and sports, which were not included in the Yanich study) to attract an optimal audience size, while keeping costs down by using content produced outside the market.

The study's authors ended their report noting that "the inescapable conclusion that we draw is that ownership—or more accurately control—matters in the production of local television news. The 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."[134]

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

The 2025 Shorenstein Center survey of local TV news directors and station general managers referenced in the prior section 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 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."[135]

This is the reality inside newsrooms after two decades of consolidation—economies of scale make broadcast chain CEOs more money,[136] but at the expense of

[128] 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 percent) and lowest in DMA Group 4 [markets 76–100] (7 percent). 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 percent and 32 percent for DMA Groups 5 and 6, respectively). Clearly, duplicating station pairs were a substantial feature in the smallest television markets across the country.").

[129] *Id.* at 26.

[130] *Id.* at 3.

[131] *Id.*

[132] *Id.* at 31.

[133] *Id.* at 33.

[134] *Id.* at 57.

[135] *Shorenstein Center Study* at 7.

[136] *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-

competition, localism, and diversity in local news and content. And as the Shorenstein Center survey 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." [137] 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 percent) agreed that such an increase in staffing would be "important" or "very important" to that effort.[138] But these local TV news directors aren't counting on their corporate offices to actually put resources behind their sloganeering. "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.'".[139]

The Shorenstein Center survey also provides evidence 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.*"[140] 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." [141] Another respondent reflected, "[o]ur corporate ownership cares more about making money than serving our community." [142] Echoing this sentiment, a respondent told Shorenstein Center researchers, "[o]ur station's primary function has become generating cash for the corporation." [143] There were many more responses in this vein.[144]

Local TV newsroom staff already perceive their salaries as abysmally low.[145] 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.[146] 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.

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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, yes, 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.

[137] *Shorenstein Center Study* at 17.

[138] *Id.*

[139] *Id.*

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

[141] *Id.*

[142] *Id.*

[143] *Id.* at 28.

[144] *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." *Id.*

[145] *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.").

[146] Bob Papper & Keren Henderson, "Local TV news staffing rises despite burnout challenges" 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 percent) of news directors agreeing. In the top 25 markets, the percentage is lower at 52 percent, as well as in the smallest markets at 54.5 percent. Nevertheless, all market sizes are over 50 percent, with markets 26 to 100 surpassing 70 percent.").

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 gain audiences through shock, fear, and sensationalism, as well as through repetitive emphasis on weather updates and breaking news stories. While these may be of interest to the public, they do not adequately serve the public's democratic information needs.[147]

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)."[148] Only 32 percent of respondents said their station had a reporter assigned full-time to cover local government.[149] This de-emphasis on local government reporting is nothing new; it's been the defining trend of the consolidation era.[150] But it can continue to decline. Indeed, there are station directors that would like to use *existing* staff to do more "community" reporting.[151] 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."[152] 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.

This survey offers evidence that stations that differentiate themselves by eschewing the cheaper crime blotter model and moving towards covering local government issues are likely to find long-term success. "Stations that strongly emphasize local government and issues were most likely to report a gain in audience. Sixty-one percent of these stations reported an increase in audience share—11 percentage points higher than the other stations' average."[153] While noting that "there is more than one path to attracting and building an audience," the Shorenstein Center survey recounted the experience of one station news director whose station increased ratings after moving away from heavy breaking news coverage in favor of community reporting:

> We addressed this question a couple years ago and decided to lean into neighborhood news. Rather than all reporters living and working within a 5-mile radius of the station, we now have reporters spread throughout our market living

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[147] *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.").

[148] *Id.* at 12.

[149] *Id.* at 13.

[150] *Id.* at 13 ("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.").

[151] *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.").

[152] *Id.* at 22.

[153] *Id.* at 21.

> and reporting in communities that only saw a TV reporter when bad news happened. We have filled a vacuum of news and information in communities that saw a substantial decrease in local news outlets. We now report on local government, schools, businesses, and people on an everyday basis. This is in direct contrast to our traditional competitors who report heavily on breaking news and crime.[154]

Indeed, given the twenty-year decline in the newspaper business, local TV station groups had an opportunity to fill the void in community, enterprise, and investigative reporting. But the Shorenstein Center study confirms what any news consumer knows quite well: local TV as a whole has not moved to fill this void, with many station groups choosing to double down on weather and crime.[155] While the survey responses and the data above demonstrate that emphasizing truly local coverage can be profitable for individual local stations, most station groups freed from the sensible media ownership limits the FCC has already discarded will chase the quicker and easier profits that come from ruthless down-sizing and centrally produced, duplicated content. This trend is especially worrisome as our Nation becomes more diverse, because when these national, top-down interests prevail, news directors in all markets will be less likely (and able) to devote coverage to marginalized communities and other underserved groups. Indeed, according to the Shorenstein Center study, this is already an ongoing problem in some newsrooms.[156]

IV. Broadcast Television Companies Are in Great Financial Health and Further Consolidation Will Only Benefit Wealthy Shareholders.

As the prior section illustrated, the national cap remains vital to protect localism, as market conditions increasingly favor lower-cost, duplicative, or nationally produced and distributed content. The American public does not need and does not want more media consolidation. They want more diverse and independent media sources for the sake of healthy democratic discourse.[157] This preference matches what Congress enacted into law and directed the FCC to implement with respect to the national cap. The only constituency clamoring for the Commission to unleash another wave of local media mergers is the broadcast lobby.

The subtext of the *Notice*'s request to refresh the record in this proceeding is largely an economic pleading: that complete removal of ownership limitations—including the national cap at issue here—is necessary to preserve localism, because without further consolidation the local news business becomes uneconomical. But the evidence strongly suggests a different conclusion. Despite massive change in the overall 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.

Below we analyze the financial state of the local broadcast television industry over the past two decades, at the sector level and individual-company level. This analysis indicates that despite ongoing changes to the broader information markets, the local TV industry's financial health is good—certainly generating enough cash

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[154] *Id.* at 20.

[155] *Id.* at 23 ("In our previous study of local public radio, in communities where the newspaper had declined, we found a strong commitment by stations to increase their coverage of local governance and issues to offset the decline. We did not find the same commitment among local TV news stations. In areas where the leading newspaper had scaled back its coverage, two-thirds (64 percent) of our TV respondents said their station had not made a change to accommodate the loss, while 27 percent claimed a moderate increase in coverage of local governance and issues, and only 9 percent reported a substantial increase.").

[156] *Id.* at 10–11 ("[W]e asked respondents about the significance of some of the challenges their stations might face. At the top of respondents' list of challenges was serving 'the community's information needs.' Eighty-eight percent of respondents identified as 'significant' or 'very significant.' A news director explained, 'How can we truly serve our audience to the best of our ability if we do not know exactly what they need?'. . .Of less concern to stations were the 'information needs of underserved local groups' and the 'diversity of our news staff.' Each was mentioned by two-thirds of respondents as a "significant" or "very significant" challenge. Here, unlike the other concerns, the demographic composition of the media market was related to the responses. TV stations in racially and ethnically diverse markets were twice as likely as stations in heavily white areas to say staff diversity and the needs of underserved groups were "very significant" concerns.").

[157] *See* Jessica J. González, S. Derek Turner, Matt A. Barreto, & Henry Fernandez, "Free Press 2024 Poll: Detailed Analysis of Finding" 25, Free Press, BSP Research & African American Research Collaborative (May 28, 2024) (showing a majority of American adults agreeing that "having more independent news outlets is important to stopping disinformation and is good for the health of our democracy," compared to 32 percent saying "we already have enough choices in news outlets, and creating more news outlets won't change anything").

to support their local news operations. Unlike other parts of the media business such as newspapers or linear cable networks, the local TV sector's future looks bright. Broadcast executives at the same companies likely to plead the need for consolidation in this docket routinely extol their financial performance data and forecasts. They also praise and even brag about the numerous technological and market opportunities on the horizon that will allow broadcast license holders to continue to return the level of growth that Wall Street demands (even if that pursuit of excess profit is harmful to Main Street).

Indeed, to see that consolidation is not necessary for local TV station groups to continue to thrive, one only needs to examine what the large national ownership groups were saying a year ago about the state of their business. Their comments prior to the 2024 election came at a time when the 39 percent national cap remained a legal certainty under the prior FCC. On Nexstar's final investor call before that election, its CEO, Perry Sook, gushed about "the power of broadcast television," stating that "at a time when the pay-TV industry continues to experience subscriber attrition and there is intense competition for national advertising dollars, Nexstar generated the highest first and second quarter distribution and total revenue levels in the company's history." [158] Sook also noted that even after national media companies sunk billions into their SVOD application services, linear TV remains "the only segment that generates profit." [159] Sook's comments echo other analysts' observations that content companies are rethinking the value proposition of SVOD because of linear TV's better economics[160]—especially when it comes to live sports and news,[161] where linear delivery still reigns supreme.[162]

Helping to fuel this renewed optimism (which, we must note again, was also expressed last year before the election) is the fact that cord-cutting appears to be slow-

[158] *See* Comments of Perry A. Sook, Founder, Chairman & CEO, Nexstar Media Group, Inc., Nexstar Q2 2025 Investor Call (Aug. 8, 2024) ("Sook Aug. 2024 Comments") ("Nexstar's strong second quarter financial results mark another quarter of record total net revenue and our third consecutive quarter of all-time high quarterly distribution revenue. We translated this revenue growth into another quarter of solid adjusted EBITDA and adjusted free cash flow growth, reflecting our disciplined operating strategies. Just stop and think about that for a minute. *At a time when the pay-TV industry continues to experience subscriber attrition and there is intense competition for national advertising dollars, Nexstar generated the highest first and second quarter distribution and total revenue levels in the company's history.* Why is that? Well, it comes down to the value of our programming and reach delivered to our audiences, customers and programming partners. The power of broadcast television was again validated in a few recent high-profile settings.") (emphasis added).

[159] *Id.* ("Moreover, as more media companies lean back into the power of linear, the only segment that generates profit, by the way, we expect the relative value of the pay-TV bundle with all of its premium sports and local news content to look more and more attractive, leading to an inflection point in the future in subscriber attrition. . .As a result, we have delivered outsized long-term returns for our shareholders.").

[160] *See, e.g.,* Tom Wainwright, "Streaming slows to a trickle in 2025," *The Economist* (Nov. 19, 2024) ("Yet making money from streaming is proving harder than expected. Netflix, its largest exponent, is making steady profits. Disney's streaming division broke even in the second quarter of 2024. But most of Hollywood's older studios are still losing money on their digital ventures, and shareholders are jumping ship."); Adam Rumanek, "The Future Of Streaming: Balancing Ads, Subscriptions And Content," *Forbes* (June 23, 2024) ("As a whole, the streaming industry is coming to the realization that subscriptions don't pay for platforms—advertisers do. Subscriptions alone can't sustain unlimited growth, and not everyone has the disposable income to spend an extra $15 per month on streaming content."); "Analysis: As NFL Streaming Viewership Grows, Linear TV Continues to Dominate," VAB Press Release (Feb. 4 2025) ("While streaming expanded its viewership, broadcast and cable TV continued as the dominant platforms for primetime games.").

[161] *See, e.g.,* Jay Langan, "Surviving the Streaming Surge: How Linear TV Still Holds Value," *Ocean Media Inc.* (May 21, 2024) ("Despite these challenges, one segment of linear TV that continues to thrive is sports broadcasting. Along with live events such as award shows, sporting events remain a cornerstone of linear TV. Ratings for sports have remained robust, and in some cases, have even grown. This resilience makes sports broadcasting a prime area for investment News is another segment where linear TV maintains its relevance. In an election year, for example, news ratings typically see a significant boost. However, advertisers must navigate the complex landscape of brand safety, especially when it comes to politically charged content on channels like Fox News. Despite these challenges, news programming offers a consistent and reliable audience, making it a viable option for certain advertisers.").

[162] *See, e.g.,* Zaneta Kucerova, "A Sports League Maximizes Revenue from Media Rights," *S&P Glob. Market Intel.* (Apr. 4, 2024) ("Despite these challenges, sports content remains dominant on linear TV, accounting for over 95 percent of the most-watched programs in 2023 in the U.S. Live sports programming strength grows as networks compete with streaming services for valuable media rights. Additionally, sports content continues to be vital for broadcasters as audiences tune in for live games despite alternative entertainment options. In the U.S., local rights are shifting from regional sports networks to local broadcast stations and new sports-centric streaming services that target broader audiences.").

ing.[163] The remaining linear subscribers are customers with high demand for live sports and live local news.[164] As broadcast station magnates and TV advertising execs routinely crow to investors, this is vital programming *that broadcast has "got a monopoly on."*[165]

Local broadcast TV companies are largely fiscally optimistic because of live sports. In particular, local TV broadcasters are filling the void left by the collapse of the cable Regional Sports Network (RSN) business, and doing so by striking deals *directly* with local sports teams and leagues.[166] Half of all U.S. TV households have kept their traditional pay-TV subscriptions,[167] and they tend to be more affluent and have a high willingness to pay for live sports and news. As Sook explained it last August, "[t]he broadcast television business model is anchored by loyal pay television subscribers, including sports and news viewers who subscribe in order to access our content and which account for the increasingly large percentage of the pay-TV subscriber universe, and the high net worth audiences aged 45 plus who enjoy the superior interface and experience that payTV provides."[168] Local TV chains are shifting their mix towards more live sports,[169] which they expect will bolster their

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[163] *See, e.g.,* Comments of Kevin P. Latek, Executive VP, Chief Legal & Development Officer and Secretary, Gray Media Inc., Q2 2025 Investor Call (Aug. 8, 2024) ("We remain optimistic that the pace of sub declines will slow going forward. This is a result of the addition of more streaming apps to MVPD bundles, the proliferation of ads and price increases in streaming products, more MVPD control over the carriage and payment for the little watch[ed] cable channel and the migration of sports to broadcast networks and local stations."); Mau Rodriguez & John Fletcher, "Multichannel video market share Q4 2024: Turning a corner?," *S&P Glob. Market Intel.* (July 25, 2025) ("[H]ope exists with some U.S. households warming to streaming bundles, according to commentary and results from the big three cable operators."); Mike Reynolds, "Charter sees lowest video subscriber losses since 2021," *S&P Glob. Market Intel.* (July 25, 2025) ("CFO Jessica Fischer told analysts on the company's July 25 earnings call that the second quarter represented Charter's best video period since 2021. Fischer attributed the improvement primarily 'to better connects year-over-year, resulting from the new pricing and packaging we launched last fall and lower churn year-over-year, driven in part by our programmer app inclusion packaging.'").

[164] *See, e.g.,* Logan Jones, "51 percent of Americans still have cable TV, here's why," *CableTV.com* (Mar. 28, 2025) (describing a survey of cable TV subscribers, in which the two top programming types cited as reasons for continued linear cable TV subscriptions were live sports and news).

[165] *See* MediaTalk,: *TVB Chief Shares How Local Broadcast is Winning the Ad Game* (A S&P Global Market Intelligence Podcast Feb. 27, 2025) (Steve Lanzano, President and CEO of TVB noting, "The world as it comes from broadcast is, quite frankly, is a sports and news world, right? We have NFL football, basically almost exclusively, and we're really the local news game in town, right? Radio's kind of walked away from local news. Newspapers are non-existent. *So we've got a monopoly on those two things. And as long as that continues, we're going to be okay."*) (emphasis added).

[166] *See* Sook Aug. 2024 Comments ("For example, the NBA bypassed the contract renewal on a cable television network in favor of a deal that included increased distribution on broadcast television, given our tremendous proven value of the broadcast model that that will bring to the league. In fact, a recent statement by the NBA said, 'Throughout these negotiations, our primary objective has been to maximize the reach and accessibility of our games for our fans.' We know that reach and accessibility is the lifeblood of every sport *and there's no platform that can match the reach of broadcast television.* This is a proven path that has sustained the long-term growth of the NFL and one we believe the NBA will prosper from as well. To that point, NFL Commissioner Roger Goodell reiterated his commitment to broadcast television during an interview just last month, saying, 'A lot of our media is not about the dollars as much as it is about how we reach more fans. That's the primary objective for us.' He went on to comment that the NFL's presence on broadcast is 'what has led to the great not only popularity of the league, but obviously, the great ratings.'") (emphasis added).

[167] *See, e.g.,* Mau Rodriguez & John Fletcher, "Multichannel video market share Q1 2025: Lowest first-quarter losses since 2019," *S&P Glob. Market Intel.* (May 23, 2025) showing that the number of residential multichannel subscriptions (including virtual) amounted to 50 percent of U.S. occupied housing units.

[168] *See* Sook Aug. 2024 Comments.

[169] *See* Sook Sept. 2024 Bank of America Comments ("And so now we've increased the amount of programming that the network offers by over 40 percent total hours of network programming, and we went from 100 percent entertainment programming to now 46 percent sports, 54 percent entertainment. And I can imagine over the next 3 years that those numbers will flip, that will be majority sports versus entertainment. And again, live sports, it's what people watch and they watch it live. You can DVR it if you're not going to be home to see the start of the game, but you'll likely know the outcome if you wait until the next day to watch it. And advertisers are into it not only because of the association with the sport. It's a lean forward experience, I'm alert, paying attention to what's going on as well as the ads. But then the things we can do with our local assets to tie a bow around it and do local activation for that particular network sponsor at a local level in the markets, where they do business and we do business.").

ability to continue commanding retransmission payment increases that outpace inflation.[170]

The reality is that even prior to November 2024, local broadcast TV conglomerates had been forecasting a bright financial future. Clearly, they did not view the national cap as a barrier to continued earnings growth.[171] These companies were returning value to shareholders, both through earnings and, in Nexstar's case, by buying back its own stock to generate a hefty 20-percent embedded return.[172]

A. Local TV Broadcasters Are Not in the Same Relevant Product Market as Online Tech Giants Like Google, Meta, and Amazon, Nor Are They in the Same Relevant Product Market as Online Video Distributors Like Netflix. Eliminating the National Cap Will Harm Localism and Will Not "Rein in" Big Tech Companies.

The broadcast lobby and its allies argue that elimination of the national cap and other broadcast regulations are necessary to let them "compete against 'Big Tech.'"[173] While it is understandable that the local TV industry would want to harness for its own financial gain the bipartisan political frustration with tech giants, local broadcast television is in a separate formal economic market than online search, social media, and online retail commerce.[174] Local broadcast television stations sell advertising in the "television spot advertising market," with geographic market boundaries set by the DMA.[175]

As explained above, antitrust alone is not a sufficient barometer or legal framework for assessing whether broadcasting serves the public interest; but antitrust law does provide the parameters for assessing and establishing relevant product markets between alleged competitors. None of the "Big 3" tech giants that bring in significant advertising revenues (Alphabet, Meta Platforms, and Amazon) compete in the local television spot advertising market. Google competes in other markets, chiefly the general search services,[176] publisher ad servers, ad exchanges, and ad-

[170] *See* Sook Aug. 2024 Comments ("But again, I think you'll see the impact on our distribution fees as these sports become part of the package that our affiliate stations as well as our O&Os are able to take to market in discussions with distributors. So it's a virtuous circle going in the right direction.").

[171] *See, e.g.,* Comments of Lee Ann Gliha, Executive VP & CFO, Nexstar Media Group, Inc., Citigroup 2024 Global TMT Conference (Sept. 4, 2024) ("Gliha 2024 Bank of America Comments") ("I think historically, the company has a significant return based on M&A—debt-financed M&A. That's become less a part of our story. Sort of not since 2019 have we done a major M&A deal, because we're at the cap, as Perry mentioned earlier. So there's less of that to do these days. So that means that we need to figure out ways to generate great returns for our shareholders with that excess cash flow. And so we've been doing that in a variety of ways. We have a dividend now that's north of a 4 percent yield, that's a claim of a little over $200 million on our cash. We have some mandatory amortization that has to get paid every year on our debt, and that leaves a significant amount of free cash flow left to make the decision on what to do. Because our stock trades at like a 20 percent free cash flow yield, it's very, very accretive on a free cash flow per share basis to be buying back our stock on a regular basis.").

[172] *Id.* Prior to the 2024 election, Sook laid out Nexstar's basic dealmaking calculus, which was only to pursue those "accretive deals" that generate better than a 20-percent embedded return, which is the return the company sees on share repurchases. In other words, the rationale for its push to kill the national cap is that Nexstar views national consolidation as highly "accretive" to return value to share holders, not because more consolidation advances some altruistic motive to improve journalism or fill news deserts. *See* Sook 2024 Bank of America Comments ("I always tell people it would have to be an actionable transaction and highly accretive, more accretive than buying back our own stock, which is an embedded 20 percent return that Lee Ann does every day. And so if the profile existed at a risk-adjusted return and it was an actionable transaction, I think we would certainly lean into it. But in this regulatory environment, it would be very tough to get done.").

[173] *See, e.g.,* George Winslow, "Broadcasters Urge FCC to Hit the Delete Button on Antiquated Regs," *TV Tech* (Apr. 21, 2025); John Eggerton, "NAB: Deregulating Broadcasters Is Key to Competing with Big Tech, *Broad. & Cable* (Jan. 19, 2023).

[174] Local broadcast television stations sell advertising in the "television spot advertising" market. *See, e.g.,* Complaint ¶ 2, *United States v. Sinclair Broad. Grp., Inc.,* No. 1:18-cv-2609 (D.D.C. Nov. 13, 2018), Dkt. No. 1.

[175] *See, e.g.,* Competitive Impact Statement at 2 n.1, *United States v. Sinclair Broad. Grp., Inc.,* e No. 1:18-cv-2609 (D.D.C. Nov. 13, 2018), Dkt. No. 3 ("Spot advertising differs from other types of television advertising, such as network and syndicated television advertising, which are sold by television networks and producers of syndicated programs on a nationwide basis and broadcast in every market where the network or syndicated program is aired."); *id.* at 2–3 ("Broadcast television 'spot' advertising, which typically comprises the majority of a station's revenues, is sold directly by the station itself or through its sales representatives to advertisers who want to target viewers in specific geographic areas called Designated Market Areas.").

[176] Complaint ¶ 88, *United States v. Google LLC,* No. 1:20-cv-03010 (D.D.C. Oct. 20, 2020), Dkt. No. 1.

vertiser ad network markets.[177] The FTC is currently arguing in court that Facebook competes in the "personal social networking market," and though its parent company Meta disputes that, neither side is arguing for a product market definition that also includes local TV stations.[178] The FTC has also brought an antitrust case against Amazon (which earns billions from advertisements placed on its commerce website),[179] alleging violations in the "online marketplace services" and "online superstore" product markets.[180] Amazon also bundles Amazon Prime Video with its Amazon Prime subscription service. But that service, like Netflix or Disney+, is not in the "television spot advertising market."[181]

The broadcasters and the Commission cannot simply draw a circle around every single firm that sells advertising and call it a relevant product market. Doing so would throw out decades of precedent based on rigorous economic analysis. For the purpose of antitrust analysis, the other agencies that review broadcasting deals and a wider range of competition issues (*i.e.,* DOJ and FTC) and the courts have consistently favored a narrower approach to market definition.[182] Those other antitrust agencies don't even consider local TV stations as operating in the same product market as local newspapers, even though both types of firms sell space for advertising served to local audiences.[183] While it is true that firms like Alphabet, Meta, Amazon, and local TV broadcasters all earn revenue from selling audience attention to advertisers (on one side of a two-sided market) and doing so must attract a share of the public's attention and time, it is wrong in a formal *and practical* economic sense to draw the market boundaries so broadly. This is why the FTC and DOJ have consistently applied the "television spot advertising market" definition when considering matters involving broadcast television. Indeed, broadcast TV stations actually have a competitive moat that protects them from competition, but only if they lean into the localism aspects of their business (which also happen to be one central public policy purpose of their exclusive licenses to the public airwaves).[184]

Even setting aside market competition analysis and considering instead the Chairman's supposed goal of "reining in big tech,"[185] there's no explanation of how local TV consolidation enables those firms to compete against Google and Meta. Certainly, local TV firms are not going to *lower* their advertising rates after consolidating. That's the opposite of what microeconomics suggests would happen, and not one single broadcaster has suggested they would lower spot rates following elimination of the national cap. Carr's ideology and predilections here thus contradict

[177] Complaint ¶279, *United States v. Google LLC,* No. 1:23-cv-00108 (D.D.C. Jan. 24, 2023), Dkt. No. 1.

[178] *See, e.g.,* Cecilia Kang, "Does Meta Have a Social Media Monopoly? Here's What the U.S. Has Argued," *N.Y. Times* (May 15, 2025).

[179] *See, e.g.,* Melissa Otto, "Global Digital Advertising Revenues—A Look at the Big Three: Alphabet (GOOGL), Meta Platforms (META), Amazon.com (AMZN)," *S&P Glob Visible Alpha* (May 17, 2023).

[180] Complaint ⁋⁋ 122, 186, *FTC v. Amazon Inc.,* No. 2:23-cv-01495 (W.D. Wash. Sept. 26, 2023), Dkt. No. 1.

[181] Though Netflix has not been the subject of a DOJ or FTC antitrust complaint, it has been accused in ongoing litigation of unlawful activities harming competition in the "video-streaming services" product market. *See* Complaint, *Bracamontes v. Meta Platforms, Inc.,* No. 1:24-cv-11839 (N.D. Ill. Nov. 18, 2024), Dkt. No. 1.

[182] *See, e.g., Times-Picayune Publ'g Co. v. United States,* 345 U.S. 594, 612 n.31 (1953) ("For every product, substitutes exist. But a relevant market cannot meaningfully encompass that infinite range. The circle must be drawn narrowly to exclude any other product to which, within reasonable variations in price, only a limited number of buyers will turn; in technical terms, products whose 'cross-elasticities of demand' are small. Useful to that determination is, among other things, the trade's own characterization of the products involved. The advertising industry and its customers, for example, markedly differentiate between advertising in newspapers and in other mass media.").

[183] The agencies have consistently defined the product market that newspapers operate in as "the sale of daily English-language local daily newspapers to subscribers and the sale of local advertising in those newspapers." *See, e.g.,* Application for Temporary Restraining Order and Order to Show Cause at 10, *United States v. Tribune Publ'g Co.,* No. 2:16-cv-01822, (C.D. Cal. Mar. 17, 2016), Dkt. No. 5.

[184] *See, e.g., Shorenstein Center Study* at 24 ("To compete in this environment, local news outlets need to rely on their competitive advantage—their focus on local news. It sets them apart, not only from national outlets but also from other non-news media that increasingly attract people's attention. Local TV stations should recognize the power of their brand as a trusted local source and enhance their ability to provide timely, relevant local content. While other content types can deepen audience engagement, local stations risk losing relevance if they fail to deliver consistent, robust local news. For audiences seeking local stories, the local TV station remains one of the few trusted sources, whereas when other content is at issue, there are more attractive alternatives.").

[185] *See, e.g.,* Ari Bertenthal, "FCC's Carr Sends Message to Big Tech," *Broadband Breakfast* (Nov. 7, 2024).

basic logic, which says that increased competition tends to make prices *lower;* it doesn't magically make prices higher so long as the revenues from those ad sales (theoretically) might trickle down towards useful outputs like spending on local news production.

If we consider the narrower, but still too broad, product market of "video services," allowing giant local TV broadcast firms to monopolize the public airwaves in every U.S. DMA is not going to materially impact the price of advertising in that broader video market (but it would result in monopoly pricing in the local television spot ad market). Advertisers who spend money to reach audiences watching YouTube, Netflix, Disney+, Apple TV+, Paramount+, Amazon Prime and other global SVOD providers are accessing a *different* product market than local broadcast TV stations offer. Ad-buying firms create advertising campaigns and access a number of different media distributors across different product markets to reach their target audiences.

Broadcasters have made this clear when talking to their investors. Just last summer, Sinclair's CEO noted that his local stations don't view online video as a competitive threat, and explained that the impact from formerly ad-free SVOD providers now including ads "has not shown up in our core business . . . [it] hasn't affected our CPMs on the linear side." [186] In fact,

Sinclair's CEO noted that the entry of SVOD providers into the online video ad business actually improved Sinclair's margin in its "audience extension business," which is the company's "one-stop shop experience and that includes things like AdWords and websites and social," in addition to its linear networks and stations.[187] The *Notice* suggests[188] that competition from online video might require reassessing and even eliminating the national cap applicable to broadcasters. Yet Sinclair proudly proclaimed before Trump's re-election, with the cap still firmly in place, that broadcast TV is "still the king[ ] by a wide margin of reach, frequency, premium content, you name it, across all the categories," noting that "80 percent of adults on any given day interact with broadcast" versus "46 percent for paid streaming." [189] Similarly, last September, Nexstar's CEO told attendees at an investor conference that digital advertising and linear TV advertising are complements, not substitutes, with linear broadcast TV advertising remaining critical for branding purposes.[190]

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[186] *See, e.g.,* Comments of Christopher S. Ripley, President & CEO, Sinclair, Inc., Q2 2024 Investor Call (Aug. 8, 2024) ("Ripley Aug. 2024 Comments") ("So we have not—it's an interesting question in terms of extra ad avails that are coming on to the marketplace from either FAST channels, AVOD, SVOD, and where you would think you could see it would be potentially in the pricing on the linear side, *and that has not shown up in our core business.* And I believe *it hasn't shown up on the linear side because we are still the kings by a wide margin of reach, frequency, premium content, you name it, across all the categories, we're at the top of the heap* when it comes to any sort of comparison. Just to give you an idea, 80 percent of adults on any given day interact with broadcast; 56 percent cable TV and 43 percent—if I remember correctly, over 46 percent for paid streaming. And then paid streaming, you get a dice set up between all the various suppliers. So we have a significant lead in terms of reach, frequency and the premium nature of our content and people watching it live, specifically like news and sports. And so there's a glut of inventory that has come to the marketplace, hasn't affected our CPMs on the linear side. And what it has done, interestingly enough, is it improved our audience extension business. When an advertiser comes to Sinclair, we don't just sell them a slate of linear spots on our networks, we sell them an entire campaign, right? It's a 360 one-stop shop experience and that includes things like AdWords and websites and social and you name it, we do the entire campaign for you. And a major component of that is here's your linear plate and here's an audience extension package, which will reach on to these various connected TV and OTT platforms. And so that's a pretty significant portion of the digital business. And because there has been so much inventory made available in that area, we've been able to push down what we pay for the inventory. So it's expanded our margins in that business, which affects both STG, which does a significant amount of business on audience extension, but also Compulse360 which services our TV sellers but also services other local media companies and other local ad agencies. The margins there have increased because they've been able to negotiate and push down pricing of all the various publishers that are putting out these ad avails and some of that's translated into the pricing that goes to the ultimate client, but not all of it. *And so margins have been expanding there."*) (emphasis added).

[187] *Id.*

[188] *Notice* at 2 n.5 ("For example, in the *National Cap NPRM,* the Commission noted, among other developments, the growth of video programming options available to consumers (including online alternatives to traditional video distribution), reverse compensation fees paid by affiliates to broadcast networks, common ownership of broadcast and cable networks, consolidation among both MVPDs and non-network owned broadcast television station groups, and continuing MVPD video subscriber losses.") (internal citation omitted).

[189] Ripley Aug. 2024 Comments.

[190] *See* Sook Sept. 2024 Bank of America Comments ("I mean you can spend so much time and effort trying to be specific with your targeting, you can forget to build a brand. And I think

If this Commission conducts an honest and unbiased analysis of the continuing need for the national ownership cap, it will recognize that broadcasters talk out of both sides of their mouth, pleading poverty before regulators while telling Wall Street that the local TV market is "not nearly as competitive as the national landscape" and that broadcast TV still reigns supreme in these vital and lucrative local markets.[191]

B. The Rise of Online Video Does Not Lessen the Need for the National Cap. Local TV Broadcasters Do Not Compete Directly Against National Online Video Providers, Including the Online Services of the Big 4 Networks.

In the *Notice,* the Commission asked, "how has the national audience reach cap affected broadcast television's market position in relation to other video distributors, such as online video providers, that are not restricted by ownership limits?"[192] In doing so, the *Notice* referenced the 2017 *National Cap NPRM*'s discussion of "economies of scale made possible by expansion of station ownership that may help broadcast television remain competitive in the marketplace and deter the migration of expensive over-the-air programming to other video programming distributors."[193]

As discussed above, it is fundamentally wrong for the Commission to treat online video providers as operating in the same relevant product market as local television broadcasters. The prior Commission recognized this in the *2018 Quadrennial Review Order,* noting that "non-broadcast sources of video programming do not compete with broadcasters for retransmission consent fees, network affiliations, or the provision of local programming, which continue to remain largely unique to broadcast television."[194] And "while broadcasters may be seen as participating in various markets or competing along various dimensions . . . the provision of local programming remains a hallmark of broadcast television and an area where viewers directly benefit from competition among local broadcast television stations."[195] Thus the Commission concluded that these non-broadcast programming options are not "substitutes to broadcast programming."[196]

With the instant *Notice,* the Commission now appears to be myopically focused on the business of broadcasting in the context of the larger advertising and video markets, while ignoring the important fact that broadcast license holders have a monopoly right to a portion of the public airwaves, and one that comes with legal obligations that are unique to that spectrum band. This is not only a radical departure from the agency's prior analytical standard, it is a departure from the Commission's prior conclusion that even under a "competition-only" analytical framework, "loosening our rules and allowing additional consolidation (or, under some proposals, unlimited consolidation) would cause substantial harm to the public interest."[197]

But to be clear, maintaining the national cap has *not* meaningfully harmed the broadcast chains in any way; in fact, the national cap has acted to incentivize localism, and that comes with economic benefits to broadcasters, not just the detriments they pretend. Online video distributors *do not produce local news.* Advertisers have demand for viewers who watch local news broadcasts, and those advertisers have a limited number of options to reach that audience in each specific DMA. This specific demand, with limited supply, gives broadcast TV owners pricing power within the local television spot advertising market. Indeed, as the former Trump administration Assistant Attorney General Makan Delrahim noted that there are "varying levels of substitution for ad placement across media" and that "even if it means absorbing a price increase, some of the evidence we have seen suggests that adver-

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of all purchasing kind of coming through a purchase funnel, right, where you need to be creating a brand at the top of the purchase funnel, and at the bottom, you can be very price and item specific. But you need to use television and digital assets to work in tandem as people work through their purchase funnel, making those decisions, whether it's for household goods or appliances or cars. And so I think the two assets that we concentrate on are *TV and digital, and I think they complement each other very well* through the purchase funnel.") (emphasis added).

[191] *See* Comments of David Lougee, President and CEO, TEGNA Inc., Q2 2024 Investor Call (Aug. 7, 2024) ("Lougee Aug. 2024 Comments") (When asked about the future outlook for the broadcast TV business, TEGNA's outgoing CEO said "we have a tremendous amount of assets. *We've got strong local brands in local communities, which are not nearly as competitive as the national landscape,* that's a valuable asset. To have valuable local content that is strongly branded is—can be a jumping off point to source significant new business, whether organic or inorganic, as Julie and we have said many times.") (emphasis added).

[192] *Notice* at 2.

[193] *Id.*

[194] *See, e.g., In the Matter of 2018 Quadrennial Regulatory Review—Report and Order,* 38 FCC Rcd. 12782, 12824 (2023) ⁋ 75 (2023) ("*2018 Quadrennial Review Order*").

[195] *Id.* ¶ 75.

[196] *Id.* ¶ 73.

[197] *Id.* ¶ 21 n.68.

tisers are unlikely to look beyond broadcast spots within a given DMA."[198] Thus, given the limited ad inventory for local affiliates during national programming blocks and the high demand for that inventory, it's no surprise that local broadcast TV stations generate the bulk of their advertising revenues from local spot ads.[199] What's more, differential regulatory treatment even *within* the local news market has always been the norm (for example, print vs. broadcast). That decision for differential treatment was made by Congress (and upheld by the Supreme Court in cases like *Red Lion*) because of the limited nature of these airwaves that are a public resource.

The "growth of video programming options available to consumers"[200] consists almost entirely of non-local subject matter. It's heavily tilted towards entertainment content, and the growth in news content is programming covering national topics. If anything, these programming trends in the broader video markets highlight that market forces alone would incentivize *less* localism were there no national cap.

The *Notice* likewise points to "online alternatives to video distribution"[201] as a factor that implicates the policy purpose of the national cap, but concerns about broadcast license consolidation impacting localism are not germane to how programming is *distributed.* They are about the programming itself. Indeed, many local broadcasters have free online streams of their own programming (*i.e.,* not network content), and they are reaching audiences via their own websites (multimedia) and "FAST" platforms.[202] Thus, many local broadcasters already have national reach when *distributing* their programming online, as they always have in the Internet era. What has not changed, and will not change, is the physical reality that broadcasting is a local phenomenon, and monopoly spectrum licenses to distribute programming via broadcast are granted on an eight-year renewable basis, under the terms defined by the Commission and the Communications Act.

The *Notice* also raises the issue of reverse compensation fees paid by affiliates to broadcast networks,[203] which are today about half of the amount that pay-TV distributors pay to those affiliates for retransmission consent.[204] National broadcast networks are taking a growing share of the growing retransmission consent fee pie. But that is the reality of having to pay for content that attracts audiences. Local broadcasters may not like this (the same way pay-TV customers don't like the below-the-line "broadcast recovery" fees),[205] but it does not harm local stations' positive financial health. Local TV affiliates have a self-proclaimed "monopoly" on airing whatever must-see national content these rising reverse retrans fees pay for (*e.g.,* live sports), which is programming that drives viewers to their channels. And that ultimately benefits the local broadcasters' bottom lines, while it also helps maintain audience attention to live local news—the other compelling, must-have content over which local broadcasters themselves have a monopoly. The exponential rise in retrans fees[206] enriched broadcasters and broadcast networks, and it also directly contributed to cord-cutting by MVPD customers less willing to pay those price hikes. Allowing broadcasters to increase their market scale will enhance their market power to extract even higher fees from pay-TV distributors, particularly as the remaining MVPD customers are those who have stuck around for live sports and local

[198] *See* 2019 DOJ Workshop.

[199] *See, e.g.,* Justin Nielson, "Complete picture of U.S. TV station industry revenues, 2009–2030," *S&P Glob. Market Intel.* (July 29, 2025) ("S&P Complete Picture") (containing data indicating that core local and political advertising revenues were 90 percent of local U.S. TV broadcaster's 2024 revenues, with core national ad revenue only 10 percent); 2019 DOJ Workshop (featuring Gray Media co-CEO Pat LaPlatney noting that ads are "sold three ways—locally, regionally, and nationally. And for Gray, in 2018, local and regional was roughly 80 percent of our advertising revenue, excluding political.").

[200] *Notice* at 2 n.5.

[201] *Id.*

[202] FAST is an acronym for free advertiser-supported television, and includes online services such as Pluto TV (Paramount-owned), Xumo TV (Comcast-owned), Tubi (Fox-owned), Roku TV, and many others. Sinclair's NewsON has 285 TV station partners in more than 165 U.S. markets. *See, e.g.,* "NewsON Partners with Lilly Broadcasting to Expand Coverage in NY and PA," Press Release, NewsON (Apr. 1, 2025).

[203] *Notice* at 2 n.5.

[204] *See, e.g.,* S&P Complete Picture.

[205] *See, e.g.,* Luke Bouma, "Comcast Price Hikes Push Monthly Bills Over $250 for Many Customers With TV & Internet," *Cord Cutters News* (Jan. 21, 2025) ("Adding to the burden for customers, Comcast has also significantly increased several add-on fees. The Broadcast TV fee, a controversial charge levied to recoup the costs of carrying local broadcast channels, has skyrocketed to $25.25 per month. These fee increases have long been a source of frustration for consumers, who feel they are being nickel-and-dimed for essential services. The lack of transparency surrounding these fees and their substantial increases contribute to customer dissatisfaction.").

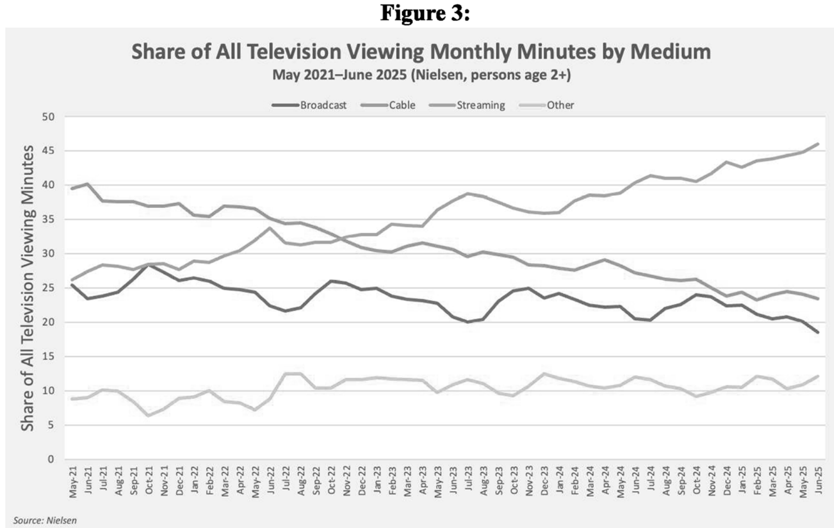
[206] *See infra* Figure 6.

news. Broadcasters are still coming out ahead when considering the entire retrans picture, and broadcast TV consolidation has only strengthened their position against pay-TV providers.[207]

C. The Decline in Linear TV Viewing Has Disproportionately Impacted Cable Networks, Not Local Broadcast Television.

While viewership of linear television is in decline, this trend is not observed equally amongst all linear television sectors. Online television continues to take a larger share of viewing time, but virtually all at the expense of time previously spent watching linear cable networks. We can see this in Figure 3 below, which shows data from Nielsen's "The Gauge," reflecting the relative shares of viewing hours for online, linear cable, linear broadcast, and "other" viewing such as watching DVDs.[208]

Figure 3:



These data show that there is stability in broadcast viewership, relative to cable. In May 2021, broadcast accounted for 25 percent of viewing time, while cable captured 40 percent. Four years later in May 2025, cable's share of viewing time had declined to 24 percent, while broadcast had only fallen to 20 percent. In the four years between May 2021 and May 2025, streaming's share of viewing time increased by 19 percentage points while cable's share dropped 15 percentage points.

Last summer, Nexstar's CEO Sook highlighted the difference between online video's impact on linear cable networks compared to its impact on linear broadcasting. "I think you have to separate linear television into two buckets. One is broadcast television and the other is cable television. And there is no question that cable television and the long-tail cable network, companies that have long-tail cable portfolios, are under pressure. But I would say broadcast television, which is where we live primarily with what we do, is—again, we just put up another record quarter, last quarter of net revenue growth."[209] Sook went on to point out the differences in viewership between local TV stations and cable networks, noting that because of this disparity, "cable nets are overpriced relative to their viewership, broadcast nets

[207] The *Notice* asks about the impact of "consolidation among both MVPDs and non-network owned broadcast television station groups." *Notice* at 2 n.5. MVPD consolidation doesn't seem to have impacted broadcasters' negotiating power when it comes to retrans, and the pay-TV market has expanded since early 2017 with the rise of "virtual" MVPDs. And as the rapid growth in retrans revenues shows, consolidation among non-Big 4 broadcast station groups has contributed to an increase in broadcasters' negotiating power, largely because local stations remain the only way MVPDs can get the programming that their most loyal, traditional viewers want (live sports and news).

[208] *See* "The Gauge," *Nielsen* (June 2025) (noting that "other" includes "TV usage that does not fall into the broadcast, cable or streaming categories. This primarily includes all other tuning (unmeasured sources), unmeasured video on demand (VOD), audio streaming, gaming and other device (DVD playback) use").

[209] See Sook Sept. 2024 Bank of America Comments.

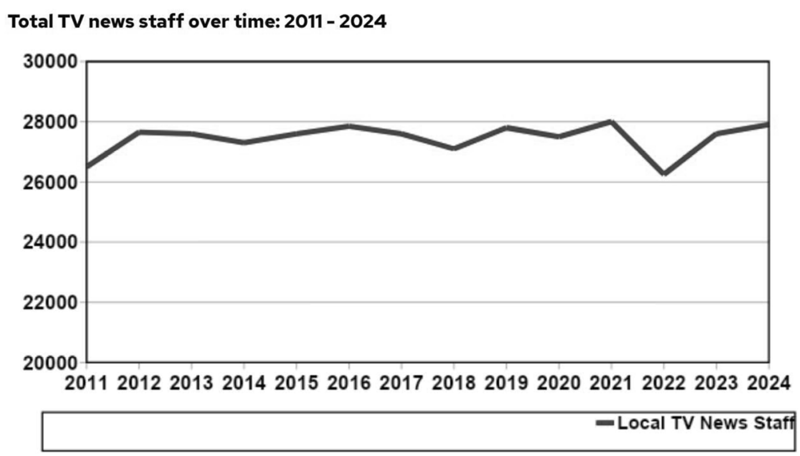
are underpriced relative to their viewership."[210] In Sook's view, this underpricing gives broadcasters like Nexstar the ability to command ever-escalating retransmission consent fees from pay-TV providers. As he noted too, those fees are forecast to grow faster than the typical rate of general inflation.[211] Sook's comments about his company's "outsized returns," which he attributed to that fact that "what we're negotiating are for local broadcast stations and signals," reflects the positive financial prospects for the local TV industry.[212] That industry does *not* need further consolidation in order to continue to thrive.

D. Local TV Broadcast Revenue Growth During The Previous Two Decades Did Not Result in Newsroom Staffing Increases.

We now turn to a detailed examination of the operational and financial state of the local TV industry, both at the sector-level and at the leading ownership groups. We then conclude with an examination of the industry and other analysts' forecasts for how the business will fare in the coming decade.

We begin by looking at local TV newsroom employment. Unlike the local newspaper sector, employment in local TV newsrooms has held steady over the past decade. RTDNA published data indicating that TV newsroom employment has been essentially flat since the industry rebounded from the Great Recession, at approximately 28,000 jobs both in 2012 and in 2024.[213]

Figure 4:



Source: RTDNA.

Employment holding steady is certainly preferable to a decline. Yet the most salient fact for present purposes is that this flat employment trend occurred during a time when local TV revenues were growing faster than the rate of inflation (see Figure 5). Between 2012 and 2018 (the latter being the peak year for U.S. broadcast TV station inflation-adjusted revenues), revenues increased 28 percent on an inflation-adjusted basis, but U.S. broadcast TV newsroom employment *declined* even as revenues soared. Indeed, despite record revenues in 2018, broadcast TV news employment was at its *lowest* level of any year between 2012 and 2024. COVID-era

[210] *Id.*

[211] *Id.* ("And so we've been able to kind of improve our position every single time we've gone back to the well in that regard. And I think we expect we will continue to be able to do that for some period of time. I read a piece of research, last night on the plane coming up, that has a projection of affiliate fees, cable networks, down 5 percent through the forecast period, which I think went through maybe '26, retransmission fees, which is broadcast, increasing 5 percent over that same period of time.").

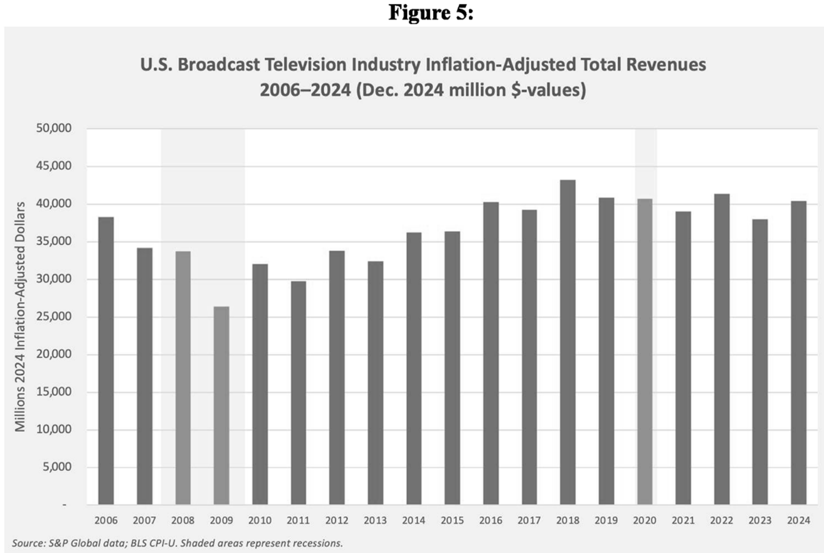
[212] *Id.* ("And I think it's that divergence that you're seeing, and obviously, we get outsized returns, again, because of our scale fact that the predominance of what we're negotiating are for local broadcast stations and signals. And so I think we do see that continuing. We're not at parity. We're not at stasis to where we feel like we're getting our fair share. We're still working our way up.").

[213] *See* Papper, *supra* note 146 at 2.

financial disruptions, inflation, and slowing retrans growth flattened the broadcast TV industry's revenue curve. Yet 2024 inflation-adjusted total revenues were still 19 percent higher than they were in 2012, while newsroom staffing was essentially flat as noted above.[214]

And as discussed previously, these revenue increases came at a time when the number of TV stations producing local news declined.[215] Consolidation is making broadcasters more money, in large part because stations save money as the number of TV newsrooms producing news declines, and the amount of duplicated news aired on other stations increases. As Dr. Papper put it in a 2018 report, "the total number of stations running local news . . . keeps increasing, but it's doing so because a smaller number of newsrooms are running news on more and more outlets."[216]

Figure 5:



The local TV industry's economic recovery following the Great Recession was largely due to massive increases in revenues from retransmission consent payments and political advertising.[217] Figure 6 shows local TV stations' annual (inflation-adjusted) retransmission fee revenues between 2006 and 2024. 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. While the outsized inflation following the pandemic put an end to 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.[218] 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.

[214] Based on other historical RTDNA TV newsroom employment data (via Dr. Papper's archives, *supra* note 112) the number of local TV newsroom jobs increased by only 5 percent from 2009 to 2024, while total local TV industry revenues increased by 49 percent during that same time-frame even after adjusting for inflation. During this time, there was considerable industry consolidation. These divergent trajectories reflect the industry's chief method for improving the economic bottom line: mergers and cost-cutting, often in the form of cutting newsroom jobs.

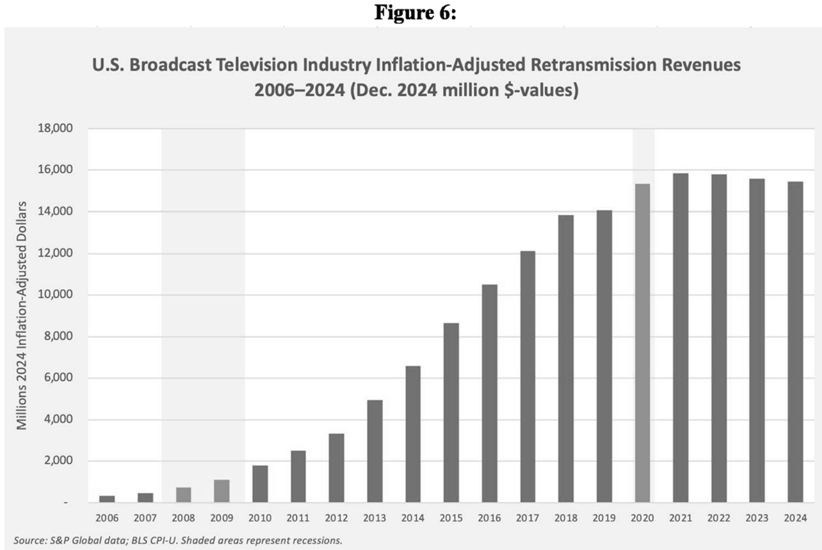
[215] *Supra* Figure 2.

[216] *See* Bob Papper, "Research: 2018 local news by the numbers," *RTDNA* (June 13, 2018).

[217] Inflation-adjusted political ad revenues for the U.S. local TV industry increased 437 percent between 2009 and 2024. *See* S&P Complete Picture.

[218] *Id.*

Figure 6:

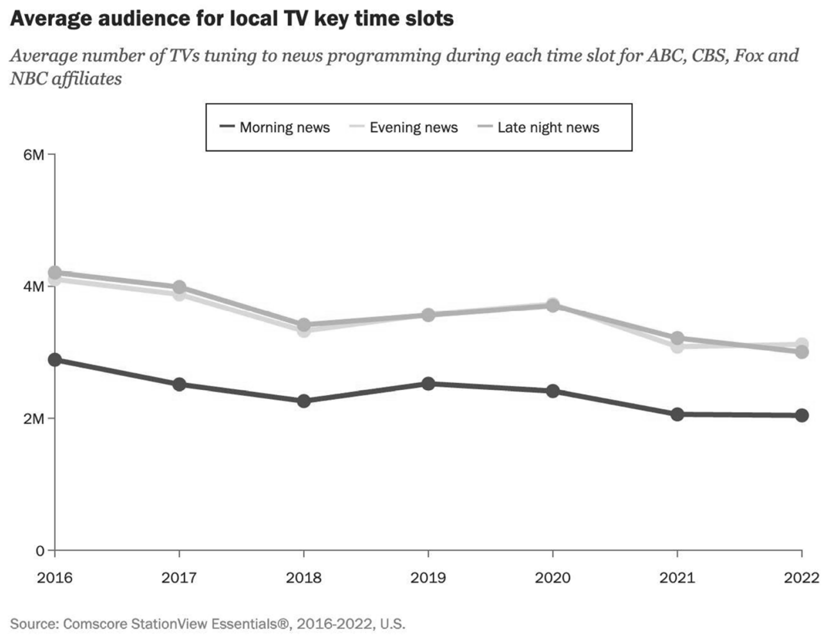


It's important to put these revenue data in context with viewership data. As noted above in the discussion of Nielsen's "Gauge" data, viewing habits have changed in the streaming media era. Though nowhere near the level seen in cable, cord-cutting and streaming have decreased broadcast viewership too. Some publicly available ratings data suggest, however, that local TV news broadcasts are not only outperforming linear cable TV, they are not even seeing the same size declines as primetime network programming. Below in Figure 7, we show an excerpt of ComScore audience data via Pew Research Center. This information captures the average number of televisions turning into news programming on the local network affiliates during key news day-parts, from 2016 through 2022. While there was a 9 percent drop between 2018 and 2022 (even-numbered non-Presidential election years) in the average local TV news audience,[219] this drop is far less than the 31 percent drop in average primetime viewership at the Big 4 broadcast networks.[220] Comparing two presidential election years (2016 vs. 2020), we observe a 12 percent drop in the average local TV news audience compared with a 32 percent drop in the Big 4 networks' average primetime audience.

[219] This average is calculated based on the number of televisions tuning into the morning, evening, and late-night local news dayparts. *See* "Local TV News Fact Sheet," *Pew Rsch. Ctr.* (Sept. 14, 2023).

[220] These figures were calculated based on annual primetime viewership data reported by *Variety. See* Michael Schneider, "Most-Watched Television Networks: Ranking 2024's Winners and Losers," *Variety* (Dec. 26, 2024).

Figure 7:



While any decline in viewership is not welcome to broadcasting firms, this particular decline is not a cause for great concern, as revenues continued to grow. This indicates the pricing power that broadcasters retain in spite of declining audiences. And it also indicates that broadcasters adding more news day-parts with repeated segments is a low-cost method for them to sell more profitable ad slots than they would have if they stuck with syndicated programming. Furthermore, the declines in local TV news viewers in terms of the percentage of all U.S. TV *households* are not that large. From the Comscore data presented by Pew, we estimate that about 2.4 percent of all TV households tuned into local news during 2018, compared to 2.1 percent in 2022.

E. Broadcast TV Chains' Healthy Financial Performance During the Streaming Media Era Demonstrates that the National Cap is Not a Barrier to Continued Financial Prosperity.

The historical financial performance of the five largest TV broadcasting companies, as measured both by their total number of licensed stations and total number of DMAs served, generally shows positive results too. These five firms (all publicly traded companies) are Nexstar, Gray, Sinclair, E.W. Scripps, and TEGNA. We do not include the Big 4 networks' parent companies, as they are each multimedia conglomerates that derive a substantial amount of their income from businesses other than local TV broadcasting.

First, we present these five local TV ownership groups' operating revenues, advertising revenues, and political advertising revenues, comparing how these values changed from 2016 to 2024 (adjusted for inflation). All of the firms acquired new broadcast TV stations and entered new markets during this time (see Figures 16–21 below). There are some external factors impacting these results, which are unrelated to the firms' broadcast TV consolidation or the financial performance of their core local TV business during this time. For instance, Sinclair made a costly and ultimately unwise decision to purchase Fox's Regional Sports Networks in August 2019, which the company later spun off into a subsidiary that declared Chapter 11 bankruptcy in March 2023. E.W. Scripps divested all of its print assets in April 2016, and spun-out its broadcast radio business in December 2018. It then acquired Ion Media in January 2021. And Nexstar purchased the CW network in a deal that closed in October 2022.

With these caveats in mind, we see that even after adjusting for inflation, most of the five largest local broadcast TV firms saw healthy operational revenue growth, ad revenue growth, and political ad revenue growth (see Figure 8).

Figure 8

Change in Inflation-Adjusted Values 2016 vs. 2024 (%)	Operational Revenues	Advertising Revenues	Political Advertising Revenues
Sinclair	4%	13%	56%
Nexstar	277%	185%	310%
Gray	245%	158%	324%
TEGNA	19%	-12%	85%
EW Scripps	121%	15%	162%

Source: Company SEC filings; CPI-U

However, as noted, all five firms added stations to their portfolio after 2016. Accordingly, we present these revenue changes on a per-station basis (Figure 9) and a per-market basis (Figure 10). These data are still heavily impacted by each company's entry and exit into and out of non-local TV businesses. Nexstar's and Gray's performances are good indicators of the general trajectory of the local broadcast TV business during this period. Certainly these data capture how much the local TV political advertising business has grown since 2016. During the 2024 election cycle, all of these largest five broadcasting chains saw double-digit or triple-digit percentage growth in their inflation-adjusted political advertising revenues compared to the 2016 cycle, even on a per-station and per-market basis.

Figure 9

Change in Per Station Inflation-Adjusted Values 2016 vs. 2024 (%)	Operational Revenues	Advertising Revenues	Political Advertising Revenues
Sinclair	-28%	6%	46%
Nexstar	96%	48%	113%
Gray	70%	27%	109%
TEGNA	-14%	-37%	33%
EW Scripps	21%	-37%	44%

Source: Company SEC filings; CPI-U

Figure 10

Change in Per Market Inflation-Adjusted Values 2016 vs. 2024 (%)	Operational Revenues	Advertising Revenues	Political Advertising Revenues
Sinclair	-28%	7%	47%
Nexstar	101%	52%	119%
Gray	65%	23%	103%
TEGNA	-11%	-34%	38%
EW Scripps	32%	-31%	57%

Source: Company SEC filings; CPI-U

We next examine the changes in these five ownership groups' publicly traded stock prices since the stock market's bottom in March 2009 to the end of 2024 (see Figure 11).[221] We also include Entravision, which is the next largest publicly traded local broadcast TV firm, but which has a station portfolio that contracted slightly during this period (see Figure 21). During this time, the S&P 500 increased sevenfold (693 percent). The three largest local TV chains all outperformed the broader market, with Nexstar's share price increasing 21-fold. Sinclair's performance is notable given the RSN bankruptcy misstep.

Figure 11

Change in Share Price Since Early 2009 Great Recession Market Bottom (March 2009–Dec 2024)	
Nexstar	20963%
Sinclair	1341%
Gray Media	855%
TEGNA	465%
E.W. Scripps	94%
Entravision	518%
S&P 500	693%

Source: Free Press Analysis. Values calculated using months-end stock prices, begining with Feb. 27, 2009, ending on Dec. 31, 2024. Actual market bottom was on March 9, 2009.

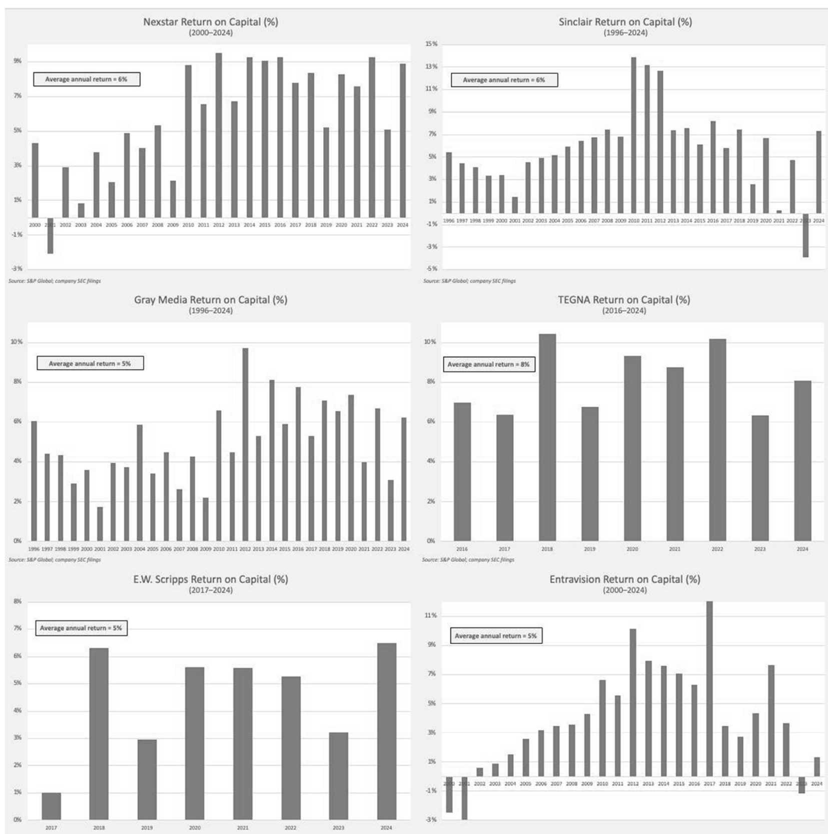
Because of all of the various business moves that impacted each of these firms' revenues during the comparison period, we next examine two key profitability metrics that enable meaningful comparisons not greatly impacted by one-off events. First, we examine the local broadcast firms' Return on Capital (ROC). This is a use-

[221] The values presented do not represent total yield during this period, as dividend payments are not included in the calculation.

ful measure as, over time, successful firms that return value to shareholders should be earning a return on capital that exceeds their cost of capital.[222] Below in Figure 12, we show the ROC for the local broadcast firms, for each firm's entire time as a publicly-traded company. And in Figure 13 that follows, we present ROC values for six other advertising-supported firms (Alphabet, Meta, Warner Bros. Discovery, IAC Corp., Paramount/CBS, and Fox Corp).

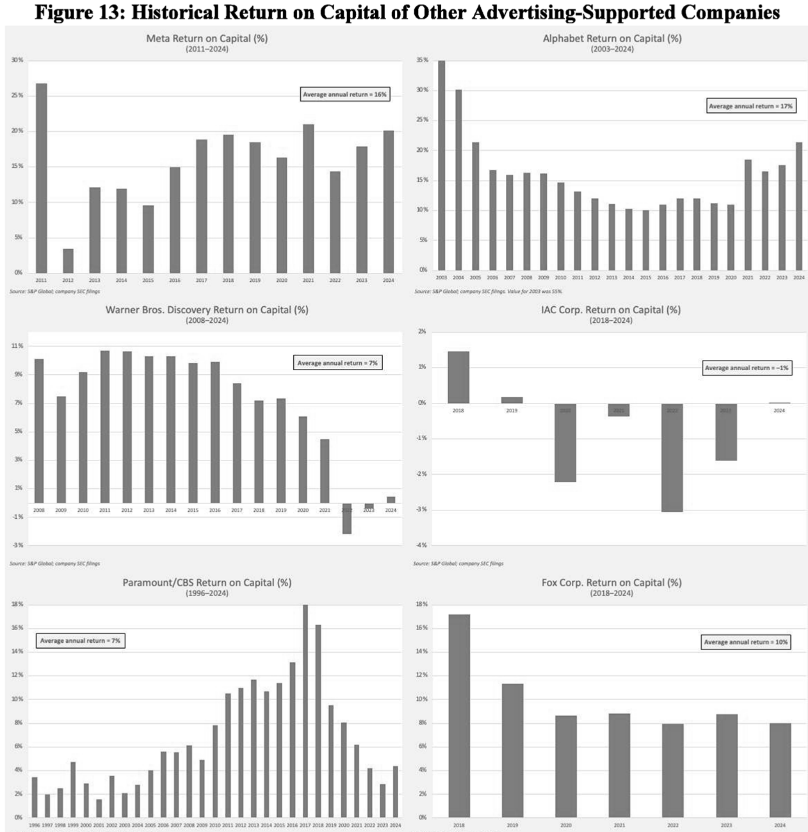
All of the local broadcast TV firms had average ROC values between 5 and 8 percent during their time as publicly traded companies. These are reasonable returns that for most time periods would exceed each firms' cost of capital. These returns are also comparable to, or larger than, the ROCs observed at Warner Bros. Discovery, IAC Corp., Paramount/CBS, and Fox Corp. Alphabet and Meta both had ROCs that were above all other firms in this comparison. Those two companies are also widely viewed as some of the most financially successful firms in history, and their businesses have attracted significant antitrust attention.

Figure 12: Historical Return on Capital of Major Local Broadcast TV Companies



[222] *See* Aswath Damodaran, "Return on Capital (ROC), Return on Invested Capital (ROIC) and Return on Equity (ROE): Measurement and Implications" 5, Stern Sch. of Bus., (July 2007).

Figure 13: Historical Return on Capital of Other Advertising-Supported Companies



We next conduct a similar comparison of these companies' EBITDA margins. EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization) margin is a useful profitability metric that reflects how much revenue a firm converts into operational earnings, before considering certain (often one-time, or irregular) expenses.[223]

[223] "What is EBITDA," *Money* (Feb. 26, 2024).

Figure 14: Historical EBITDA Margins of Major Local Broadcast TV Companies

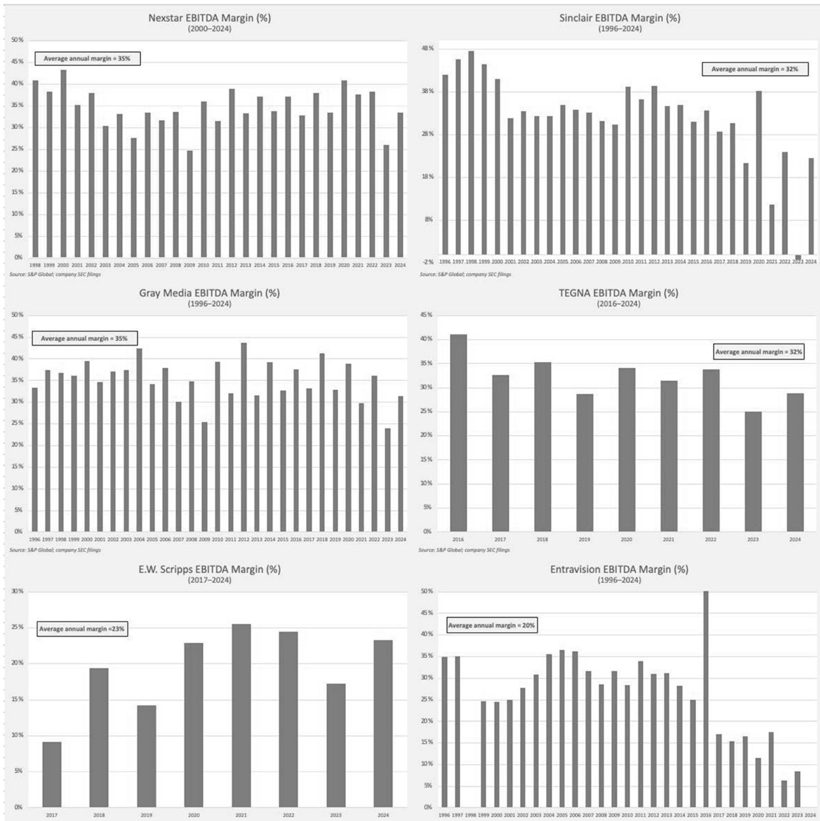
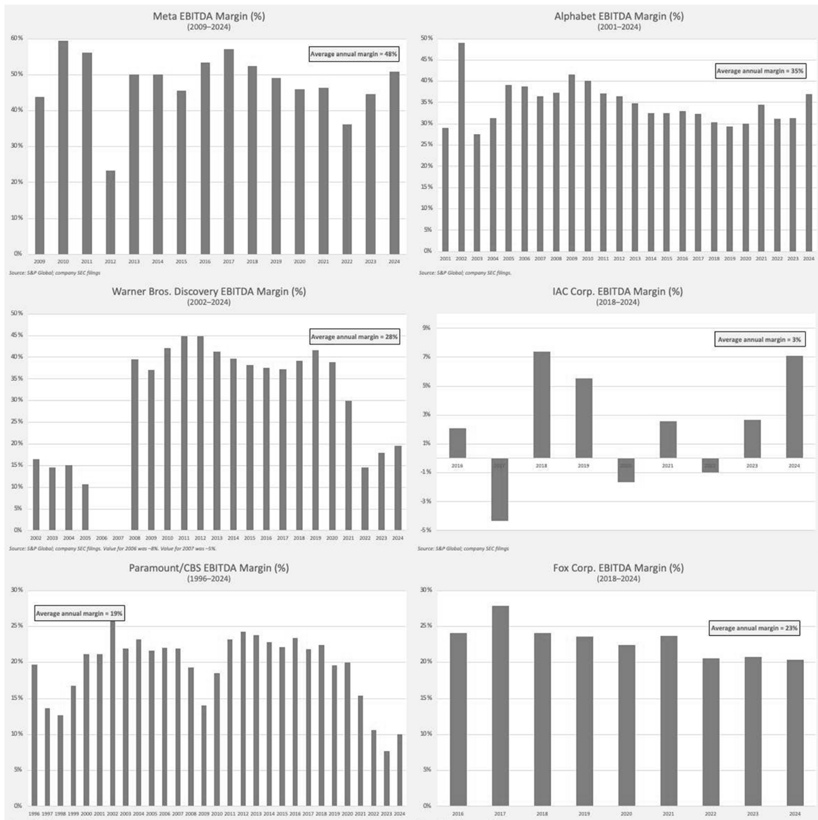


Figure 15: Historical EBITDA Margins of Other Advertising-Supported Companies



As seen above in Figures 14 and 15, the local broadcast TV companies all have healthy margins, which match or exceed what is commonly considered a "good" EBITDA return.[224] Most of the local broadcasters' average historical EBITDA margins are comparable to Alphabet's, and exceed the historical returns seen at Warner Bros. Discovery, IAC Corp., Paramount/CBS, and Fox Corp.

[224] *See, e.g.,* Louise Downing, "Understanding the EBITDA Margin (With Formula)," *Am. Express* (June 3, 2024) ("A good EBITDA margin may fall between 15 percent and 25 percent, says Simon Thomas, Managing Director of accountancy firm Ridgefield Consulting. Generally, the higher the EBITDA margin, the greater the profitability and efficiency of a company.").

Figure 16:

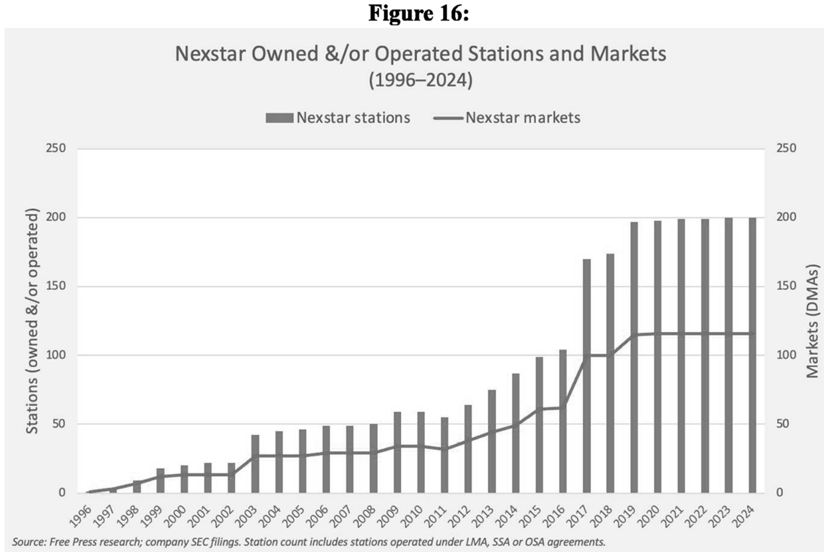


Figure 17:

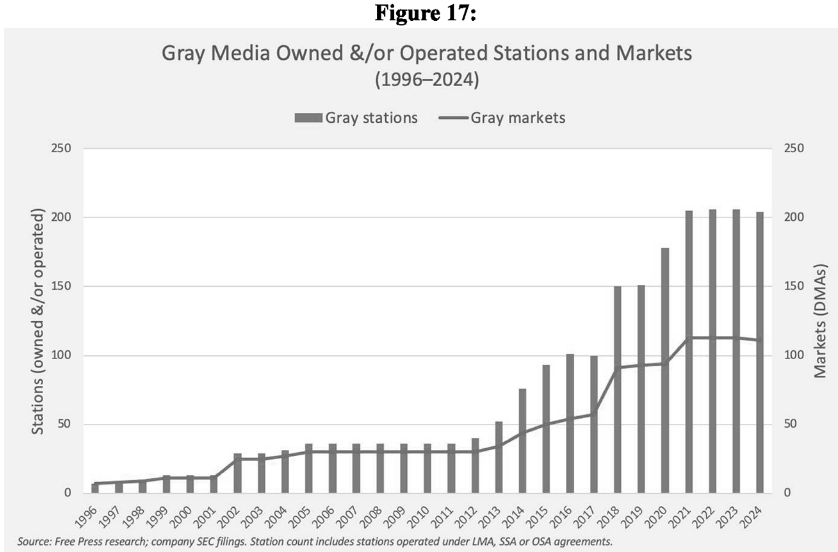


Figure 18:

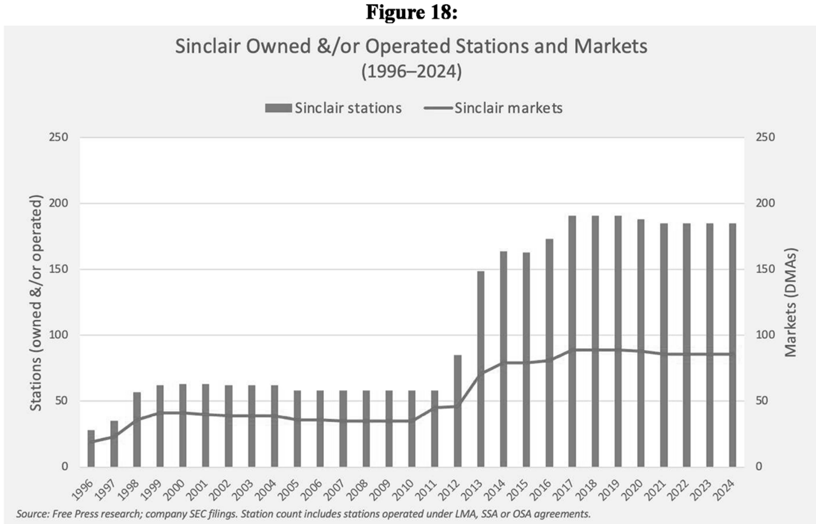


Figure 19:

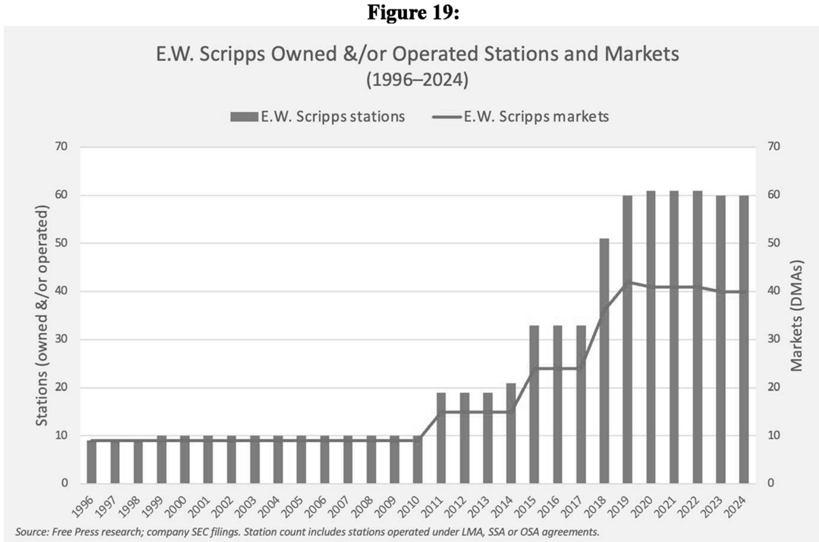


Figure 20:

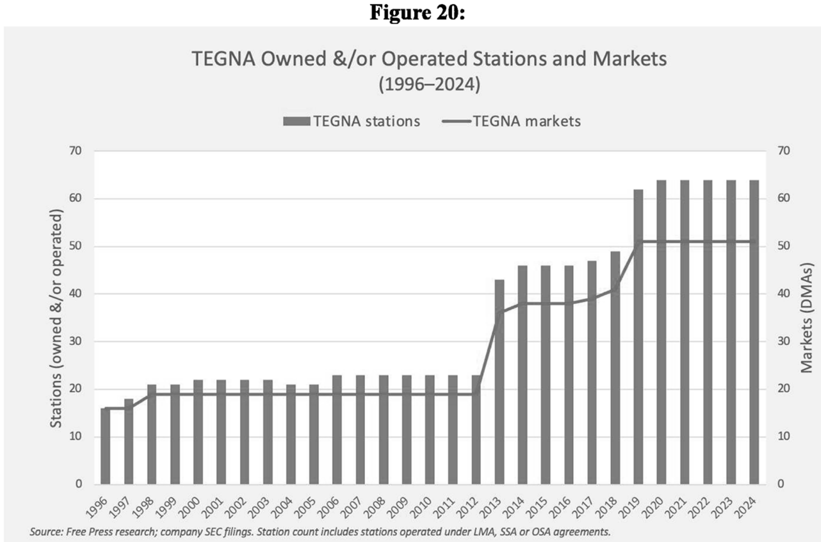
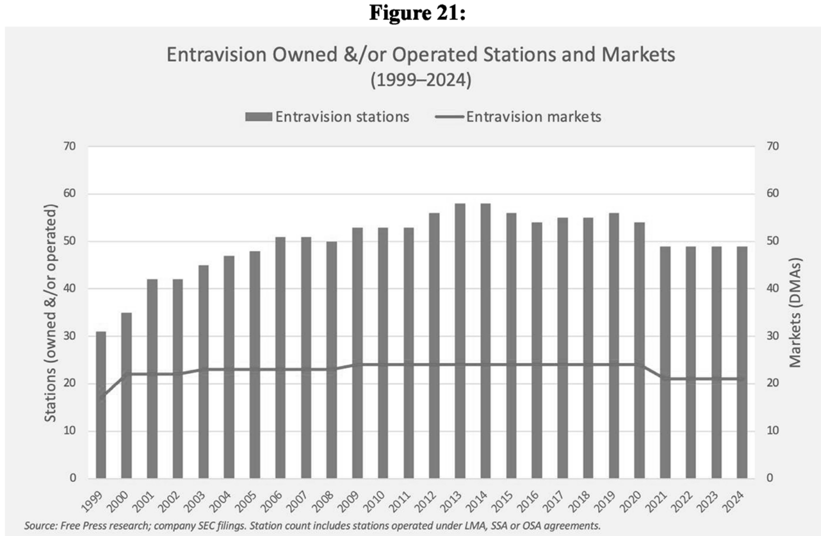


Figure 21:



F. Local TV Broadcasters Have Many New Revenue-Generating Opportunities to Pursue Outside of National Consolidation.

The local television broadcasting industry's financial performance, while that industry was subject to the 39 percent national cap, was more than adequate for these companies to return value to shareholders. And even as they claim the need for more complete deregulation, these same companies project a bright financial future that local broadcasters have ahead of them, even if the Commission chooses to follow the law and declines to eliminate or raise the national caps.

a. Broadcasters Expect to See Continued Healthy Local Advertising and Retransmission Consent Payment Growth Thanks to Strong Viewer Demand for Live Local Sports and News Programming.

As we recounted above, leading local broadcast company executives were ebullient about the future of their industry when speaking to investment analysts last summer. That came at a time when they could not know for sure there would be an FCC willing to raise Congress's 39 percent national cap, all to allow broadcasters further power to monopolize local DMAs. And their optimism was well-founded. Cord-cutting appears to be slowing instead of accelerating as it did in recent time periods, and the remaining linear TV subscribers place high value on live sports and local news. They also are a more affluent demographic sought out by advertisers.[225]

And though the advertising sector is vulnerable to pull-backs in times of economic uncertainty, broadcast executives have repeatedly told Wall Street that their local ad business is faring far better than the national spot market, because the local ad business tends to be "much more stable than the national market."[226] There's also no sign of the political ad machine slowing down, with S&P Global forecasting compound annual growth rates in this category to exceed the Federal Reserve's two percent inflation target in the coming decade.[227] And we previously discussed the industry's and analysts' expectations that they will be able to continue to count on retransmission consent and vMVPD carriage payment growth exceeding inflation for years to come as well.[228]

Much of this optimism is built on the continued high levels of viewer demand for live sports, and the local broadcasters' recent moves to strike deals with local teams and sports leagues[229] to air games that were once only available on national cable

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[225] *See, e.g.,* Gliha 2024 Bank of America Comments ("The other piece that we offer is news and the overlap between what also do[ ] sports fans like, 90 percent of them also like news. And so it's a great sort of combination. So if you look at the composition of the pay TV ecosystem that was sports and news fans in 2019, it was 51 percent. Now what is that in 2023, it's 68 percent. And the actual quantum of sports and news subscribers has actually increased. Now if you look at people that are not interested in sports or news . . . the content is not really kind of our bread and butter. That's decreased from 14 percent in 2019 to 4 percent in 2023. So a large portion of that attrition that's been happening has been the folks that are not interested in sports or news. So we're now at this point where . . . those people are out of the ecosystem and maybe we have a moderation. You would look at that data and go, no, that sounds like that could be a thesis that would make sense. And then that's supplemented by the second thesis . . . which is the age, the demographics. So if you look, almost 2/3 of the pay TV ecosystem now is people that are 45-plus. And if you look 5 years ago, it was 59 percent of the population. So again, you've seen sort of the people that are the demographic, the younger demographic that wanted to leave have left. And we think that sort of will be a very good positive change for our business.").

[226] *Id.* ("We generate somewhere—68 percent to 70 percent of our revenue on the advertising side comes from the local market and the local market tends to be much more stable than the national market, because [the] local market is more call to action versus the national market, which is more branding. And so I would say, we've been seeing a sequential improvement in the rate of decline for the last few quarters . . . on the advertising side."); *see also* Lougee Aug. 2024 Comments ("The economy continues to proceed with a sluggish and uncertain pace, and that's been echoed in national ad spend, which is lower than we anticipated going into the year. That said, local advertising is faring well considering the headwinds facing national as small and medium local businesses show [ ] more willingness to spend."); Justin Nielson, "US TV and radio station ad projections, 2025–2035," *S&P Glob. Market Intel.* (July 1, 2025) ("S&P Projections") ("Over the [2025–2035] forecast, U.S. TV station national core spot ad revenue should decline at a 5.0 percent CAGR to $3.07 billion in 2034. Local spot ad revenue is forecast to be more resilient to digital alternatives and increase at a 1.5 percent CAGR to $14.43 billion in 2034.").

[227] *See* S&P Projections.

[228] *See, e.g.,* S&P Complete Picture; Comments of Perry A. Sook, Founder, Chairman & CEO, Nexstar Media Group, Inc., Citigroup 2024 Global TMT Conference (Sept. 4, 2024) ("Nexstar has been collecting distribution checks from MVPDs since 2005, and we continue to post linear growth. So the rate of change in unit rate is, has been sufficient to outrun the decline in the universe, right? And that has been a part of our thesis. Again, why? Because the bulk of what we're negotiating for are broadcast stations and not cable networks.").

[229] *See* S&P Projections ("An additional catalyst in the local ad revenue forecast is the influxof TV station owners' local over-the-air sports rights deals, with sports partnerships from Gray Media Inc., The E.W. Scripps Co., Nexstar Media Group Inc., Sinclair Inc. and TEGNA Inc. indicating future upside in overall ratings and local ad revenue potential in the companies' markets."); *see also* Comments of Sandra Breland McNamara, Executive VP & COO, Gray Television, Inc., Q2 2024 Investor Call (Aug. 8, 2024) ("Our strong local stations proved themselves over the past year as they demonstrated the power of television to a large number of local professional sports teams and fans alike. In the last 2 weeks, as Hilton mentioned, we announced the launch of Rock Entertainment Sports in partnership with Dan Gilbert's sports and entertainment properties as well as Palmetto Sports & Entertainment, a new statewide sports net-

Continued

sports networks and RSNs.[230] Nexstar in particular has made a conscious effort to shift the balance of programming towards sports, which it expects will soon be the majority of the content it airs on the CW network.[231] And former TEGNA CEO David Lougee noted last summer, "a great deal of the most passionate and consumed local sports content is returning to local broadcasting."[232] This trend is accelerating, and it will keep broadcasters' bottom lines growing, even if they are not allowed to monopolize the public airwaves even more at the national level and within DMAs too.

b. Continued Advances in Digital Broadcast Transmission Technology Create New Revenue Opportunities for Broadcasters.

There will likely come a time in the distant future when broadcast viewership declines to an inflection point—one when station owners are no longer able to squeeze out ever-increasing retrans payments and command higher and higher prices for local spot ads. But even if that time comes sooner than anticipated, it does not mean that broadcasters' financial fortunes will follow the same trajectory as other industries that have entered secular decline (such as the local print business).

Broadcasters are already moving their operations more into the digital realm, taking advantage of so-called "connected TV" advertisements and reaching consumers nationwide through FAST platforms.[233] Online services like LocalNow, NewsON and Zeam are just a few of the new ways for local broadcasters to reach cord-cutters, and generate significant revenues through digital ad targeting.[234] Social media companies are increasingly turning to local broadcasters to license their content.[235] And local TV broadcasters are even getting into the sports podcast business.[236]

ATSC 3.0 technology is expected to provide a huge boost to broadcasters' bottom lines as they use their spectrum to become important players in the internet-of-things and datacasting markets.[237] Broadcasters are already pressuring the Com-

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work in South Carolina. Throughout this year, we have been working aggressively on a number of other opportunities to bring more sports back to local broadcast television stations.").

[230] *See, e.g.,* Comments of Robert D. Weisbord, COO & President of Local Media, Sinclair, Inc., Q2 2024 Investor Call (Aug. 7, 2024) ("One of the most important assets broadcast TV has as an industry are live sports programming assets, which drive the highest viewing audiences of the year. As we noted last quarter, 97 of the top 100 most watched telecasts in 2023 were on broadcast TV, with the other 3 being college football playoff games. 96 of the top 100 most watched telecasts were sports programming content, with the National Football League contributing 93 of the top 100. In addition, we have several professional franchises begin to shift more and more of their on-air games to local broadcast stations and away from cable and regional networks. . . . With limited exposure to near-term league renewals across the sports landscape, we continue to expect sports programming to be an important driver of broadcast value proposition to our viewers for many years to come.").

[231] *See, e.g.,* Sook Sept. 2024 Bank of America Comments.

[232] *See* Lougee Aug. 2024 Comments ("The recently announced NBA network deals is a notable milestone that I don't think has been adequately reported on. Specifically, the deal with NBC signifies a huge shift away from paid cable to broadcast for the league. As we've talked about before, that's no accident. [A]t its core, the implications of this trend are important. A great deal of the most passionate and consumed local sports content is returning to local broadcasting.").

[233] *See, e.g.,* Comments of Donald Patrick LaPlatney, President, Co-CEO & Director, Gray Media, Inc., Q2 2024 Investor Call (Aug. 8, 2024) ("Our digital businesses are also continuing to grow audience and revenues. In the second quarter, we once again set new records for engagement as well as double-digit growth in the number of digital advertisers and in total digital revenue which we include in core ad revenue. Our Connected TV and FAST Channel offerings continue to roll out finding viewers and attracting advertisers in this important and growing part of the ecosystem."); Lougee Aug. 2024 Comments ("We're especially seeing that at Premion, our industry-leading CTV sales platform that serves the local marketplace. Our hypothesis continues to hold true that the local market will continue to adopt CTV advertising and Premion is well positioned to capitalize on this opportunity. Our Premion sales footprint reaches almost 80 percent of U.S. households and there's considerable upside cross-selling to our existing linear customers as they increasingly adopt CTV. We're confident our recent acquisition of Octillion, which marries cutting-edge technology with Premion sales acumen, will further accelerate the combined businesses.").

[234] *See, e.g.,* "News-Focused Local TV App Zeam Expands To LG," *Radio and Television Bus. Report* (July 8, 2025).

[235] *See, e.g.,* David Bauder, "Nextdoor social site, looking for a revival, pins hopes on partnership with local news providers," *Associated Press* (July 15, 2025).

[236] *See, e.g.,* Ripley Sept. 24, 2024 Comments ("And our podcast business, which we don't talk a lot about, but we just launched 2 new sports-focused podcasts. I encourage you all to check them out, one called the Triple Option, the other called Throwbacks. This last week, they were the #1 and #2 sports broadcasts in the country. So having a lot of success there.").

[237] *See, e.g.,* S&P Projections ("Digital/online should be the fastest-growing ad category. . .on the promise of streaming initiatives and NextGen TV, which enhances capabilities for ultra-high

mission to force a technology transition to ATSC 3.0, which will allow them to "fully monetize ancillary uses" of the public airwaves.[238] Broadcasters view this new transmission standard as a way for them to do "what cable did" and move from one-way video distribution to two-way datacasting, something that will generate billions in new revenues, but will likely go towards higher CEO pay tied to company stock prices rather than towards quality journalism.[239]

V. Conclusion

The Commission does not have the authority to increase, differentially apply, or eliminate the national cap explicitly set by Congress. And even if the Commission did possess this authority, lifting the cap to allow unchecked national consolidation would cause irreparable harm to the public interest. Stifling competition and diversity through national conglomeration would deal a fatal blow to localism, as national owners follow their economic incentives that lead them away from adequately serving the information needs of local communities.

Respectfully Submitted,

S. Derek Turner
Yanni Chen
Matthew F. Wood
Free Press

National Action Network
February 10, 2026

Hon. Ted Cruz,
Chairman,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Hon. Maria Cantwell,
Ranking Member,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

RE: Ownership in the Digital Age" Defense of Statutory Authority and Market Competition

Dear Chairman Cruz and Ranking Member Cantwell,

The National Action Network respectfully submits this testimony for the record regarding the critical matter of broadcast media ownership. As this Committee evaluates the regulatory framework of the digital age, we urge a steadfast commitment to the structural protections that preserve independent local journalism, facilitate market entry for diverse owners, and protect consumers from anti-competitive pricing. We state our firm opposition to any effort to weaken the thirty-nine percent national audience reach cap or to relax local ownership limits that prevent the monopolization of America's public airwaves.

Our position is rooted in the belief that media pluralism is an essential requirement for the economic health and civic representation of all Americans. Whether in urban centers or rural townships, citizens depend on local broadcast television as

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definition (UHD), high dynamic range (HDR), multicasting, targeted advertising, spectrum leasing for the Internet of things, and subscription-based premium content.").

[238] *See, e.g.,* Sook Q1 2025 Comments ("In addition to our deregulatory agenda to level the playing field and to enable consolidation, we are also seeking to obtain a firm transition date for ATSC 1.0 standards to ATSC 3.0 standard, which will support and advance our rollout of high-speed data transmission and other services to allow us to fully monetize ancillary uses of our spectrum.").

[239] *See, e.g.,* Sook Sept. 2024 Bank of America Comments ("I think our industry, the local broadcast station industry, has the ability to make a similar pivot to what cable did, which distributed legacy video through those pipes and are now distributing data through those same pipes. We have the ability to do the same thing. We still have video on the air, our television product. But ATSC 3.0, next-gen TV is an IP-based transmission schema, which is in sync with all the other devices you have in your hand or your home, but it's also in sync with the rest of the world that's adopting this technology. So it's a more efficient use of the spectrum. So I still have the same 6 megahertz to play with, but I can do more things, because it's a more efficient transmission schema. So we're focused on, first and foremost, the business applications and think that the follow-on of that will be the consumer applications, which is a better picture, higher-quality audio, but we have to retrofit everything we do, like we did when we transitioned from analog to digital. . . . But the upside is, we see, in 10 years, the ability to make as much money from ancillary uses of our spectrum as we do from distribution revenue today, and that would be for our industry, $15 billion, and for our company, something in the $2.5 billion range. So if that's all net to equity, *you can imagine how exciting that could be for those of us that own the stock."*).

their primary window into the actions of their government. When large corporate TV station groups consolidate, they create a centralized filter for local news, where editorial decisions are moved from the community to national corporate headquarters. This creates a dangerous gatekeeper bias that allows a few corporate executives to effectively censor local viewpoints that do not align with a national narrative.

Arguments for the deregulation of the national audience reach cap frequently ignore the clear statutory requirements established by the legislative branch. The thirty-nine percent cap is not a discretionary administrative rule but a statutory mandate.

Considering recent judicial shifts away from agency deference, it is clearer than ever that Federal agencies have no authority to re-interpret unambiguous statutory commands. Congress was specific in its 2004 amendments; there is no gap for the Federal Communications Commission to arbitrarily "waive" a Federal statute or substitute the statute's clear intent with its own policy preferences.

Any attempt by the Commission to circumvent this limit through regulatory waivers or the continued use of the technologically obsolete "ultra-high frequency (UHF) discount" accounting fiction constitutes a direct infringement upon Congressional authority. We advocate for strict adherence to the letter of the law to ensure that the American national discourse is not dominated by a concentrated few.

Beyond the implications for democratic discourse, media consolidation has triggered a significant market failure that imposes a regressive economic burden on every American family. As large entities acquire multiple affiliates within a single market, they gain the leverage to demand exorbitant retransmission consent fees. These fees have reached an average of twenty-two dollars and sixty-two cents ($22.62) per subscriber per month, translating to nearly two hundred and seventy dollars ($270) annually per household.

These costs are passed directly to consumers, functioning as a monopolistic extraction from working-class families and seniors on fixed incomes. Furthermore, this consolidation has led to over twenty-four hundred broadcast blackouts since 2010. We are actively tracking the industry's most significant transactions and assert the presumptive illegality of any merger deal that exceeds established antitrust concentration thresholds. When a merger is presumptively illegal under Department of Justice standards, the Commission's public interest review must be at its most skeptical. Allowing a few behemoths to land-bank broadcast signals across the country inflates acquisition costs and makes it mathematically impossible for local entrepreneurs to compete.

The public airwaves are a national resource that must be managed for the benefit of all citizens. To ensure a competitive, transparent, and accountable media landscape, the National Action Network recommends that the Commission maintain strict statutory compliance with the thirty-nine percent national audience reach cap and permanently eliminate the UHF discount. We further recommend closing regulatory loopholes such as shared service agreements that create de facto monopolies and directing the Federal Communications Commission to implement incentives that prioritize station ownership for new entrants. We urge this Committee to choose a path that favors competition over consolidation and the public interest over corporate monopoly.

Respectfully submitted,

EBONIE RILEY,
SVP,
National Action Network.

Legal Appendix: Notes and References

[1] Statutory Supremacy and Agency Deference: Under the standard established in *Loper Bright Enterprises v. Raimondo* (2024), courts no longer defer to agency interpretations of ambiguous statutes. Because 47 U.S.C. § 533(f)(1)(A) contains an explicit "shall not permit" command, any FCC attempt to modify the 39 percent cap without a new Act of Congress is legally void.

[2] Presumptive Illegality of Market Concentration: The 2023 DOJ/FTC Merger Guidelines and the precedent in *United States v. Philadelphia National Bank* establish a structural presumption of illegality for any merger resulting in a market share greater than 30 percent or a significant increase in the Herfindahl-Hirschman Index (HHI). Many current "mega-merger" proposals in the broadcast space exceed these thresholds and are therefore presumptively unlawful.

[3] Reasoned Decision-Making in Localism: The Eighth Circuit's decision in *Zimmer Radio of Mid-Missouri v. FCC* (2025) emphasizes that while the FCC has discretion in line-drawing, it must provide a record supported by contemporary evidence. Any expansion of ownership caps must be justified by more than a desire for corporate scale; it must prove a benefit to the "localism" mandate that justifies the use of public spectrum.

[4] The UHF Discount as "Arbitrary and Capricious": Given that the digital transition has equalized the signal strength of UHF and VHF channels, the continued application of a 50 per-

cent "reach discount" lacks a rational basis in engineering or economics. Under the Administrative Procedure Act, the continued use of this discount to bypass the 39 percent cap is vulnerable to being set aside as arbitrary and capricious.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO CHRIS RUDDY

Question 1. In your experience, including from witnessing prior mergers, how has increased consolidation influenced diversity of editorial voices, localism, and the availability of a broad range of viewpoints in the media marketplace?

Answer. As the national television ownership cap has increased, consolidation has increased along with it. At the local level, consolidation allows major networks and station groups to reduce costs by cutting local programming in favor of nationally syndicated content. In these instances, both diversity of voices and localism suffer.

Sinclair Broadcasting, one of the Nation's largest station groups, famously attempted to "nationalize" local news programming by requiring nationally produced scripts to be aired across its local stations. Major networks such as ABC, CBS, and NBC also exercise significant editorial control over their owned-and-operated stations, particularly with respect to local news content.

It is not surprising that major networks typically own stations in large, predominantly "blue" markets. The editorial viewpoints of these stations often both reflect and reinforce a liberal perspective. The merger between Nexstar and Tribune gave Nexstar access to major markets, including New York and Chicago. Nexstar-owned stations are widely regarded as having a liberal bias. A review of FEC data from the 2024 presidential election cycle found that approximately 78 percent of political donations made by Nexstar employees went to Democrat Kamala Harris.

Question 2. It's been 22 years since Congress last weighed in on the national ownership cap. Is 39 percent still the right threshold? And is a national ownership cap the best way to safeguard viewpoint diversity and competition—or could harmful concentration be better managed with market-by-market or alternative protections?

Answer. I have not concluded that the current 39 percent national ownership cap represents the final or definitive standard for ownership reach. Because the cap was established by Congress, Congress should carefully examine the effects of any proposed increase, including the impact on broadcast stations, local businesses affected by television advertising rates, and community leaders and elected officials concerned about the preservation of local programming in the face of national consolidation.

The national ownership cap is not a complete solution for preserving localism and competition, but it remains an important tool. Currently, seven or eight television companies control the overwhelming majority of major TV broadcast licenses in the top 75 U.S. markets. Without the cap, it is conceivable that four major networks could ultimately control most of these major licenses.

Equally concerning is the path the FCC appears to be taking in allowing circumvention of the "one major station" rule, which was designed to prevent a single company from owning multiple top stations in the same market. If the FCC grants Nexstar additional waivers, it could own two to four major stations in as many as 25 markets. If the Commission allows other station groups to follow Nexstar, this creates the potential for one or two station groups to control a dominant share of all major television licenses nationwide.

The most effective way to preserve competition is through diverse ownership. Rules requiring fairness, diversity, and balance can be easily circumvented. Structural ownership limits are far more durable and enforceable safeguards.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARIA CANTWELL TO CHRIS RUDDY

Media Consolidation and Journalism. In the last fifteen years, the five largest station groups have added over 500 stations to their ownership portfolios. That market concentration could grow even more, with the Nexstar-Tegna merger and Sinclair's hostile takeover attempt of Scripps.

Researchers from the University of Chicago looked at how increased consolidation impacts the content and coverage of local newscasts.

They found that when Sinclair acquired a station, coverage of local events and local politics declined by about 10 percent. A 2025 study by the University of Delaware found that in nearly two-fifths of TV markets, stations controlled by the same company air newscasts that are word-for-word identical more than 50 percent of the time.

Question 1. Mr. Ruddy, how has media consolidation affected your news organization?

Answer. I believe that national consolidation and expanded station-group reach have contributed to a reduction in local programming. Large television groups have financial incentives to streamline operations, duplicate content across markets, and centralize control of local news production at the national level.

Newsmax has not been directly harmed by local news consolidation. However, consolidation has allowed large station groups to own more stations in more markets, giving them substantial leverage over cable and pay-TV operators (MVPDs). With that leverage, station groups can demand excessive retransmission fees for their broadcast stations.

Additionally, many broadcast groups also own cable networks. These companies can use their market power to require pay-TV distributors to carry their affiliated cable channels—even where there is limited consumer demand. At the same time, they can demand significant carriage fees for their cable channels that may not be justified by ratings performance.

As a result, station groups reduce both the available carriage slots for independent networks and the financial resources that MVPDs can allocate to such networks like Newsmax. For example, Nexstar's cable network has approximately 20 percent of Newsmax's ratings, yet it enjoys broader distribution and commands significantly higher fees. Notably, among the top 50 cable networks, Newsmax is the only one not owned or created by a major broadcast group or media conglomerate.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TAMMY BALDWIN TO CHRIS RUDDY

Question. In today's diversifying media landscape, Americans are consuming local news and entertainment across broadcast, cable, streaming and broadband platforms. Should Congress and the FCC evaluate each proposed consolidation transaction individually, or is a broader, cross-platform assessment of cumulative media concentration necessary to protect competition and consumer access to local news coverage?

Answer. Congress and the FCC should establish clear, industry-wide ownership parameters and limits. The FCC and the Department of Justice should review proposed mergers to ensure compliance with those standards. There must be a consistent and even playing field for all participants in the broadcast industry.

In setting these standards, regulators may consider the broader media landscape and its impact on broadcasting. However, the broadcast industry remains uniquely powerful in its ability to aggregate large audiences. It is also distinct in that it operates on publicly owned spectrum licenses granted to private and nonprofit entities to serve local communities. Local TV stations currently dominate local news. Several studies show that most American get such news from their local TV stations.

If Congress, the FCC, or the DOJ were to adopt an overly expansive "broader market" definition when evaluating potential monopolies, they would significantly weaken their ability to enforce antitrust protections and protect competition—not only in broadcasting but across multiple industries.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HICKENLOOPER TO CHRIS RUDDY

Merger Review & Political Influence: Every state values the importance of independent, diverse, and community-based media.

In every issue for which the FCC has jurisdiction–it is essential every decision be made solely based on the facts, to benefit the public interest, and be free of political influence. The President recently *stated:*

> "We need more competition against THE ENEMY, the Fake News National TV Networks. Letting Good Deals get done like Nexstar-Tegna will help knock out the Fake News because there will be more competition, and at a higher and more sophisticated level," the President wrote. "Those that are opposed don't fully understand how good the concept of this Deal is for them, but they will in the future. GET THAT DEAL DONE! PRESIDENT DJT."

Question 1. While the President is free to express his views, does the President publicly advocating for or against a merger create an appearance of political influence?

Answer. Yes, but the President is well known for letting his views be known on many issues. I still expect a serious process at the FCC and DOJ relating to the merger.

Question 2. Does the term "Fake News Media" appear in the Communications Act? Please answer yes or no.

Answer. I am not aware of that provision appearing in the Act.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN FETTERMAN TO CHRIS RUDDY

Question 1. Mr. Ruddy, while I support the 39 percent cap, and oppose efforts to raise it or undermine it—like mergers—it is clear that the cap isn't sufficient to help local and diverse viewpoints' coverage. How could Congress potentially include new platforms in the audience calculations to address broadcast companies' concerns over streaming services? For example, could Congress include streaming services' viewers in calculating total viewership?

Answer. While I appreciate your support for the ownership cap, it would be unwise to include streaming service audiences when calculating a local market's reach or size.

Local television stations are unique because of their over-the-air broadcast reach, must-carry protections that ensure carriage on local MVPD systems, and the fact that major digital platforms frequently amplify their local news reporting. I am not aware of local streaming services that consistently produce local news and community programming comparable to that provided by broadcast stations.

Given the importance and influence of local television broadcasters, they should not be evaluated or regulated as though they operate on the same footing as national streaming platforms or other digital technologies.

Question 2. Nexstar claims that lifting the cap so the merger can proceed will produce millions in "efficiencies," which is just lawyer-speak for closing stations and laying people off. One report said "eliminating staff will top the list of cuts" and "a lot of good people are going to lose their jobs." How many journalists and other broadcast industry workers will lose their jobs if this deal is approved? How many of those journalists would be from diverse viewpoints and backgrounds?

Answer. I have not conducted a full analysis of the potential employment impact of a Nexstar-Tegna merger. However, we do know that prior to Nexstar's 2019 merger with Tribune, the two companies together employed approximately 16,000 people. One year after the merger, the combined company employed roughly 12,000—a 25 percent reduction in staff within a single year.

Given that the primary function of major station groups is local news production, it is reasonable to assume that a substantial portion of those reductions affected journalists and other newsroom personnel.

Based on publicly available information, Nexstar and Tegna currently employ approximately 18,000 people combined. A hypothetical 25 percent reduction after such a merger would result in approximately 4,500 lost jobs.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA BLUNT ROCHESTER TO CHRIS RUDDY

Retransmission Leverage and Consumer Protections

Question 1. Mr. Ruddy, you said that bigger station groups can use their leverage in retransmission talks to raise fees, and that those costs get passed on to consumers, including through bundling and tying demands. I want to know what practical consumer protections could reduce harm during retransmission disputes without Congress setting prices.

a) What consumer harms should Congress first consider and what data should companies be required to share so Congress can measure those harms?

Answer. I have not conducted a detailed study of the specific mechanisms Congress could use to protect consumers from excessive retransmission fees. However, allowing station groups to own large numbers of stations unquestionably increases their leverage over MVPDs, potentially leading to distorted fee structures.

Congress could consider several options to address this issue:

1. Reevaluate or eliminate must-carry requirements for broadcasters on MVPD systems.
2. Limit the number of stations that may be negotiated together in retransmission consent agreements.

3. Prohibit bundling practices and require separate negotiations for broadcast stations and affiliated cable networks

b) If Congress does not create new consumer protections, what specific, checkable commitments would you support from large station groups to reduce consumer harm?

Answer. I believe the FCC and Congress should establish clear limits on the number of major television stations a single group may own within a given market. These limits could vary based on market size.

For example:

- In the top 20 markets, a station group could be limited to owning one major station.
- In markets ranked 21–50, ownership could hypothetically be limited to two stations.
- In markets ranked above 50, ownership could potentially be capped at three stations.

These parameters are only hypothetical to explain one approach. I believe such tiered limits would better reflect market dynamics while preserving competition and localism.

Emergency Communications and Consolidated Newsrooms

Question 1. I know that my constituents depend on local broadcasters for urgent, life-saving information, and the hearing discussed how consolidation could affect coverage. But I want to know what specific baseline expectations should apply if ownership limits are loosened and newsrooms are combined.

a) If one company owns multiple stations in a market and combines news operations, what specific, checkable expectations should apply to make sure emergency coverage stays strong?

b) If you don't support new requirements, what measurable items should Congress require stations to report so communities can confirm consolidation isn't weakening emergency response?

Answer. I do not believe I am fully qualified to address this question in detail. However, consolidation tends to reduce local newsroom staffing and local coverage, which may in turn diminish the depth and responsiveness of television news coverage during local emergencies.

Newsmax does not take a formal position on specific regulatory requirements related to emergency communications.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO CURTIS LEGEYT

Question 1. Sec. 629 of the 2004 Consolidated Appropriation Act gave broadcasters two years to divest and come into compliance with the new 39 percent cap.

a. Yes or No: did the FCC enforce this requirement and did broadcasters comply with that divestiture directive at that time?

Answer. No, the FCC did not enforce this requirement against any particular broadcaster because *all* broadcast TV station groups were below the 39 percent cap in 2004. Indeed, Congress directed the FCC to update its rules to reflect a 39 percent cap at that time because it, along with the UHF discount, was set to ensure that every broadcast group was below the limit.

b. If Congress truly left the FCC with broad authority to adjust the cap going forward, why did Congress force companies to incur the time and expense to meet a limit that the Commission could later change or undo?

Answer. Congress did not force any companies to incur any time or expense to meet the 39 percent audience reach cap. When the 39 percent cap was adopted in 2004, no broadcast TV station group exceeded that limit. Indeed, Congress directed the FCC to update its rules to reflect a 39 percent cap at that time because it, along with the UHF discount, was set to ensure that every broadcast group was below the limit.

Question 2. What would be the practical impact on large broadcast deals if a court were to rule that the FCC lacks the authority to change the 39 percent national television cap?

Answer. If a court ruled that the FCC lacked authority to change the 39 percent cap, and that ruling was upheld, then the FCC's 39 percent national audience reach rule would remain and continue to limit broadcasters' ability to acquire stations that theoretically are capable of reaching more than 39 percent of U.S. television households.

Question 3. Given the litigation risk and uncertainty around the FCC's authority to change the 39 percent cap, why hasn't NAB focused on getting Congress to clarify or update the statute and provide greater legal certainty for the major deals that are now pending?

Answer. NAB agrees with the FCC's consistent position that it has the authority to alter its National Television Ownership Cap Rule and believes that a reviewing court would uphold FCC action to change or repeal that rule.

Response to Written Questions Submitted by Hon. Maria Cantwell to Curtis LeGeyt

AI Investment in Local Journalism. AI companies are training their models on decades of quality journalism. *The New York Times* and *Wall Street Journal* have the resources to fight back—and they are, in court. But what about the *Yakima Herald-Republic*? Or the *Spokesman-Review* in Spokane? They don't have the resources for this.

Some licensing deals are getting done—OpenAI and the Associated Press, for example. But there is far more litigation than there are agreements, and local outlets are being left out entirely.

Journalists deserve compensation and attribution for the content they produce. That's why Senator Blackburn and I introduced the bipartisan COPIED Act to keep AI companies from using journalists' content without consent.

Local news is the supply chain that AI companies are using to train their models and improve their products. If they use it all up and don't replenish it with new local content, there won't be any quality, local information for their models.

Question 1. Should AI companies contribute to preserving and rebuilding local journalism?

Answer. Yes.

Broadcasters invest billions of dollars each year in reporters, meteorologists, producers, engineers and technology to deliver trusted news and lifesaving information free and over the air.

At the same time, Big Tech platforms and AI developers are ingesting that content, often without permission, attribution or compensation. As we have seen repeatedly, these platforms act as gatekeepers—deciding what content is seen, how it is monetized and how much revenue is returned to the content creator.

If AI systems are trained on the backs of local journalists while advertising dollars continue to migrate to global tech platforms that do not reinvest in local communities, the result will be fewer reporters and diminished local coverage. That is not a sustainable model.

Innovation should not come at the expense of the very journalism that fuels it. Fair compensation, meaningful consent and respect for intellectual property are essential if we expect local journalism to survive in the AI era.

Sports Broadcasting. College sports fans today face a nearly impossible landscape. On a typical Saturday this past fall, fans needed access to as many as 24 different platforms to watch every college football game—ESPN, ESPN+, Peacock, Paramount+, Fox, the Big Ten Network, the SEC Network, the ACC Network, and on and on.

Sports fans are now spending over $100 a month on streaming apps just to keep up. Meanwhile, the games that air on free, over-the-air broadcast television consistently draw the biggest audiences.

Texas-Ohio State on Fox drew 16.6 million viewers. When games move behind paywalls, viewership drops, and fans get shut out—particularly in rural communities and smaller markets without reliable broadband.

This is a problem for fans. But it is also a problem for colleges. Less visibility means less fan engagement, less alumni support, and less exposure for student athletes. That is especially true for mid-major schools and women's and Olympic sports that are already struggling for airtime.

My SAFE Act would require football and basketball games to be available for free in a school's local market on at least one broadcast outlet. It would also allow colleges to pool their media rights—the way professional leagues can—so smaller schools aren't left behind.

Question 1. What are the benefits to colleges and to local communities when games are available on free, over-the-air television instead of behind a paywall?

Answer. Consumer access to sporting events through free, over-the-air television has long been a cornerstone of the American sports fan experience. As distribution becomes more fragmented across streaming services and paywalls, fans face higher costs and greater confusion just to follow their teams. Just last week, the FCC requested comment on how the fragmentation of sports programming across myriad subscription streaming services has frustrated consumers and affected TV broadcasters' ability to obtain rights to popular sports programming and to meet their public interest obligations, including their production of local news and reporting. Public Notice, *FCC's Media Bureau Seeks Comment on Sports Broadcasting Practices and Marketplace Developments,* MB Docket No. 26–45, DA 26–188 (Feb. 25, 2026).

Local broadcasters provide the widest reach for live events, bringing fans together to celebrate their favorite teams. Free broadcast television requires no subscription, no broadband package and no monthly fee. That universal accessibility ensures that families—including those in rural communities and those without reliable high-speed internet—are not shut out of the moments that unite their communities.

When games remain available over the air, colleges benefit from broader exposure, stronger alumni engagement and deeper community connection. Student-athletes gain visibility. Communities gain shared experiences. And sports remain accessible to the public—not just to paying subscribers.

Preserving the ability of broadcasters to compete for sports rights helps ensure that sports remain widely available and continue to serve as a unifying civic experience rather than a fragmented, paywalled product.

Question 2. How can increased access to college sports on local broadcast stations help support women's and Olympic sports programs that are struggling for visibility?

Answer. When sports are placed on free, over-the-air platforms, they reach the broadest possible audience. That exposure supports sponsorship opportunities, strengthens recruiting, and deepens community engagement.

Expanding access to women's and Olympic sports on broadcast television ensures these programs are not relegated to inaccessible, paywalled digital outlets, but are easily accessible for free, over-the-air.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HICKENLOOPER TO CURTIS LEGEYT

Local News Production: Uplifting local voices and independent journalism is a bipartisan priority that many of us share. However, the FCC recently eliminated the "Main Studio Rule", which allows station groups to produce broadcast segments far away from the communities they serve.

For a mountain community in the San Luis Valley or the Western Slope, 'local news' produced in a different media market is not local at all.

Question 1. How would lifting the national ownership cap bring more local voices to rural Colorado when the FCC's elimination of the main studio rule already allows broadcasters to move production hundreds of miles away from the communities they serve?

Answer. Rural stations operate with far smaller revenue bases than stations in major markets. In mid-sized and small markets, average station advertising revenues are only a fraction of those in the largest markets. At the same time, local news production is expensive—requiring investment in reporters, meteorologists, equipment, facilities and technology. Fewer than half of television stations now report their local news operations as profitable.

Data show that as broadcast groups have achieved greater scale, total local news output has actually increased. Economies of scale allow stations to spread fixed costs, invest in newsroom staff, upgrade equipment, and sustain coverage in communities that otherwise might not support a standalone operation.

The elimination of the main studio rule did not eliminate broadcasters' public interest obligations. Stations remain licensed by the FCC, subject to license renewal review, public file requirements, political broadcasting requirements, emergency alert compliance and accountability to their communities. In order to continue to meet those obligations, broadcasters must be allowed to compete effectively so they can continue investing in local voices, local news and emergency service in the communities they are licensed to serve.

Question 2. Does further consolidation not risk turning these local stations into empty 'ghost' newsrooms?

Answer. Local news production is expensive. From 2003 to 2018, news costs, on average, accounted for about a quarter of local television stations' total expenses, while news costs often have accounted for around one-third of many major network affiliated stations' total expenses. Yet fewer than half of TV stations now report their news operations as profitable.

Importantly, the data show that scale has not reduced local news output—it has increased it. Between 2011 and 2023, the number of local news telecasts actually increased by 41.7 percent and total hours of local news increased by nearly 50 percent. Economies of scale have enabled reinvestment in news production, particularly in mid-sized and smaller markets.

The evidence does not support the notion that scale automatically produces "ghost" newsrooms. What the data show is that allowing stations to achieve sufficient scale can help sustain—and even expand—local news output in the face of significant marketplace disruption.

Colorado Impact: While we all agree our broadcasters serve an important role in our communities, the best interests of Coloradans are top of mind.

In the Denver market, a Nexstar and Tegna merger could combine Fox 31 and 9 News stations. This creates a concentrated duopoly with less competition.

Question 3. Do you believe Coloradans have the necessary assurances there won't be newsroom layoffs or independent voices drowned out in Colorado if the FCC allows for additional stations to consolidate? Why or why not?

Answer. First, I want to be clear that NAB is not advocating for the approval of any particular merger, including the pending transaction to which you are referring. The FCC's public interest standard requires case-by-case review of proposed transactions to ensure service to local communities is strengthened.

However, the current antiquated broadcast ownership restrictions do not even allow these case-by-case evaluations to take place, stopping many potential transactions at the outset, regardless of their merits. What we know from today's marketplace is that maintaining outdated restrictions does not guarantee newsroom stability. In fact, it constrains broadcasters' ability to compete and generate the revenue needed to sustain reporters, meteorologists and investigative journalists.

The focus of any evaluation of a transaction should remain on whether that transaction enhances investment in local services, including news and emergency reporting, and preserves free access to trusted programming. Artificial caps that weaken broadcasters' competitive position against global tech companies and streaming platforms do not serve those goals.

Merger Review & Political Influence: Every state values the importance of independent, diverse, and community-based media.

In every issue for which the FCC has jurisdiction–it is essential every decision be made solely based on the facts, to benefit the public interest, and be free of political influence. The President recently *stated:*

> "We need more competition against THE ENEMY, the Fake News National TV Networks. Letting Good Deals get done like Nexstar-Tegna will help knock out the Fake News because there will be more competition, and at a higher and more sophisticated level," the President wrote. "Those that are opposed don't fully understand how good the concept of this Deal is for them, but they will in the future. GET THAT DEAL DONE! PRESIDENT DJT."

Question 4. While the President is free to express his views, does the President publicly advocating for or against a merger create an appearance of political influence?

Answer. The Communications Act entrusts the FCC with the responsibility to evaluate transactions under the public interest standard. Confidence in the regulatory process depends on decisions grounded in the evidentiary record and the law. It is essential that merger review remains independent, fact-based, and consistent with statutory obligations.

Question 5. Does the term "Fake News Media" appear in the Communications Act? Please answer yes or no.

Answer. No.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA BLUNT ROCHESTER TO CURTIS LEGEYT

Emergency Communications and Consolidated Newsrooms

Question 1. I know that my constituents depend on local broadcasters for urgent, life-saving information, and the hearing discussed how consolidation could affect coverage. But I want to know what specific baseline expectations should apply if ownership limits are loosened and newsrooms are combined.

a. If one company owns multiple stations in a market and combines news operations, what specific, checkable expectations should apply to make sure emergency coverage stays strong?

b. If you don't support new requirements, what measurable items should Congress require stations to report so communities can confirm consolidation isn't weakening emergency response?

Answer. As you note, local broadcasters play a unique and critical role in keeping communities informed, particularly when faced with emergencies and natural disasters. When wildfires spread, hurricanes make landfall, or a child goes missing, viewers turn to their local stations—free and without a paywall—for verified, lifesaving information.

Local broadcasters already have unique public interest obligations—and extensive reporting requirements at the FCC—that no streaming platform or Big Tech company bears.

Specifically, stations must already:

- Maintain and certify operational compliance with the Emergency Alert System (EAS), including participation in national and state tests and filing required reports in the FCC's ETRS system;
- Maintain quarterly Issues/Programs Lists in their online public inspection files demonstrating how they serve community needs;
- Comply with political broadcasting and reporting requirements under the Communications Act of 1934 and FCC rules;
- Request renewal of their licenses every eight years by filing license renewal applications certifying compliance with FCC rules and public interest obligations, which local viewers may oppose if they believe their stations have failed to serve their local communities;
- Maintain technical operations consistent with FCC authorization to ensure reliable transmission capability during emergencies.

The most effective safeguard for emergency coverage is ensuring that local stations have the economic capacity to sustain these operations in a marketplace increasingly dominated by global platforms that bear none of these obligations.

Strong emergency service depends on strong local stations. Policies that allow broadcasters to compete effectively are essential to preserving that lifeline.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO THOMAS JOHNSON

Question 1. Sec. 629 of the 2004 Consolidated Appropriation Act gave broadcasters two years to divest and come into compliance with a new 39 percent cap.

a. Did broadcasters comply with that divestiture directive at that time?

Answer. I am not personally aware of any instances of a broadcaster having an audience reach above 39 percent at the time the 2004 CAA was passed. There was public reporting at the time that Congress selected 39 percent to accommodate then-existing ownership levels at certain large stations groups. *See, e.g.,* Frank Ahrens, *Compromise Puts TV Ownership Cap at 39 percent,* The Washington Post (Nov. 25, 2003), https://tinyurl.com/4vrz27hs. But I do not have independent knowledge on whether that was the case.

b. If Congress left the FCC with broad authority to adjust the cap going forward, why did Congress force companies to incur the time and expense to meet a limit the Commission would later change or undo?

Answer. As noted above, I am not aware of evidence supporting the conclusion that existing station groups had to incur time and expense to come into compliance with the 39 percent ownership cap in 2004.

In my view, the divestiture provision allows any parties that may exceed the cap through acquisition of additional stations (whether at the time of enactment or in the future) a two-year grace period to come into compliance with the cap, without requiring immediate action at the time of acquisition or impeding the closing of a pending transaction.

That grace period is explicitly tied to the "39 percent national audience reach limitation in paragraph (1)(B)." As I testified at the hearing, and as the courts have determined, by directing the FCC in paragraph (1)(B) to "modify its rules," Congress required a one-time change to the Commission's rules, and did not enact an unchangeable mandate.

Should the Commission change its rules to eliminate any cap on national audience reach, the divestiture provision would cease to have continued operation. But that is nothing unusual. Congress routinely adopts provisions—such as sunset dates, judicial review channeling provisions, or directions to conduct rulemakings or submit reports—that have time-limited application. And the FCC would be free in any proceeding to modify any of its ownership rules to adopt similar grace periods, as appropriate, as a matter of its general rulemaking authority.

Congress, likewise, could choose to modify or eliminate any of the FCC's ownership rules as it deems appropriate.

Question 2. It's been more than two decades since Congress directed the FCC to set the national TV ownership cap at 39 percent. Although the FCC has adjusted inputs such as the "UHF discount" and the way the "national audience reach" is calculated, the 39 percent numerical cap has never changed. Why has the FCC never changed it?

Answer. The FCC has changed aspects of the cap, including by removing and then reinstating the UHF discount in 2016 and 2017, respectively. The 2016 removal of the UHF discount had the practical effect of significantly tightening the cap. I do not have personal knowledge on why the FCC did not change the numerical cap between 2004 and the present.

Based on my own experience as FCC General Counsel, and as evidenced by this hearing, I can say that the national television ownership cap is a highly-contested public policy issue. Thus, the rulemaking dockets the FCC has opened in this area have invited extensive public participation with divergent views on issues including whether to keep the cap at the current level, eliminate the cap entirely, or set the cap at a different level; various proposals on the appropriate cap level; whether to keep or eliminate the discount for UHF stations; whether to adopt a separate discount for VHF stations; and other issues. The number and complexity of competing proposals and the frequency with which FCC leadership rotates with changes in administration may have contributed to the numerical cap remaining at 39 percent.

As I testified, I hope that current FCC leadership will finally repeal the national television audience reach cap and the remainder of the FCC's outdated, prescriptive ownership rules.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HICKENLOOPER TO THOMAS JOHNSON

Ownership Cap: Your testimony before the committee argues the FCC has the authority to issue a waiver around a broadcast ownership cap established by Congress in law.

While there is no doubt today's media sector continues to rapidly evolve, it is imperative that Congress works in a bipartisan manner to address new challenges head-on.

Question 1. If the FCC were to simply "waive" a broadcast rule without input from Congress, what is to stop a station group from eventually controlling the primary news signal for every household in the Mountain West?

Answer. There would be several protections against this degree of media consolidation. First, the FCC's waiver authority is transaction-specific and requires a showing that good cause supports grant of a waiver. If the FCC were to waive a rule in the context of a specific transaction, that is no guarantee it would grant such a waiver in another context. The effect on the competitive marketplace is a fact-specific inquiry the FCC could consider in determining whether good cause for a waiver exists.

Second, as I testified at the hearing, the FCC's public interest standard includes competition as a core consideration. As a competition agency, the FCC considers the impact of approving a transaction involving license transfers on the choices available to consumers in a given market.

Third, as I also testified, FCC licensees, including broadcasters, may be unique in having to clear *two* levels of competition review at the Federal government—before the FCC and the Department of Justice. Even without any FCC review of a transaction, the Department of Justice would still conduct its normal competition review to ensure that any media transaction complies with the antitrust laws.

Fourth, and finally, government oversight is not the only factor that influences media consolidation. Market forces and consumer preferences also play a prominent role. Indeed, as this hearing showed, competition in the media ecosystem is so fierce and fast developing—including a dizzying array of cable, satellite, and streaming and other online options—that broadcasters face existential headwinds. It is precisely because consumers in areas outside large coastal cities (like the Mountain West) have so many global and national media behemoths vying for their attention that Congress and the FCC should remove unnecessary barriers on local broadcasters to give them a chance to compete and effectively serve their local communities.

Merger Review & Political Influence: Every state values the importance of independent, diverse, and community-based media.

In every issue for which the FCC has jurisdiction–it is essential every decision be made solely based on the facts, to benefit the public interest, and be free of political influence. The President recently *stated:*

> "We need more competition against THE ENEMY, the Fake News National TV Networks. Letting Good Deals get done like Nexstar—Tegna will help knock out the Fake News because there will be more competition, and at a higher and more sophisticated level," the president wrote. "Those that are opposed don't fully understand how good the concept of this Deal is for them, but they will in the future. GET THAT DEAL DONE! PRESIDENT DJT."

Question 2. While the President is free to express his views, does the President publicly advocating for or against a merger create an appearance of political influence?

Answer. I have no opinion on how others may perceive the President advocating for or against a merger.

As a legal matter, however, the appearance or reality of political influence is not inherently impermissible under the Communications Act. Congress contemplated that democratically accountable, political actors would exercise some degree of oversight over the Commission's operations and decisionmaking. Congress, for example, sets the limits on the Commission's authority and supervises the Commission's activities through appropriations and oversight—including the critical work of this Committee. Article II of the U.S. Constitution, meanwhile, vests the President with the Executive Power of the United States, and the Communications Act provides the President with the authority to designate a Chair of the FCC and to select Commissioners, by and with the advice and consent of the Senate. Indeed, there are prominent recent past examples of Presidential involvement in Commission decisionmaking.[1]

As I testified at the hearing, the Communications Act's "public interest" standard has historically involved the Commission making public policy determinations about how best to promote competition, localism, and viewpoint diversity, given the facts of a specific case. The best way to promote these policies is heavily contested, as this hearing demonstrates, and benefits from some degree of accountability to the people's elected representatives in the political branches.

Question 3. Does the term "Fake News Media" appear in the Communications Act? Please answer yes or no.

Answer. No.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA BLUNT ROCHESTER TO THOMAS JOHNSON

Question 1. Mr. Johnson, you warned that AI could take even more money out of local news by using local reporting to answer questions without sending readers to the original outlet. You also raised solutions like compensation and community-benefit approaches, including contributions tied to data centers and a mitigation fee. But I want to know specific details on how to design these ideas so smaller local outlets benefit too, not just the biggest companies.

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[1] Ryan Knutson, *FCC Chairman Says Obama's Net Neutrality Statement Influenced Rule,* Wall. St. J. (Mar. 17, 2015), *https://tinyurl.com/3ahad58k;* John Eggerton, *Biden Executive Order Has Plenty of Advice for FCC,* Multichannel News (July 9, 2021), *https://tinyurl.com/9zmzfrub.*

a. What concrete design choices would make sure AI compensation reaches small and mid-sized local outlets, and how would you stop the biggest publishers from taking most of the money?

b. If Congress doesn't pursue mandatory compensation, what specific, checkable alternative should it require from AI companies and platforms to support local reporting?

Answer. Respectfully, I believe that Mr. Waldman testified on these issues. I do not have an opinion on them.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO STEVE WALDMAN

Question 1. What have you seen, including from prior mergers, about how increased consolidation has influenced editorial diversity, localism, and the availability of a broad range of Viewpoints?

Answer. Prior mergers offer a clear warning about what increased consolidation can do to editorial diversity, localism, and the range of viewpoints available to communities.

In both newspapers and local television, consolidation and nationalization have in many cases aggravated the local news crisis, leading to fewer reporters in communities and less, or more superficial, coverage of school boards, economic development, elections, social problems, and civic life.[1]

In the broadcast television space, when a company owns multiple stations in the same market, the evidence shows that consolidation of newsroom operations is already occurring at significant scale. Duplication is already occurring in exactly two-fifths of U.S. television markets, and the average duplication rate among those markets is 65 percent.[2] As a result, many communities are not receiving local news but the mirage of it—the appearance of diverse voices delivering less and less original reporting. And that is before any further consolidation has occurred. A recent DirecTV filing with the FCC examining all Big Four duopolies and triopolies found that 98.2 percent share news directors and 97.3 percent share news talent, meaning that in nearly every case where one company owns multiple stations in a market, those stations are not maintaining separate reporting staffs.[3]

As for coverage levels, studies have shown that Sinclair acquisitions were associated with a roughly 10 percent decline in local and political coverage. On the other hand, while Nexstar acquisitions were associated with an approximately 8 percent increase (while Gray acquisitions showed minimal change).

In other words, while consolidation occasionally does help local news, it often doesn't, and indeed sometimes undermines it. For that reason, we favor either keeping the caps or loosening them but with requirements that the merged entities increase the number of local journalists in a community.[4]

The evidence is even more worrisome when it comes to newspapers. As local papers were bought up by hedge funds or private equity firms, they cut reporters across the country.[5] Mega-mergers financed with massive debt compounded the damage, as news organizations used profits to service loans rather than invest in digital transformation or local coverage. We have even seen the rise of local newspapers with no local reporters at all. In a filing to the Department of Justice and Federal Trade Commission we outlined the evidence there:

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[1] Free Press, "Redacted Copy of NXST/TGNA Petition to Deny" (PDF), *https://www.freepress.net/download/redacted-copy-nxst-tgna-petition-deny-pdf* (accessed Feb. 6, 2026).

[2] Danilo Yanich and Benjamin E. Bagozzi, "Reusing the News: Duplicating Local TV Content," Biden School of Public Policy & Public Administration, University of Delaware, August 2025. *https://udspace.udel.edu/server/api/core/bitstreams/414834a9-fa05-4be0-a5cd-9b317fdbe02b/content*

[3] Andreeva, Nellie. "TV Station Group Consolidation Leaves Markets With Less Local News, According to New Study That DirecTV Has Filed With the FCC." *Variety,* February 2026. *https://variety.com/2026/tv/news/directv-fcc-filing-local-news-station-consolidation-1236671877/.*

[4] Gregory Martin, Arianna Ornaghi, Nicola Mastrorocco and Joshua McCrain, "Media Consolidation," working paper, May 28, 2024, *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4951078.*

[5] Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," NBER Working Paper 29743 (2022), *https://doi.org/10.3386/w29743 ;* Steven Waldman, "The local news crisis illustrates the inadequacy of the current antitrust approach," Rebuild Local News, May 8, 2024, *https://www.rebuildlocalnews.org/the-local-news-crisis-illustrates-the-inadequacy-of-the-current-antitrust-approach/*

Media consolidation was not the primary cause of the collapse of local news—but in many cases it has seriously intensified the harm, promises to make the situation worse in coming years, and has limited the ability of communities to address the crisis.

The crisis in local news stems primarily from the Internet undercutting the traditional business models. Specifically, many advertisers reduced or eliminated their spending in local newspapers and instead placed ads on websites, search engines or social platforms. The combination of factors led to a dramatic drop in revenue in the newspaper industry—a staggering 81 percent decline in ad revenue from 2000 to 2020.

The nature of newspaper consolidation has changed in the past few decades as acquisitions by private equity and hedge funds have increased, and made matters worse. From 2004 to 2016, more than *300 newspapers had been sold or traded.* In 2004, the 25 largest chains owned less than one third of the daily newspapers. *By 2020, they owned 70 percent.* In the past 15 years, as a result of serial acquisitions, the number of newspaper owners has dropped from about 4,000 to 2,400. "Massive consolidation in the newspaper industry has shifted editorial and business decisions to a few large corporations without strong ties to the communities where their papers are located," concluded the major study of news deserts completed by *Professor Penny Muse Abernathy,* when she was at the University of North Carolina school of communications.

Many of these transactions involve private equity firms or hedge funds. "At their peak in 2016, six of the 10 largest newspaper chains were owned and operated by private equity firms or other investment entities," the same study found. Since then some of the iconic newspapers—the Chicago Tribune, the Baltimore Sun, the New York Daily News and dozens of others—have also been *acquired by private equity or hedge funds.* The study also found that more than 1,000 newspapers are now controlled by *"hybrid" companies* that are both publicly traded and yet controlled by financial institutions.

These mergers have likely accelerated and intensified harm to communities. A *recent study by Michael Ewens, Arpit Gupta, and Sabrina T. Howell* found that newspapers acquired by private equity firms were more likely to cut the number of reporters and the amount of local coverage. "The composition of news shifts away from local governance, the number of reporters and editors falls, and participation in local elections declines," they concluded.

The number of reporters fell from 6.2 to 3.8 at newspapers that were acquired by a private equity firm. By comparison, for other types of newspapers, the number of reporters fell far more modestly, from 7.3 to 6.1. The number of editors at these papers fell from 9.1 to 6.1, compared to a drop of just 5.7 to 5.4 at other papers.

The number of articles about local government at newspapers acquired by private equity firms fell from 5,700 to 2,500 after an acquisition, "a significant negative effect." For those newspapers not owned by private equity firms, the drop was smaller, from 5,200 to 4,400. They even found that these changes in coverage led to lower voting turnout and a greater percentage of residents having no opinion about their member of Congress.

By contrast, the study showed that family-owned newspapers were more likely to maintain higher levels of local news coverage and reporting staff. An increasing number of local news organizations, both nonprofit and commercial, have been able to achieve financial sustainability when they don't have the burden of debt payments or high EBITDA goals required by publicly-traded companies.

The Ewens, Gupta and Howell study did not consider Alden Global Capital to be a private equity firm. Alden has cut reporting staff more than other companies. So their inclusion could make the numbers even more alarming. Abernathy in 2018 found that newspapers owned by Alden cut staff at roughly twice the rate of the national average.

Another study by Benjamin LeBrun, Kaitlyn Todd and Andrew Piper looked at 130,000 articles at 31 corporate-owned local newspapers. They concluded that "corporate acquisition leads to a significant reduction in the amount of local news disseminated by affected publications."

In some cases, a central problem is that the mergers were financed with large amounts of debt at a time when newspaper revenues were declining. For instance, the 2019 acquisition of Gannett by Gatehouse, a smaller company, was financed through *$1.8 billion in debt financing.* The firm now owns 479 newspapers. Since 2019, the company has *shed almost half of its staff.* During much of that period it was managed by the private equity firm Fortress, and much of its debt is held by the private equity firm Apollo Capital Management. Even if managers are well intentioned, their options are limited. In its 2021 annual 10k filing with the Securities and Exchange Commission, Gannett declared that one of its risk factors was that *"we are required to dedicate a substantial portion of cash flow from operations to fund interest payments."*

Of course, these are general tendencies. There are exceptions and nuances. For instance, there may be some instances in which a local newspaper is on the edge of closing and an acquisition by a private equity firm is, in the short term, the only way to keep the newsroom open. The Ewens-Gupta-Howell study found that while newspapers bought by private equity firms were more likely to cut the number of local stories, they were less likely to shut down the newspaper. The McClatchy newspaper chain, now owned by the private equity firm Chatham Capital, has stated that it is maintaining or *growing staffing levels.* It could well be that the problem is not bigness per se but mergers involving particular types of entities (with particular ROI needs) and/or involving particular types of financing, especially in an economically declining sector.

In some cases, the loss of newspaper reporters might be offset by the growth of robust nonprofit local news organizations. Although this scenario is currently rare, they could become more common over time, and should be considered as part of an analysis of whether a merger would harm a community.

The acquisition of a newspaper by a chain controlled by a financial institution does not make it more likely that a newspaper will have local monopoly status, but it does make it more likely that that newspaper will use its monopoly status in a way that harms the community and reduces the availability of certain types of information—local reporting.

Beyond civic and social impacts, communities suffer economic harm. Research suggests that consolidation-driven reductions in local business coverage cause measurable declines in local information search, institutional portfolio investment, and retail trading. Information asymmetries due to the loss of local news leave corporate borrowers facing higher costs and stricter lending conditions and ripple effects go beyond even the community itself spreading through supply chains to businesses with no direct connection to a closure.[6] Communities with less local news had higher financing costs and taxes, more government corruption, secrecy and more government waste.[7] At the individual level, residents in news-depleted communities face higher loan denial rates, elevated mortgage costs, and greater exposure to discriminatory pricing as well as higher levels of financial advisor misconduct suggesting

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[6] Le, T. D., & Trinh, T. (2025). Local newspaper closures and suppliers' investment efficiency. *European Journal of Finance, 31*(12), 1529–1550. *https://doi.org/10.1080/1351847X.2025.2513500;* Almamlouk, I., Buckle, M., & Hoque, H. (2024). Blank pages, heavy pockets: The impact of local U.S. daily newspaper closures on corporate cash holdings. SSRN Working Paper 4690974. *https://ssrn.com/abstract=4690974;* Kang, J., & Nam, Y. (2025). Do local newspapers matter to institutional investors? *Contemporary Accounting Research. https://doi.org/10.1111/1911–3846.13049;* Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). *Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. https://doi.org/10.1111/1911-3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." *Journal of Financial and Quantitative Analysis,* 2025. *https://doi.org/10.1017/S0022109025101749;* Chen, Jie, Yang Gao, and Cheng Zeng. "Inequality Grows in Silence: The Impact of Newspaper Closures on CEO-Worker Pay Disparity." SSRN, January 2025. *https://ssrn.com/abstract=5123844.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." *Management Science,* November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.*

[7] Pengjie Gao, Chang Lee, and Dermot Murphy, "Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance," Journal of Financial Economics 135, no. 2 (February 2020): 445–467, *https://doi.org/10.1016/j.jfineco.2019.06.003.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." *Management Science,* November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.*Matherly, T., & Greenwood, B. N. (2024). *No news is bad news: The internet, corruption, and the decline of the Fourth Estate.* MIS Quarterly, 48(2), 699–714. *https://doi.org/10.25300/MISQ/2023/17869;* Filipe R. Campante and Quoc-Anh Do, "Isolated Capital Cities, Accountability, and Corruption: Evidence from U.S. States," *American Economic Review* 104, no. 8 (August 2014): 2456–81, *https://doi.org/10.1257/aer.104.8.2456.* Posner-Ferdman, B., & Cuillier, D. (2025). Dark deserts: Newspaper decline and its relation to government non-compliance with public records laws. News Research Journal, 46(3), 427–445. *https://doi.org/10.1177/30497841251357976.*

that the erosion of local oversight leaves ordinary borrowers with less protection and less recourse.[8]

Question 2. It's been 22 years since Congress last weighed in on the national ownership cap. Is 39 percent still the right threshold? And is a national ownership cap the best way to safeguard viewpoint diversity and competition—or could harmful concentration be better managed with market-by-market or alternative protections?

Answer. Our coalition has not taken a position on the specific threshold or on the FCC's statutory authority to modify it. But we do believe that localism—and specifically the provision of local reporting and coverage—should be the primary lens through which this policy and individual mergers should be viewed. We are in the midst of a dramatic collapse of local news. We've seen a 75 percent drop in the number of local reporters since 2002. Ill conceived ownership rules could make the problem worse. We should not just lift the caps and hope for the best.

Policies could be considered that would put teeth in these concepts:

For instance, one could keep the 39 percent cap and provide individualized exemptions if the specific merger met certain conditions. The conditions could include a net increase in the total number of local reporters and producers at the combined entities.

More creatively, the FCC could consider allowing stations to "buy out" of that requirement by making a comparable donation to a community foundation to establish perpetual endowments for the purpose of adding a comparable number of local reporters within the community even if it is not at the TV station. If a broadcaster decides that in the long run, their financial viability requires them to cut the size of their newsroom by 10 people, then they would write a check to allow for the permanent hiring of 10 local reporters deployed elsewhere. The stations get more flexibility to scale, while the community maintains or grows its local coverage.

Another idea to consider would be requiring that TV set manufacturers carry local news being provided by local broadcasters on the main screen. This is akin to the "AM Radio for Every Vehicle Act." It gives meaning to the repeated desire of Congress to encourage localism, including the provision of community news.

We do have sympathy for the broadcasters' argument that they work under regulatory constraints that streamers and other Big Tech companies do not. One way of dealing with that would be to assess a mitigation fee against Big Tech companies and use the money for a politically-neutral, First-Amendment-friendly effort to support local news. For instance, it could help pay for legislation like that currently being pushed by Republican lawmakers in New Hampshire to give tax relief to small businesses that advertise in local news. Or one could consider legislation like that proposed by Republican Rep. Claudia Tenney and Sen. Cantwell, an employment credit for local news outlets that retain or hire local reporters. This can be available for local TV stations too, providing incentives and resources for them to invest more in local coverage, as many of the great local stations would like to do.

Response to Written Questions Submitted by Hon. Maria Cantwell to Steve Waldman

Media Consolidation and Journalism. In the last fifteen years, the five largest station groups have added over 500 stations to their ownership portfolios. That market concentration could grow even more, with the Nexstar-Tegna merger and Sinclair's hostile takeover attempt of Scripps.

Researchers from the University of Chicago looked at how increased consolidation impacts the content and coverage of local newscasts.

They found that when Sinclair acquired a station, coverage of local events and local politics declined by about 10 percent. A 2025 study by the University of Delaware found that in nearly two-fifths of TV markets, stations controlled by the same

[8] Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). *Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. https://doi.org/10.1111/1911–3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." *Journal of Financial and Quantitative Analysis,* 2025. *https://doi.org/10.1017/S0022109025101749.*

company air newscasts that are word-for-word identical more than 50 percent of the time.

Question 1. Mr. Waldman, do you expect further consolidation to lead to further reductions in local newsroom jobs and locally-produced content?

Answer. With both newspapers and local television, consolidation and nationalization have in many cases aggravated the local news crisis, leading to fewer reporters in communities and less, or more superficial, coverage of school boards, economic development, elections, social problems, and civic life.[1]

In the broadcast television space, when a company owns multiple stations in the same market, the evidence shows that consolidation of newsroom operations is already occurring. Duplication is already occurring in two-fifths of U.S. television markets, and the average duplication rate among those markets is 65 percent.[2] As a result, many communities are not receiving local news but the mirage of it, the appearance of diverse voices along with less and less original reporting. A recent DirecTV filing with the FCC examining all Big Four duopolies and triopolies found that 98.2 percent share news directors and 97.3 percent share news talent, meaning that in nearly every case where one company owns multiple stations in a market, those stations are not maintaining separate reporting staffs.[3]

As for whether consolidation leads to less local coverage, studies are mixed. Sinclair acquisitions were associated with a roughly 10 percent decline in local and political coverage. On the other hand, Nexstar acquisitions were associated with an approximately 8 percent increase (while, and Gray acquisitions showed minimal change.)

Our takeaway: while consolidation occasionally does help local news, it often doesn't. For that reason, we favor either keeping the caps or loosening them but with requirements that the merged entities increase the number of local journalists in a community.[4]

The evidence is even more worrisome when it comes to newspapers. As local papers were bought up by hedge funds or private equity firms, they cut reporters across the country.[5] Mega-mergers financed with massive debt compounded the damage, as news organizations used profits to service loans rather than invest in digital transformation or local coverage. We have even seen the rise of local newspapers with no local reporters at all.

In a filing to the Department of Justice and Federal Trade Commission, we outlined the evidence:

Media consolidation was not the primary cause of the collapse of local news—but in many cases it has seriously intensified the harm, promises to make the situation worse in coming years, and has limited the ability of communities to address the crisis.

The crisis in local news stems primarily from the Internet undercutting the traditional business models. Specifically, many advertisers reduced or eliminated their spending in local newspapers and instead placed ads on websites, search engines or social platforms. The combination of factors led to a dramatic drop in revenue in the newspaper industry—a staggering 81 percent decline in ad revenue from 2000 to 2020.

The nature of newspaper consolidation has changed in the past few decades as acquisitions by private equity and hedge funds have increased, and made matters worse. From 2004 to 2016, more than *300 newspapers had been sold or traded.* In 2004, the 25 largest chains owned less than one third of the daily newspapers. *By 2020, they owned 70 percent.* In the past 15 years, as a result of serial acquisitions,

[1] Free Press, "Redacted Copy of NXST/TGNA Petition to Deny" (PDF), *https://www.freepress.net/download/redacted-copy-nxst-tgna-petition-deny-pdf* (accessed Feb. 6, 2026).

[2] Danilo Yanich and Benjamin E. Bagozzi, "Reusing the News: Duplicating Local TV Content," Biden School of Public Policy & Public Administration, University of Delaware, August 2025. *https://udspace.udel.edu/server/api/core/bitstreams/414834a9-fa05-4be0-a5cd-9b317fdbe02b/content*

[3] Andreeva, Nellie. "TV Station Group Consolidation Leaves Markets With Less Local News, According to New Study That DirecTV Has Filed With the FCC." *Variety,* February 2026. *https://variety.com/2026/tv/news/directv-fcc-filing-local-news-station-consolidation-1236671877/.*

[4] Gregory Martin, Arianna Ornaghi, Nicola Mastrorocco and Joshua McCrain, "Media Consolidation," working paper, May 28, 2024, *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4951078.*

[5] Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," NBER Working Paper 29743 (2022), *https://doi.org/10.3386/w29743;* Steven Waldman, "The local news crisis illustrates the inadequacy of the current antitrust approach," Rebuild Local News, May 8, 2024, *https://www.rebuildlocalnews.org/the-local-news-crisis-illustrates-the-inadequacy-of-the-current-antitrust-approach/*

the number of newspaper owners has dropped from about 4,000 to 2,400. "Massive consolidation in the newspaper industry has shifted editorial and business decisions to a few large corporations without strong ties to the communities where their papers are located," concluded the major study of news deserts completed by *Professor Penny Muse Abernathy,* when she was at the University of North Carolina school of communications.

Many of these transactions involve private equity firms or hedge funds. "At their peak in 2016, six of the 10 largest newspaper chains were owned and operated by private equity firms or other investment entities," the same study found. Since then some of the iconic newspapers—the Chicago Tribune, the Baltimore Sun, the New York Daily News and dozens of others—have also been *acquired by private equity or hedge funds.* The study also found that more than 1,000 newspapers are now controlled by *"hybrid" companies* that are both publicly traded and yet controlled by financial institutions.

These mergers have likely accelerated and intensified harm to communities. A *recent study by Michael Ewens, Arpit Gupta, and Sabrina T. Howell* found that newspapers acquired by private equity firms were more likely to cut the number of reporters and the amount of local coverage. "The composition of news shifts away from local governance, the number of reporters and editors falls, and participation in local elections declines," they concluded.

The number of reporters fell from 6.2 to 3.8 at newspapers that were acquired by a private equity firm. By comparison, for other types of newspapers, the number of reporters fell far more modestly, from 7.3 to 6.1. The number of editors at these papers fell from 9.1 to 6.1, compared to a drop of just 5.7 to 5.4 at other papers.

The number of articles about local government at newspapers acquired by private equity firms fell from 5,700 to 2,500 after an acquisition, "a significant negative effect." For those newspapers not owned by private equity firms, the drop was smaller, from 5,200 to 4,400. They even found that these changes in coverage led to lower voting turnout and a greater percentage of residents having no opinion about their member of Congress.

By contrast, the study showed that family-owned newspapers were more likely to maintain higher levels of local news coverage and reporting staff. An increasing number of local news organizations, both nonprofit and commercial, have been able to achieve financial sustainability when they don't have the burden of debt payments or high EBITDA goals required by publicly-traded companies.

The Ewens, Gupta and Howell study did not consider Alden Global Capital to be a private equity firm. Alden has cut reporting staff more than other companies. So their inclusion could make the numbers even more alarming. Abernathy in 2018 found that newspapers owned by Alden cut staff at roughly twice the rate of the national average.

Another study by Benjamin LeBrun, Kaitlyn Todd and Andrew Piper looked at 130,000 articles at 31 corporate-owned local newspapers. They concluded that "corporate acquisition leads to a significant reduction in the amount of local news disseminated by affected publications."

In some cases, a central problem is that the mergers were financed with large amounts of debt at a time when newspaper revenues were declining. For instance, the 2019 acquisition of Gannett by Gatehouse, a smaller company, was financed through *$1.8 billion in debt financing.* The firm now owns 479 newspapers. Since 2019, the company has *shed almost half of its staff.* During much of that period it was managed by the private equity firm Fortress, and much of its debt is held by the private equity firm Apollo Capital Management. Even if managers are well intentioned, their options are limited. In its 2021 annual 10k filing with the Securities and Exchange Commission, Gannett declared that one of its risk factors was that *"we are required to dedicate a substantial portion of cash flow from operations to fund interest payments."*

Of course, these are general tendencies. There are exceptions and nuances. For instance, there may be some instances in which a local newspaper is on the edge of closing and an acquisition by a private equity firm is, in the short term, the only way to keep the newsroom open. The Ewens-Gupta-Howell study found that while newspapers bought by private equity firms were more likely to cut the number of local stories, they were less likely to shut down the newspaper. The McClatchy newspaper chain, now owned by the private equity firm Chatham Capital, has stated that it is maintaining or *growing staffing levels.* It could well be that the problem is not bigness per se but mergers involving particular types of entities (with particular ROI needs) and/or involving particular types of financing, especially in an economically declining sector..

In some cases, the loss of newspaper reporters might be offset by the growth of robust nonprofit local news organizations. Although this scenario is currently rare, they could become more common over time, and should be considered as part of an analysis of whether a merger would harm a community.

The acquisition of a newspaper by a chain controlled by a financial institution does not make it more likely that a newspaper will have local monopoly status, but it does make it more likely that that newspaper will use its monopoly status in a way that harms the community and reduces the availability of certain types of information—local reporting.

Beyond civic and social impacts, communities suffer economic harm. Research suggests that consolidation-driven reductions in local business coverage cause measurable declines in local information search, institutional portfolio investment, and retail trading. Information asymmetries due to the loss of local news leave corporate borrowers facing higher costs and stricter lending conditions and ripple effects go beyond even the community itself spreading through supply chains to businesses with no direct connection to a closure.[6] Communities with less local news had higher financing costs and taxes, more government corruption, secrecy and more government waste.[7] At the individual level, residents in news-depleted communities face higher loan denial rates, elevated mortgage costs, and greater exposure to discriminatory pricing as well as higher levels of financial advisor misconduct, suggesting that the erosion of local oversight leaves ordinary borrowers with less protection and less recourse.[8]

AI Investment in Local Journalism. AI companies are training their models on decades of quality journalism. *The New York Times* and *Wall Street Journal* have the resources to fight back—and they are, in court. But what about the *Yakima Herald-Republic*? Or the *Spokesman-Review in Spokane*? They don't have the resources for this.

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[6] Le, T. D., & Trinh, T. (2025). Local newspaper closures and suppliers' investment efficiency. European Journal of Finance, 31(12), 1529–1550. *https://doi.org/10.1080/1351847X.2025.2513500;* Almamlouk, I., Buckle, M., & Hoque, H. (2024). Blank pages, heavy pockets: The impact of local U.S. daily newspaper closures on corporate cash holdings. SSRN Working Paper 4690974. *https://ssrn.com/abstract=4690974;* Kang, J., & Nam, Y. (2025). Do local newspapers matter to institutional investors? Contemporary Accounting Research. *https://doi.org/10.1111/1911-3846.13049;* Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. *https://doi.org/10.1111/1911-3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." Journal of Financial and Quantitative Analysis, 2025. *https://doi.org/10.1017/S0022109025101749;* Chen, Jie, Yang Gao, and Cheng Zeng. "Inequality Grows in Silence: The Impact of Newspaper Closures on CEO-Worker Pay Disparity." SSRN, January 2025. *https://ssrn.com/abstract=5123844.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." Management Science, November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.*

[7] Pengjie Gao, Chang Lee, and Dermot Murphy, "Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance," Journal of Financial Economics 135, no. 2 (February 2020): 445–467, *https://doi.org/10.1016/j.jfineco.2019.06.003.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." Management Science, November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.* Matherly, T., & Greenwood, B. N. (2024). No news is bad news: The internet, corruption, and the decline of the Fourth Estate. MIS Quarterly, 48(2), 699–714. *https://doi.org/10.25300/MISQ/2023/17869;* Filipe R. Campante and Quoc-Anh Do, "Isolated Capital Cities, Accountability, and Corruption: Evidence from U.S. States," American Economic Review 104, no. 8 (August 2014): 2456–81, *https://doi.org/10.1257/aer.104.8.2456.* Posner-Ferdman, B., & Cuillier, D. (2025). Dark deserts: Newspaper decline and its relation to government non-compliance with public records laws. News Research Journal, 46(3), 427–445. *https://doi.org/10.1177/30497841251357976.*

[8] Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. *https://doi.org/10.1111/1911-3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." Journal of Financial and Quantitative Analysis, 2025. *https://doi.org/10.1017/S0022109025101749*

Some licensing deals are getting done—OpenAI and the Associated Press, for example. But there is far more litigation than there are agreements, and local outlets are being left out entirely.

Journalists deserve compensation and attribution for the content they produce. That's why Senator Blackburn and I introduced the bipartisan COPIED Act to keep AI companies from using journalists' content without consent.

Local news is the supply chain that AI companies are using to train their models and improve their products. If they use it all up and don't replenish it with new local content, there won't be any quality, local information for their models.

Question 1. Should AI companies contribute to preserving and rebuilding local journalism?

Answer. Yes. The framing in your question that local news is the supply chain AI companies are using to train their models is exactly right, and it points to what I described in my written testimony as a vicious cycle. AI undermines local news; the lack of local news, in turn, makes AI's quality worse. Fortunately, a virtuous circle can be created: if AI helps revive local news, it will make AI results higher quality. The AI industry ought to view itself as having a stake in reviving local news.

We know AI struggles when there's a dearth of information on a topic.[9] It is more likely to be inaccurate and spread misinformation. Many communities similarly suffer from this "information scarcity." We've invented whole new terms—"news deserts" and "ghost newspapers"—to capture how barren the local news ecosystems in some of these areas are. Not surprisingly, AI has struggled to get local information right. Studies have found that AI assistants often flubbed[10] information about local elections,[11] including how to register, where to vote,[12] the positions of candidates,[13] and how disabled people[14] could vote.

At the same time, AI companies extract tremendous value from local news content to train and ground their models. Their AI assistants then provide full answers to users rather than linking prominently to the original publisher websites. That kills the referral traffic that local news outlets depend on for revenue. Weakened local newsrooms produce less original reporting. And that information scarcity, in turn, makes AI systems less accurate and more prone to error on local matters, which studies have already documented extensively with respect to local elections, candidates, and civic information.

The AI companies are, in effect, depleting the very resource they depend upon. That is not a sustainable model for them or for communities. We support the COPIED Act's core principle that consent and agreements for compensation must precede use. Beyond that legislative framework, I would suggest additional mechanisms.

First, consider ideas like those proposed by the Center for Journalism and Liberty such as allowing small publishers to bargain collectively and requiring AI companies to provide detailed summaries of training data sources.[15]

Second, local efforts around the construction of data centers should include the health of local information and journalism in the discussions, one option could be

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[9] Philip M. Napoli, "AI Needs Us More Than We Need It," Washington Monthly, Oct. 29, 2024, *https://washingtonmonthly.com/2024/10/29/ai-needs-us-more-than-we-need-it/*

[10] Democracy Reporting International, "Are Chatbots Misinforming Us About the European Elections? Yes," by Austin Davis, Michael Meyer-Resende, Duncan Allen and Ognjan Denkovski, March 2024, *https://democracyreporting.s3.eu-central-1.amazonaws.com/pdf/6628b70e0b124.pdf.*

[11] David Ingram, "AI chatbots got questions about the 2024 election wrong 27 percent of the time, study finds," NBC News, June 5, 2024, *https://www.nbcnews.com/tech/tech-news/ai-chatbots-got-questions-2024-election-wrong-27-time-study-finds-rcna155640.*

[12] Matt O'Brien and Ali Swenson, "AI chatbots provide many wrong answers about elections, report says," Associated Press, Feb. 27, 2024, *https://apnews.com/article/ai-chatbots-elections-artificial-intelligence-chatgpt-falsehoods-cc50dd0f3f4e7cc322c7235220fc4c69*

[13] Felix M. Simon, Sacha Altay, and Richard Fletcher, "The role and reliability of AI chatbots during the 2024 UK general election," Reuters Institute for the Study of Journalism, Sept. 2024, *https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2024-09/Simon%20et%20al%20Chatbots%20and%20UK%20Elections.pdf.*

[14] Benjamin Freed, "Chatbots often give wrong voting info for people with disabilities, research finds," StateScoop, July 18, 2024, *https://statescoop.com/chatbots-voting-disabilities-information-wrong-research-2024/*

[15] Courtney C. Radsch, "Frenemies: Global approaches to rebalance the Big Tech v journalism relationship," Brookings (TechTank), August 29, 2022, *https://www.brookings.edu/articles/frenemies-global-approaches-to-rebalance-the-big-tech-v-journalism-relations hip/* (accessed 02/06/2026) and Gordon Institute of Business Science (GIBS), "Big Tech and Journalism—Principles for Fair Compensation," GIBS, adopted July 14, 2023, *https://www.gibs.co.za/news/big-tech-and-journalism—principles-for-fair-compensation* (accessed 02/06/2026)

to consider setting up an endowment to fund reporters, see my response below for additional information. For instance, we have proposed that as part of Community Benefit Agreements, each data center could make a lump-sum donation to a community foundation to establish an endowment that would support the hiring of two local journalists. Those journalists would help with the information shortages in general, and also make sure that the data centers kept the commitments they made about electricity costs, water usage, housing and other areas of concern.

Lastly, applying a mitigation fee on the largest AI and technology platforms could fund journalism support programs. For instance, it could fund a version of the refundable employment tax credit that Sen. Cantwell proposed earlier. These approaches have already proved effective at the state level, including the employment tax credits pioneered in Illinois that have now reached 120 newsrooms, two-thirds of which have six or fewer employees.

Those credits can be made available to local TV stations too, so they would have extra incentives and resources to invest in communities, as many in the local TV industry are eager to do.

Or, it could finance tax relief for small businesses that advertise in local news, an approach being advocated by New Hampshire Republicans right now.

The AI industry should want to be part of solving this problem. Higher quality local journalism means higher quality AI outputs on local matters. The virtuous circle is available to them if they choose to pursue it.

It is true that regulatory policies that only try to squeeze more local news out of one sector—broadcast—would not achieve the goals of a more robust community news system. Big technology firms that benefit from this new system—and which have no localism requirements—should pay a mitigation fee or tax to pay for efforts to underwrite the hiring of more reporters in communities and other programs that revive community news.

Question 2. Mr. Waldman, do you see a role for AI and data center companies to play in funding local journalism?

Answer. Yes, communities across the country are currently negotiating with AI and technology companies over data center siting. Some[16] are trying to block data centers entirely, which is their right.[17] For those that want to welcome them but want something meaningful in return, local journalism belongs in that negotiation. Specifically, each data center could make a one-time contribution to an endowment at a local community foundation, which would fund reporters placed in local newsrooms with full editorial independence. There is a logic to it: the reporters funded through this mechanism could cover whether the technology company is actually delivering on its commitments to hire locally and manage its infrastructure impacts responsibly. The accountability function and the funding mechanism reinforce each other.

Declining Local Journalism. We've heard about AI companies training on journalism produced by newsrooms that are barely surviving. Let me put that in context. In my state of Washington, the *Daily Herald* in Everett laid off half its news staff last year after an out-of-state chain bought the paper. The press corps in Olympia has gone from 19 full-time reporters to eight.

KWSU–TV in Pullman went dark after Federal funding was cut. Nationally, more than 130 newspapers closed last year. One in three counties doesn't have the equivalent of a single full-time local reporter. As newspapers disappear, local television is increasingly the last professional news source standing.

Congress understood broadcasting was special—we gave broadcasters the public airwaves, and in return, we expected them to serve their communities with news and information.

Mr. Waldman, you wrote the FCC's landmark report on communities' information needs, you founded Report for America, and you now lead the Rebuild Local News coalition.

Your research documents what happens when local news disappears—more corruption, higher taxes, lower civic engagement.

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[16] NAACP, "Advocacy in Action: Artificial Intelligence Data Centers in Our Communities," May 2025, *https://naacp.org/sites/default/files/documents/Advocacy%20in%20Action%20AI%20Data%20Centers%20.pdf;* MediaJustice, "The People Say No: Resisting Data Centers in the South," September 2025, *https://mediajustice.org/wp-content/uploads/2025/09/MediaJustice-Data-Centers-Report.pdf*

[17] Mijin Cha, "The real race for an AI moratorium: stopping data centers," Tech Policy Press, April 4, 2024, *https://www.techpolicy.press/the-real-race-for-an-ai-moratorium-stopping-data-centers/*

You've also proposed concrete solutions: payroll tax credits for newsrooms, tax incentives for small businesses to advertise locally, and redirecting government advertising toward community news.

Question 1. Given what your research shows about the consequences of losing local news, what is at stake if we allow broadcast newsrooms to be hollowed out through consolidation?

Answer. Nearly two-thirds of Americans, 64 percent, say they at least sometimes get local news from a TV station, making it the most common institutional source of local news in the country. For the communities that have already lost their local newspapers, and there are thousands of them, broadcast television is often the last professional news source that remains.[18]

Communities with less local news had higher financing costs and taxes, more government corruption, secrecy and more government waste.[19] Communities that suffer from a loss of local news are also linked to increased regulatory violations and organizational wrongdoing violations including measurable increases in toxic chemical emissions; although these effects are moderated by the degree of community social connectedness.[20] The damage does not stay local: consolidation-driven reductions in local business coverage cause measurable declines in local information search, institutional portfolio investment, and retail trading with the sharpest effects on small firms and spread through supply chains to businesses with no direct connection to a closure, leaving corporate borrowers facing higher costs and stricter lending conditions.[21] At the individual level, residents in news-depleted communities face higher loan denial rates, elevated mortgage costs, and greater exposure to discriminatory pricing as well as higher levels of financial advisor misconduct suggesting that the

[18] Shearer, Elisa, *et al.,* "Americans' Changing Relationship With Local News." Pew Research Center, May 7, 2024. *https://www.pewresearch.org/journalism/2024/05/07/americans-changing-relationship-with-local-news/*.

[19] Pengjie Gao, Chang Lee, and Dermot Murphy, "Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance," Journal of Financial Economics 135, no. 2 (February 2020): 445–467, *https://doi.org/10.1016/j.jfineco.2019.06.003.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." *Management Science,* November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.*Matherly, T., & Greenwood, B. N. (2024). *No news is bad news: The internet, corruption, and the decline of the Fourth Estate.* MIS Quarterly, 48(2), 699–714. *https://doi.org/10.25300/MISQ/2023/17869;* Filipe R. Campante and Quoc-Anh Do, "Isolated Capital Cities, Accountability, and Corruption: Evidence from U.S. States," *American Economic Review* 104, no. 8 (August 2014): 2456–81, *https://doi.org/10.1257/aer.104.8.2456.* Posner-Ferdman, B., & Cuillier, D. (2025). Dark deserts: Newspaper decline and its relation to government non-compliance with public records laws. News Research Journal, 46(3), 427–445. *https://doi.org/10.1177/30497841251357976.*

[20] Heese, Jonas & Pérez-Cavazos, Gerardo & Peter, Caspar David, 2022. "When The Local Newspaper Leaves Town: The Effects Of Local Newspaper Closures On Corporate Misconduct," Journal of Financial Economics, Elsevier, vol. 145(2), pages 445–463. Choi, T. J., & Valente, M. (2022). The crisis in local newspapers and organizational wrongdoing: The role of community social connectedness. Management Science. *https://pubsonline.informs.org/doi/10.1287/orsc.2022.1644* Jiang, J. X., & Kong, J. (2024). Green dies in darkness? Environmental externalities of newspaper closures. *Review of Accounting Studies, 29*(4), 3564–3599. *https://doi.org/10.1007/s11142-023-09786-5*

[21] Le, T. D., & Trinh, T. (2025). Local newspaper closures and suppliers' investment efficiency. *European Journal of Finance, 31*(12), 1529–1550. *https://doi.org/10.1080/1351847X.2025.2513500;* Almamlouk, I., Buckle, M., & Hoque, H. (2024). Blank pages, heavy pockets: The impact of local U.S. daily newspaper closures on corporate cash holdings. SSRN Working Paper 4690974. *https://ssrn.com/abstract=4690974;* Kang, J., & Nam, Y. (2025). Do local newspapers matter to institutional investors? *Contemporary Accounting Research. https://doi.org/10.1111/1911–3846.13049;* Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. *https://doi.org/10.1111/1911-3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." *Journal of Financial and Quantitative Analysis,* 2025. *https://doi.org/10.1017/S0022109025101749;* Chen, Jie, Yang Gao, and Cheng Zeng. "Inequality Grows in Silence: The Impact of Newspaper Closures on CEO-Worker Pay Disparity." SSRN, January 2025. *https://ssrn.com/abstract=5123844.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." *Management Science,* November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.*

erosion of local oversight leaves ordinary borrowers with less protection and less recourse.[22]

Beyond the clear economic harm, there are civic and social effects. Those who follow local news closely are more likely to engage in activities with civic organizations such as sports leagues, church groups or charity organizations' civic activities.[23] Evidence also suggests that the decline of local news is linked to higher loneliness, especially in rural communities.[24] The basic health of the political system declines. Declines in local news result in less knowledge about public officials and less civic knowledge,[25] voters are less likely to have an opinion about their member of Congress,[26] less likely to be able to name things they like or dislike about their representative.[27] In 1966, 70 percent of voters could name their mayor. In 2016 only 40 percent of voters could.[28] Communities with less local news have lower voting rates, and those that do regularly vote are more likely to follow local news.[29] The members of Congress who get less coverage in the local press are less likely to appear as a witness before a congressional committee to advocate for their district.[30] In communities with less local news, voters are more likely to vote on a party line basis.[31]

Finally, communities with less local news are more polarized.[32] The vacuum created by the contraction is filled by social media and national media, which is more divisive. As Senator Moran recently said, in speaking movingly about its recently-merged local newspaper, the Plainville Times, "I saw first-hand how the newspaper supported the community and brought neighbors, friends and even strangers together. Community journalism pulls us together. National journalism has the habit of tearing us apart."

Question 2. What can Congress do to turn the tide and rebuild local news?

Answer. The evidence base for effective intervention is now well established. States have piloted concrete approaches that can serve as models for Federal action. We have seen a variety of approaches work:

Tax subsidies for employing local journalists. Illinois enacted such a credit, which has reached 120 newsrooms, two-thirds with six or fewer employees. New York has followed, and Republican legislators in Kansas and New Hampshire are advancing

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[22] Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). *Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. https://doi.org/10.1111/1911-3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." *Journal of Financial and Quantitative Analysis,* 2025. *https://doi.org/10.1017/S0022109025101749*

[23] Michael Barthel *et al.,* "Civic Engagement Strongly Tied to Local News Habits,".

[24] Hayes, Danny and Trivedi, Anusha, Loneliness and the Local News Environment (February 05, 2026). Available at SSRN: *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6183182*

[25] Danny Hayes and Jennifer L. Lawless, "As Local News Goes, so Goes Citizen Engagement: Media, Knowledge, and Participation in U.S. House Elections," *The Journal of Politics* 77, no. 2 (April 2015): 447–62, *https://doi.org/10.1086/679749.*

[26] Danny Hayes and Jennifer L. Lawless, "The Decline of Local News and Its Effects: New Evidence from Longitudinal Data," *The Journal of Politics* 80, no. 1 (October 18, 2017): 332–36, *https://doi.org/10.1086/694105.*

[27] James Snyder Jr. and David Strömberg, "Press Coverage and Political Accountability," *Journal of Political Economy* 118, no. 2 (April 2010): 355–408, *https://doi.org/10.1086/652903.*

[28] Hayes and Lawless, *News Hole,* 2.

[29] Jessica Bruder, "Is the Death of Newspapers the End of Good Citizenship?," Christian Science Monitor, November 11, 2012, *https://www.csmonitor.com/USA/Society/2012/1111/Is-the-death-of-newspapers-the-end-of-good-citizenship.;* Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," SSRN, Oct. 11, 2021, *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3939405.* Michael Barthel *et al.,* "Civic Engagement Strongly Tied to Local News Habits," *Pewresearch.org* (Pew Research Center, November 1, 2016), *https://www.pewresearch.org/journalism/wp-content/uploads/sites/8/2016/11/PJ_2016.11.02_Civic-Engagement_FINAL.pdf.*

[30] Snyder, Strömberg, "Press Coverage and Political Accountability," 355–408.

[31] Daniel J. Moskowitz, "Local News, Information, and the Nationalization of U.S. Elections," *American Political Science Review* 115, no. 1 (February 2021): 114–29, *https://doi.org/10.1017/s0003055420000829;* Joshua P Darr, Matthew P Hitt, and Johanna L Dunaway, "Newspaper Closures Polarize Voting Behavior," *Journal of Communication* 68, no. 6 (November 5, 2018): 1007–28, *https://doi.org/10.1093/joc/jqy051.*

[32] Darr JP, Hitt MP, Dunaway JL. Home Style Opinion: How Local Newspapers Can Slow Polarization. Cambridge University Press; 2021.

comparable measures. Senator Cantwell and Representative Tenney have each proposed Federal versions that would scale this impact nationally. This could be made available for local TV newscasts too, providing incentives and resources for them to invest more in community coverage.

Tax relief for small businesses that advertise locally. This was also proposed by Rep. Tenney and Sen. Cantwell and is now being pushed by Republican legislators in New Hampshire and Illinois.

Push more government advertising toward community media. New York City has shifted $72 million toward community news by requiring that half its spending go to local organizations rather than national media or social media.

Fellowships for local reporting. In Washington, New Mexico and California, the state is helping to support the salaries for fellowship programs run by the journalism programs at state universities.

Other possibilities include the state providing funding through independent 501c3 (*e.g.,* New Jersey's Civic Information Consortium); tax credits for buying subscriptions or making donations to local news; loan guarantees for banks or other lending institutions to support local news outlets.

Broadcast Triopolies and Duopolies. The Nexstar-Tegna merger would create unprecedented consolidation in broadcast TV.

Nationally, Nexstar stations would reach 80 percent of U.S. households. Nexstar and Tegna overlap in 35 markets.

Nexstar is seeking local ownership waivers in those markets to form new duopolies and triopolies. We have already seen what happens. When Nexstar acquired two stations in Indianapolis, it laid off newsroom staff, moved the remaining reporters into a single newsroom producing content for both stations under the same news director.

They have said their plan is to "repeat that time and again across the 35 overlap markets."

And they can because in 2017, the FCC eliminated the main studio rule—the requirement that every station maintain a physical studio in or near the community it serves. That rule had been on the books since 1940.

Without it, a station group can own multiple stations in a market and not have a single journalist on the ground.

Question 1. When a company owns two or three stations in the same market, what happens to the individual newsrooms? Are they maintaining separate reporting staffs, or are we seeing consolidation of those operations?

Answer. When a company owns multiple stations in the same market, consolidation of newsroom operations does occur at a significant scale. Duplication is already occurring in two-fifths of U.S. television markets, and the average duplication rate among those markets is 65 percent.[33] As a result, many communities have the appearance of diverse voices while delivering less and less original reporting. A recent DirecTV filing with the FCC examining all Big Four duopolies and triopolies found that 98.2 percent share news directors and 97.3 percent share news talent, meaning that in nearly every case where one company owns multiple stations in a market, those stations are not maintaining separate reporting staffs.[34]

The evidence about the effect of consolidation on local Tv coverage is mixed. Sinclair acquisitions were associated with a roughly 10 percent decline in local and political coverage, while Nexstar acquisitions were associated with an approximately 8 percent increase, and Gray acquisitions showed minimal change.[35]

That is why it cannot be left to chance. Our attention should remain focused on ensuring enforceable commitments to maintain or increase the number of journalists working in affected communities.

The same pattern has played out in print. As local papers were bought up by hedge funds or private equity firms, they cut reporters across the country.[36] Mega-

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[33] Danilo Yanich and Benjamin E. Bagozzi, "Reusing the News: Duplicating Local TV Content," Biden School of Public Policy & Public Administration, University of Delaware, August 2025. *https://udspace.udel.edu/server/api/core/bitstreams/414834a9-fa05-4be0-a5cd-9b317fdbe02b/content*

[34] Andreeva, Nellie. "TV Station Group Consolidation Leaves Markets With Less Local News, According to New Study That DirecTV Has Filed With the FCC." *Variety,* February 2026. *https://variety.com/2026/tv/news/directv-fcc-filing-local-news-station-consolidation-1236671877/.*

[35] Gregory Martin, Arianna Ornaghi, Nicola Mastrorocco and Joshua McCrain, "Media Consolidation," working paper, May 28, 2024, *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4951078.*

[36] Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," NBER Working Paper 29743 (2022), *https://doi.org/10.3386/w29743;* Steven

mergers financed with massive debt compounded the damage, as news organizations used profits to service loans rather than invest in digital transformation or local coverage. We have even seen the rise of local newspapers with no local reporters at all. In both newspapers and local television, consolidation and nationalization have in many cases aggravated the local news crisis, leading to fewer reporters in communities and less, or more superficial, coverage of school boards, economic development, elections, social problems, and civic life.[37]

In the long run, Congress should pass a version of the legislation sponsored by Republican Claudia Tenney and Sen.Cantwell—refundable employment credits tied to the number of local reporters, including at local TV news broadcasts. That would give extra incentives for the local station groups to increase local reporting rather than cutting back.

There is another potential risk to TV consolidation: an undermining of the freedom of the press. When most of the local TV stations are owned by a few companies, that gives tremendous power to whatever party is in the White House at that moment. They can leverage the FCC's authority to advance their political goals, and the station groups are extremely vulnerable to such pressure. Right now, it is the Democrats who are ringing this alarm, because Sinclair and Nexstar deferred to the Trump White House during the Jimmy Kimmel controversy. But this vulnerability would apply under any administration. When Democrats take over the White House and the FCC, they would have the same power to pressure most of the local TV stations by using the merger review and licensing powers to influence a small number of companies. In that sense, consolidation increases this type of First Amendment risk.

Question 2. The FCC eliminated the main studio rule in 2017. What has been the impact on local news production, particularly in smaller markets?

Answer. The elimination of the main studio rule in 2017 removed a structural safeguard requiring physical presence in a community. Without it, a company can consolidate all news operations into a single facility and present the result as independent local coverage.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO STEVE WALDMAN

Question 1. During your testimony, you noted approximately 3,500 newspapers have closed in the past 20 years, warning that increased consolidation of newsrooms reduces staffing and coverage of local news.

a. How would lifting the national ownership cap impact communities' ability to receive local news coverage?

Answer. Consolidation of newsroom operations is already occurring at a significant scale. Duplication is occurs in two-fifths of U.S. television markets, and the average duplication rate among those markets is 65 percent.[38] As a result, many communities have the appearance of diverse voices delivering less and less original reporting. A recent DirecTV filing with the FCC examining all Big Four duopolies and triopolies found that 98.2 percent share news directors and 97.3 percent share news talent, meaning that in nearly every case where one company owns multiple stations in a market, those stations are not maintaining separate reporting staffs.[39]

As for coverage levels, studies have shown that Sinclair acquisitions were associated with a roughly 10 percent decline in local and political coverage.

On the other hand, Nexstar acquisitions were associated with an approximately 8 percent increase (while, and Gray acquisitions showed minimal change.)

In other words, while consolidation occasionally does help local news, it often doesn't. For that reason, we favor either keeping the caps or loosening them but

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Waldman, "The local news crisis illustrates the inadequacy of the current antitrust approach," Rebuild Local News, May 8, 2024, *https://www.rebuildlocalnews.org/the-local-news-crisis-illustrates-the-inadequacy-of-the-current-antitrust-approach/*

[37] Free Press, "Redacted Copy of NXST/TGNA Petition to Deny" (PDF), *https://www.freepress.net/download/redacted-copy-nxst-tgna-petition-deny-pdf* (accessed Feb. 6, 2026).

[38] Danilo Yanich and Benjamin E. Bagozzi, "Reusing the News: Duplicating Local TV Content," Biden School of Public Policy & Public Administration, University of Delaware, August 2025. *https://udspace.udel.edu/server/api/core/bitstreams/414834a9-fa05-4be0-a5cd-9b317fdbe02b/content*

[39] Andreeva, Nellie. "TV Station Group Consolidation Leaves Markets With Less Local News, According to New Study That DirecTV Has Filed With the FCC." Variety, February 2026. *https://variety.com/2026/tv/news/directv-fcc-filing-local-news-station-consolidation-1236671877/*.

with requirements that the merged entities increase the number of local journalists in a community.[40]

The evidence is even more worrisome when it comes to newspapers. As local papers were bought up by hedge funds or private equity firms, they cut reporters across the country.[41] Mega-mergers financed with massive debt compounded the damage, as news organizations used profits to service loans rather than invest in digital transformation or local coverage. We have even seen the rise of local newspapers with no local reporters at all.

In a filing to the Department of Justice and Federal Trade Commission, Rebuild Local News outlined the evidence:

Media consolidation was not the primary cause of the collapse of local news—but in many cases it has seriously intensified the harm, promises to make the situation worse in coming years, and has limited the ability of communities to address the crisis.

The crisis in local news stems primarily from the Internet undercutting the traditional business models. Specifically, many advertisers reduced or eliminated their spending in local newspapers and instead placed ads on websites, search engines or social platforms. The combination of factors led to a dramatic drop in revenue in the newspaper industry—a staggering 81 percent decline in ad revenue from 2000 to 2020.

The nature of newspaper consolidation has changed in the past few decades as acquisitions by private equity and hedge funds have increased, and made matters worse. From 2004 to 2016, more than *300 newspapers had been sold or traded.* In 2004, the 25 largest chains owned less than one third of the daily newspapers. *By 2020, they owned 70 percent.* In the past 15 years, as a result of serial acquisitions, the number of newspaper owners has dropped from about 4,000 to 2,400. "Massive consolidation in the newspaper industry has shifted editorial and business decisions to a few large corporations without strong ties to the communities where their papers are located," concluded the major study of news deserts completed by *Professor Penny Muse Abernathy,* when she was at the University of North Carolina school of communications.

Many of these transactions involve private equity firms or hedge funds. "At their peak in 2016, six of the 10 largest newspaper chains were owned and operated by private equity firms or other investment entities," the same study found. Since then some of the iconic newspapers—the Chicago Tribune, the Baltimore Sun, the New York Daily News and dozens of others—have also been *acquired by private equity or hedge funds.* The study also found that more than 1,000 newspapers are now controlled by *"hybrid" companies* that are both publicly traded and yet controlled by financial institutions.

These mergers have likely accelerated and intensified harm to communities. A *recent study by Michael Ewens, Arpit Gupta, and Sabrina T. Howell* found that newspapers acquired by private equity firms were more likely to cut the number of reporters and the amount of local coverage. "The composition of news shifts away from local governance, the number of reporters and editors falls, and participation in local elections declines," they concluded.

The number of reporters fell from 6.2 to 3.8 at newspapers that were acquired by a private equity firm. By comparison, for other types of newspapers, the number of reporters fell far more modestly, from 7.3 to 6.1. The number of editors at these papers fell from 9.1 to 6.1, compared to a drop of just 5.7 to 5.4 at other papers.

The number of articles about local government at newspapers acquired by private equity firms fell from 5,700 to 2,500 after an acquisition, "a significant negative effect." For those newspapers not owned by private equity firms, the drop was smaller, from 5,200 to 4,400. They even found that these changes in coverage led to lower voting turnout and a greater percentage of residents having no opinion about their member of Congress.

By contrast, the study showed that family-owned newspapers were more likely to maintain higher levels of local news coverage and reporting staff. An increasing number of local news organizations, both nonprofit and commercial, have been able

[40] Gregory Martin, Arianna Ornaghi, Nicola Mastrorocco and Joshua McCrain, "Media Consolidation," working paper, May 28, 2024, *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4951078.*

[41] Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," NBER Working Paper 29743 (2022), *https://doi.org/10.3386/w29743;* Steven Waldman, "The local news crisis illustrates the inadequacy of the current antitrust approach," Rebuild Local News, May 8, 2024, *https://www.rebuildlocalnews.org/the-local-news-crisis-illustrates-the-inadequacy-of-the-current-antitrust-approach/*

to achieve financial sustainability when they don't have the burden of debt payments or high EBITDA goals required by publicly-traded companies.

The Ewens, Gupta and Howell study did not consider Alden Global Capital to be a private equity firm. Alden has cut reporting staff more than other companies. So their inclusion could make the numbers even more alarming. Abernathy in 2018 found that newspapers owned by Alden cut staff at roughly twice the rate of the national average.

Another study by Benjamin LeBrun, Kaitlyn Todd and Andrew Piper looked at 130,000 articles at 31 corporate-owned local newspapers. They concluded that "corporate acquisition leads to a significant reduction in the amount of local news disseminated by affected publications."

In some cases, a central problem is that the mergers were financed with large amounts of debt at a time when newspaper revenues were declining. For instance, the 2019 acquisition of Gannett by Gatehouse, a smaller company, was financed through *$1.8 billion in debt financing*. The firm now owns 479 newspapers. Since 2019, the company has *shed almost half of its staff.* During much of that period it was managed by the private equity firm Fortress, and much of its debt is held by the private equity firm Apollo Capital Management. Even if managers are well intentioned, their options are limited. In its 2021 annual 10k filing with the Securities and Exchange Commission, Gannett declared that one of its risk factors was that *"we are required to dedicate a substantial portion of cash flow from operations to fund interest payments."*

Of course, these are general tendencies. There are exceptions and nuances. For instance, there may be some instances in which a local newspaper is on the edge of closing and an acquisition by a private equity firm is, in the short term, the only way to keep the newsroom open. The Ewens-Gupta-Howell study found that while newspapers bought by private equity firms were more likely to cut the number of local stories, they were less likely to shut down the newspaper. The McClatchy newspaper chain, now owned by the private equity firm Chatham Capital, has stated that it is maintaining or *growing staffing levels.* It could well be that the problem is not bigness per se but mergers involving particular types of entities (with particular ROI needs) and/or involving particular types of financing, especially in an economically declining sector..

In some cases, the loss of newspaper reporters might be offset by the growth of robust nonprofit local news organizations. Although this scenario is currently rare, they could become more common over time, and should be considered as part of an analysis of whether a merger would harm a community.

The acquisition of a newspaper by a chain controlled by a financial institution does not make it more likely that a newspaper will have local monopoly status, but it does make it more likely that that newspaper will use its monopoly status in a way that harms the community and reduces the availability of certain types of information—local reporting.

Beyond civic and social impacts, communities suffer economic harm. Research suggests that consolidation-driven reductions in local business coverage cause measurable declines in local information search, institutional portfolio investment, and retail trading. Information asymmetries due to the loss of local news leave corporate borrowers facing higher costs and stricter lending conditions and ripple effects go beyond even the community itself spreading through supply chains to businesses with no direct connection to a closure.[42] Communities with less local news had high-

[42] Le, T. D., & Trinh, T. (2025). Local newspaper closures and suppliers' investment efficiency. European Journal of Finance, 31(12), 1529–1550. *https://doi.org/10.1080/1351847X.2025.2513500;* Almamlouk, I., Buckle, M., & Hoque, H. (2024). Blank pages, heavy pockets: The impact of local U.S. daily newspaper closures on corporate cash holdings. SSRN Working Paper 4690974. *https://ssrn.com/abstract=4690974;* Kang, J., & Nam, Y. (2025). Do local newspapers matter to institutional investors? Contemporary Accounting Research. *https://doi.org/10.1111/1911-3846.13049;* Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. *https://doi.org/10.1111/1911-3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." Journal of Financial and Quantitative Analysis, 2025. *https://doi.org/10.1017/S0022109025101749;* Chen, Jie, Yang Gao, and Cheng Zeng. "Inequality Grows in Si-

Continued

er financing costs and taxes, more government corruption, secrecy and more government waste.[43] The absence of local journalism raises the cost of doing business: without press scrutiny, CEO-to-worker pay disparities widen, managers engage in financial behavior that would otherwise be checked, information asymmetry grows, and markets become less efficient. At the individual level, residents in news-depleted communities face higher loan denial rates, elevated mortgage costs, and greater exposure to discriminatory pricing as well as higher levels of financial advisor misconduct suggesting that the erosion of local oversight leaves ordinary borrowers with less protection and less recourse.[44]

Question 2: In today's diversifying media landscape, Americans are consuming local news and entertainment across broadcast, cable, streaming and broadband platforms. Should Congress and the FCC evaluate each proposed consolidation transaction individually, or is a broader, cross-platform assessment of cumulative media concentration necessary to protect competition and consumer access to local news coverage?

Answer. Our coalition has not taken a position on the specific threshold or on the FCC's statutory authority to modify it. But we do believe that localism—and specifically the provision of local reporting and coverage—should be the primary lens through which this policy and individual mergers should be viewed. We are in the midst of a dramatic collapse of local news. We've seen a 75 percent drop in the number of local reporters since 2002. Ill-conceived policies could make that worse. We should not just lift the caps and hope for the best.

Policies could be considered that would put teeth in these concepts:

For instance, one could keep the 39 percent cap and provide individualized exemptions if the specific merger met certain conditions. The conditions could include a net increase in the total number of local reporters and producers at the combined entities.

More creatively, the FCC could consider allowing stations to "buy out" of that requirement by making a comparable donation to a community foundation to establish perpetual endowments for the purpose of adding a comparable number of local reporters within the community even if it is not at the TV station.

The reason we emphasize the number of reporters rather than the number of hours is that longer news shows with fewer reporters often means more superficial news, or more newscasts that copy reports from other stations in the market.

In the long run, Congress should pass a version of the legislation sponsored by Republican Claudia Tenney and Sen.Cantwell—refundable employment credits tied to the number of local reporters, including at local TV news broadcasts. That would give extra incentives for the local station groups to increase local reporting rather than cutting back.

Policies that only try to squeeze more local news out of one sector—broadcast—would not achieve the goals of a more robust community news system. Big tech-

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lence: The Impact of Newspaper Closures on CEO-Worker Pay Disparity." SSRN, January 2025. *https://ssrn.com/abstract=5123844.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." Management Science, November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.*

[43] Pengjie Gao, Chang Lee, and Dermot Murphy, "Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance," Journal of Financial Economics 135, no. 2 (February 2020): 445–467, *https://doi.org/10.1016/j.jfineco.2019.06.003.* Dyer, Travis, Mark Lang, and Jun Oh. "Media Conglomeration, Local News, and Capital Market Consequences." Management Science, November 12, 2024. *https://doi.org/10.1287/mnsc.2023.02247.* Matherly, T., & Greenwood, B. N. (2024). No news is bad news: The internet, corruption, and the decline of the Fourth Estate. MIS Quarterly, 48(2), 699–714. *https://doi.org/10.25300/MISQ/2023/17869;* Filipe R. Campante and Quoc-Anh Do, "Isolated Capital Cities, Accountability, and Corruption: Evidence from U.S. States," American Economic Review 104, no. 8 (August 2014): 2456–81, *https://doi.org/10.1257/aer.104.8.2456.* Posner-Ferdman, B., & Cuillier, D. (2025). Dark deserts: Newspaper decline and its relation to government non-compliance with public records laws. News Research Journal, 46(3), 427–445. *https://doi.org/10.1177/30497841251357976.*

[44] Allee, K. D., Cating, R., & Rawson, C. (2023/2025). No News is Bad News: Local News Intensity and Firms' Information Environments. Review of Accounting Studies, 30(1), 1–32. URL: *https://link.springer.com/article/10.1007/s11142-023-09811-7;* Ma, Z., Stice, D., Stice, H., & Zhang, Y. (2025). Local Newspaper Closures and Bank Loan Contracts. Journal of Contemporary Accounting Research. *https://doi.org/10.1111/1911-3846.13046;* Bäker, A., Riepe, J., & Wulff, A. (2025). Local Newspaper Closures and their Effect on Lending Discrimination. TRR 266 Accounting for Transparency Working Paper Series No. 195. SSRN. *https://ssrn.com/abstract=5319025;* Huynh, T. (2025). Lending in the Dark: Local Newspaper Closures and Discrimination in Mortgage Lending. *https://oweb.b67.uni-jena.de/Papers/jerp2023/wp_2025_002.pdf;* Li, Zhi, Qiyuan Peng and Rui-Zhong Zhang. "When Spotlights Fade: Local Newspaper Closures and Financial Advisor Misconduct." Journal of Financial and Quantitative Analysis, 2025. *https://doi.org/10.1017/S0022109025101749*

nology firms that benefit from this new system—and which have no localism requirements—should pay a mitigation fee or tax to pay for efforts to underwrite the hiring of more reporters in communities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HICKENLOOPER TO STEVE WALDMAN

News Deserts: Vibrant journalism ecosystem engrained in our First Amendment's rights to freedom of speech and the freedom of the press. However, in Colorado, we have seen a tragic decline in the amount of local newspapers covering stories in their communities. Since 2005, Colorado has lost at least 52 local newspapers and more than half of Colorado's counties only have 1 local newspaper. 3 counties in Colorado –Cheyenne, Mineral, and Coñejos–don't have a single local newspaper.

Question 1. For communities in news deserts that are no longer served by local newspapers, what impact would additional local broadcast tv stations merging have on their ability to get local news coverage?

Answer. For communities that have already lost their local newspapers, local broadcast television is often the last professional news source standing. That makes the stakes of further broadcast consolidation particularly acute since there is no remaining backstop. In many cases, lifting the national ownership cap will deleteriously impact local news coverage. When a company owns multiple stations in the same market, the evidence shows that consolidation of newsroom operations occurs at significant scale. Duplication is already occurring in two-fifths of U.S. television markets, and the average duplication rate among those markets is 65 percent.[45] A recent DirecTV filing with the FCC examining all Big Four duopolies and triopolies found that 98.2 percent share news directors and 97.3 percent share news talent, meaning that in nearly every case where one company owns multiple stations in a market, those stations are not maintaining separate reporting staffs.[46]

The evidence about consolidation and coverage levels is mixed. Sinclair acquisitions were associated with a roughly 10 percent decline in local and political coverage, while Nexstar acquisitions were associated with an approximately 8 percent increase, and Gray acquisitions showed minimal change. This is why we believe that caps should either be maintained or liberalized only when accompanied by rock-solid commitments that the combined entities would increase the investment in community coverage (as measured by number of reporters and producers, not in the number of hours).

Merger Review/Political Influence: Every state values the importance of independent, diverse, and community-based media. In every issue for which the FCC has jurisdiction—it is essential every decision be made solely based on the facts, to benefit the public interest, and be free of political influence.

The President recently stated:

> "We need more competition against THE ENEMY, the Fake News National TV Networks Letting Good Deals get done like Nexstar—Tegna will help knock out the Fake News because there will be more competition, and at a higher and more sophisticated level," the president wrote. "Those that are opposed don't fully understand how good the concept of this Deal is for them, but they will in the future. GET THAT DEAL DONE! PRESIDENT DJT."

Question 2. While the President is free to express his views, does the President publicly advocating for or against a merger creates an appearance of political influence?

Answer. The integrity of the FCC's merger review process depends on decisions being made through a transparent, public process based solely on the facts and the public interest standard established by Congress. That principle applies regardless of administration or the specific transaction under review. The Communications Act establishes a clear framework for how transactions of this magnitude are to be evaluated—their impact on localism, viewpoint diversity, competition, and the communities affected. That framework has value only when it is applied consistently and visibly through proper process. This is why I stated at the hearing that decisions

[45] Danilo Yanich and Benjamin E. Bagozzi, "Reusing the News: Duplicating Local TV Content," Biden School of Public Policy & Public Administration, University of Delaware, August 2025. *https://udspace.udel.edu/server/api/core/bitstreams/414834a9-fa05-4be0-a5cd-9b317fdbe02b/content*

[46] Andreeva, Nellie. "TV Station Group Consolidation Leaves Markets With Less Local News, According to New Study That DirecTV Has Filed With the FCC." *Variety,* February 2026. *https://variety.com/2026/tv/news/directv-fcc-filing-local-news-station-consolidation-1236671877/.*

of this import should be made at the commission level, through full public process and a transparent record. A bureau-level determination on a transaction of this scale and consequence would be difficult for the public, affected communities, and Congress to evaluate and trust, regardless of the outcome.

Question 3. Does the term "Fake News Media" appear in the Communications Act? Please answer yes or no.

Answer. No.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN FETTERMAN TO STEVE WALDMAN

Question 1. Mr. Waldman, thank you for your work promoting local journalism. I started my public service career as a mayor, so I know how important local coverage is. I appreciate your testimony and recommendations on improving local journalism. Within FCC jurisdiction, how could the Commission consider local journalism impacts when reviewing mergers? What would this mean for local journalism?

Answer. The FCC already has authority to consider localism in its public interest review which states that the FCC should consider the "public interest, convenience, and necessity"[47]; what has been missing is a concrete definition of what localism actually requires—especially when it comes to the provision of local news.

The Commission could center its analysis on a specific, measurable standard: whether a proposed transaction maintains or increases the number of journalists working in affected communities. Not station count, not hours of airtime, but professional reporters living in and accountable to the communities they cover. Congress could reinforce this by directing the FCC statutorily to include local journalism capacity as a core component of the localism standard, ensuring it is applied consistently across transactions and administrations.

Question 2. Lifting the ownership cap and allowing the deal to proceed will put more than 265 stations reaching 80 percent of Americans in the hands of a single company—a major blow to local control of news. How does it serve Americans and the public interest at large to have their news media run by a distant corporate conglomerate instead of locally owned families and companies with a stake in the community?

Answer. In most cases, it does not, and the evidence bears that out. A locally owned news organization has its reputation and economic future tied to the community it covers, its owners live there, know the local officials, and are accountable to their neighbors. When ownership moves to a distant corporate headquarters, editorial and staffing decisions often get made through a financial lens rather than a community lens, and that shift shows up in reduced reporting capacity and eroded public trust. Research on both newspaper and broadcast consolidation consistently confirms this pattern. Our coalition's view is that local news in local hands usually works best, and that whenever possible public policy should gravitate toward ownership structures that are diffuse, independent, and rooted in the communities being served rather than concentrated in a small number of national companies.

We accept that there might be some instances when mergers might provide more local news. We believe there are mechanisms to allow mergers in those cases, when accompanied by rock-solid commitments to maintain local reporting staffs.

For instance, one could keep the 39 percent cap and provide individualized exemptions if the specific merger met certain conditions. The conditions could include a net increase in the total number of local reporters and producers at the local entity being acquired, maintained for at least ten years.

More creatively, the FCC could consider allowing stations to "buy out" of that requirement by making a comparable donation to a community foundation to establish perpetual endowments for the purpose of adding a comparable number of local reporters within the community even if it is not at the TV station.

In the long run, Congress should pass a version of the legislation sponsored by Republican Claudia Tenney and Sen.Cantwell—refundable employment credits tied to the number of local reporters, including at local TV news broadcasts. That would give extra incentives for the local station groups to increase local reporting rather than cutting back.

The reason we emphasize the number of reporters rather than the number of hours is that longer news shows with fewer reporters often means more superficial news, or more newscasts that copy reports from other stations in the market.

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[47] Sections 303, 309 and 310 of the Communications Act of 1934 (47 U.S.C. 303, 309, 310)

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA BLUNT ROCHESTER TO STEVE WALDMAN

Congressional Intent

Question 1. When Congress enacted the 39 percent national ownership cap, it sought a limit that would protect consumers, ensure affordability, and promote a fair, unbiased media market.

a) What is the significance of a congressional directive establishing this cap and maintaining it rather than deferring changes to the FCC?

b) In addition to enacting the cap, Congress intentionally excluded it from consideration in the FCC's broadcast ownership rule review process. Does the FCC have the authority to lift the cap unilaterally, or is it violating the congressional directive as it appears to be?

c) The current administration has continued to challenge regulatory norms, especially at the FCC. In this regulatory environment, what are the broader implications of the FCC acting outside of the authority it was explicitly granted by Congress?

Answer. We have not taken a position on whether the FCC has the authority to make these moves without Congressional approval. However, we do believe that any consideration—by the FCC or Congress—should place localism, and specifically the health of local news—at the center of the decision making process. We are in the midst of a dramatic collapse of local news. We've seen a 75 percent drop in the number of local reporters since 2002.

So policies should be focused on reversing that catastrophe. That means that any merger exceptions should be contingent on rock-solid commitments that the combined entities would increase the number of local news reporters and producers (not just the number of hours).

For instance, one could keep the 39 percent cap and provide individualized exemptions if the specific merger met certain conditions. The conditions could include a net increase in the total number of local reporters and producers at the combined entities, maintained for 10 years.

More creatively, the FCC could consider allowing stations to "buy out" of that requirement by making a comparable donation to a community foundation to establish perpetual endowments for the purpose of adding a comparable number of local reporters within the community even if it is not at the TV station.

The reason we emphasize the number of reporters rather than the number of hours is that longer news shows with fewer reporters often means more superficial news, or more newscasts that copy reports from other stations in the market.

In the long run, we need something like the legislation proposed by Sen. Cantwell and Republican Rep. Claudia Tenney to provide tax subsidies to local news outlets that retain or hire local reporters. This could be available to local TV news stations too, providing both incentives and resources for them to invest in more local coverage. Or, Congress could consider legislation to provide tax relief to small businesses that advertise in local news. These could be paid for by fees assessed against Big Tech.

Defining "Localism" in Law and Making It Enforceable

Question 2. Mr. Waldman, at the hearing, you said the debate can't just be about the national cap, because the real issue is whether the FCC is truly centering local news and the number of local reporters when it reviews mergers. You also suggested Congress could write into law that the health of local news is part of "localism" and should be at the core of merger review.

a) If Congress were to put this into statute, what specific, plain-English definition of "localism" would you recommend that clearly includes local newsroom capacity, and what minimum metrics should the FCC be required to measure in every merger review?

b) If Congress does not act and the FCC keeps using its current approach, what is the most likely real-world outcome for local newsrooms over the next 3–5 years, and what "red flags" should Congress watch for that show merger review is missing the localism problem?

Answer. Localism should include the demonstrated capacity of a licensee to produce original news and information about the community it is licensed to serve, generated by journalists who live and work within that community. In plain English: are there enough professional reporters on the ground, close enough to actually know the place they are covering, to hold local institutions accountable?

The FCC could consider measuring at minimum: the number of full-time journalists employed in each affected market before and after a transaction; the percentage of news content that is locally originated versus centrally produced; and whether journalists are physically based within a reasonable proximity to the communities they cover, for example, the 50-mile standard embedded in Rebuild Local News's model local journalism tax credit legislation. Commitments on these metrics could be enforceable conditions of approval, not aspirational statements in a merger application.

Congress needs to take action not only on the broadcast issue but the local news crisis in general. We need legislation like those proposed by Republican Claudia Tenney and Sen. Cantwell that would provide refundable employment credits to local news outlets that hire or retain local reporters. This could be available for local TV stations, too, providing incentives for them to invest in community news.

They also proposed tax relief for small businesses that advertise in local news, an approach now being considered in New Hampshire Congress could require that a greater percentage of Federal government advertising go through local media rather than social media or search.

It could help fund fellowships that place reporters into local newsrooms, administered by state university journalism school programs. That is happening in California, New Mexico and Washington.

Emergency Communications and Consolidated Newsrooms

Question 1. I know that my constituents depend on local broadcasters for urgent, life-saving information, and the hearing discussed how consolidation could affect coverage. But I want to know what specific baseline expectations should apply if ownership limits are loosened and newsrooms are combined.

a) If one company owns multiple stations in a market and combines news operations, what specific, checkable expectations should apply to make sure emergency coverage stays strong?

b) If you don't support new requirements, what measurable items should Congress require stations to report so communities can confirm consolidation isn't weakening emergency response?

Answer.

a) Any consolidation that results in combined news operations should be subject to enforceable baseline requirements. The public demand is clear and unmet: a recent survey found that 44 percent of Americans report difficulty getting information about their own neighborhood compared to just 26 percent for national news. On risks and emergencies specifically, 95 percent of Americans said local information on this topic is important to them, yet only 58 percent reported being satisfied with what is available, a gap of 37 percentage points.[48] That unmet need will not be addressed by consolidated newsrooms producing identical content across commonly-owned stations. Each market should be required to maintain a minimum number of journalists physically based within the community, consistent with the 50-mile proximity standard in Rebuild Local News's model legislation, with sufficient staffing to deploy reporters to multiple locations simultaneously during declared emergencies. These commitments should be filed publicly, verified annually, and tied to license renewal.

b) Congress should require consolidated station groups to publicly report: the number of full-time journalists employed in each market before and after a transaction; the percentage of locally originated versus centrally produced content; the physical location of reporting staff relative to the communities they serve; and documented response capacity during declared local emergencies. These disclosures should be standardized, publicly accessible, and submitted to the FCC annually. Without that transparency, neither Congress nor affected communities can assess whether consolidation is weakening the emergency coverage function that broadcast licenses exist to provide or whether the stations are fulfilling the commitments they should make toward growing local coverage.

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[48] Civic Information Needs Census, National Survey (Wave 2), February 2026. *infocensus.org*