

109TH CONGRESS
1ST SESSION

H. R. 3302

To amend the Communications Act of 1934 to prevent excessive concentration of ownership of the nation's media outlets, to restore fairness in broadcasting, and to foster and promote localism, diversity, and competition in the media.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2005

Mr. HINCHEY (for himself, Ms. WATSON, Ms. LEE, Ms. WOOLSEY, Ms. KAP-TUR, Ms. SLAUGHTER, Mr. MORAN of Virginia, Ms. WATERS, Mr. STARK, Mr. FILNER, Mr. DEFAZIO, Ms. SOLIS, Mr. McDERMOTT, Mr. HASTINGS of Florida, Mr. OWENS, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to prevent excessive concentration of ownership of the nation's media outlets, to restore fairness in broadcasting, and to foster and promote localism, diversity, and competition in the media.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Media Ownership Reform Act of 2005”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Fairness in broadcasting.
Sec. 4. Broadcasting ownership limitations.
Sec. 5. Invalidation of media ownership deregulation.
Sec. 6. Review process for media ownership.
Sec. 7. Public interest reports.
Sec. 8. Prevention of programming vertical integration.
Sec. 9. Implementation.

1 **1 SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) The Communications Act of 1934 requires
4 the Federal Communications Commission and broad-
5 cast licensees to promote the public interest. The
6 Commission has long had rules in place to promote
7 the goals of localism, diversity, and competition.

8 (2) The Supreme Court, on numerous occa-
9 sions, has upheld the Commission's and Congress's
10 right to establish media protections because a mo-
11 nopolization of ideas is antithetical to our democ-
12 racy.

13 (3) In 1945, the Supreme Court declared, “the
14 widest possible dissemination of information from di-
15 verse and antagonistic sources is essential to the
16 welfare of the public, that a free press is a condition
17 of a free society”.

18 (4) In 1969, the Supreme Court declared, “it is
19 the purpose of the First Amendment to preserve an
20 uninhibited marketplace of ideas in which truth will
21 ultimately prevail, rather than to countenance mo-

1 nopolization of that market, whether it be by the
2 Government itself or a private licensee".

3 (5) Over the past two decades there has been
4 a gradual shift of control in the public's airwaves
5 into the hands of fewer private entities.

6 (6) Private entities can exert control over the
7 public's access to information as many of the rules
8 designed to foster diversity, competition, localism,
9 and production of independent news and entertain-
10 ment have been weakened or repealed.

11 (7) The past two decades have produced tech-
12 nological advances. Approximately 80 percent of
13 U.S. households subscribe to cable or satellite sys-
14 tems offering multiple channels of video program-
15 ming. The rapid growth of the Internet added an-
16 other source of information to traditional media out-
17 lets. Over 71 percent of Americans have some form
18 of online access.

19 (8) These advances have dramatically increased
20 the number of information pipelines into Americans'
21 homes. Despite the increase in information outlets,
22 ownership and control of those is shrinking. A hand-
23 ful of companies control a large portion of both pro-
24 gramming and distribution. Five companies now own
25 the broadcast networks, 90 percent of the top 50

1 cable networks, produce three-quarters of all prime
2 time programming, and control 70 percent of the
3 prime time television market share. The same com-
4 panies that own the nation's most popular news-
5 papers and networks also own over 85 percent of the
6 top 20 Internet news sites.

7 (9) While the Internet has become a new source
8 of information, the vast majority of Americans con-
9 tinue to rely on television, newspaper, and radio as
10 their primary sources of news information. Owner-
11 ship of traditional news sources has been consoli-
12 dated over the past 25 years. Two-thirds of Amer-
13 ica's independent newspapers have been lost since
14 1975 and according to the Department of Justice's
15 Merger Guidelines every local newspaper market in
16 the U.S. is highly concentrated.

17 (10) One-third of America's independent TV
18 stations have vanished since 1975 and there has
19 been a 34 percent decline in the number of radio
20 station owners since the Telecommunications Act of
21 1996. There has been a severe decline in the number
22 of minority owned broadcast stations. At the end of
23 the 1990's, minorities owned just 1.9 percent of the
24 U.S. television stations and 4 percent of the nation's
25 AM and FM radio stations.

1 (11) As the major networks have been allowed
2 greater vertical integration, the percentage of inde-
3 pendently produced pilots and new series on the four
4 national broadcast networks has declined from 87.5
5 percent in 1990 to 22.5 percent in 2002.

6 (12) The weakening of media protections, and
7 subsequent consolidation of the media industry, has
8 allowed companies to ignore their obligations to
9 serve the public interest and severely reduce local-
10 ism, diversity, and competition in today's media.

11 (13) The current state of today's media threat-
12 ens the ability of our democracy to function because
13 it does not allow for "the widest possible dissemina-
14 tion of information from diverse and antagonistic
15 sources" and shrinks the marketplace of ideas.

16 (b) PURPOSES.—The purposes of this Act are—

17 (1) to inform the public of the scope of media
18 rules and regulations that have been weakened and
19 lost over the past two decades;

20 (2) to restore fairness in broadcasting;

21 (3) to reduce media concentration:

22 (4) to ensure that broadcasters meet their pub-
23 lic interest requirements; and

24 (5) to promote diversity, localism, and competition
25 in American media

1 **SEC. 3. FAIRNESS IN BROADCASTING.**

2 Section 315 of the Communications Act of 1934 (47

3 U.S.C. 315) is amended—

4 (1) by redesignating subsections (a) through (d)

5 as subsections (b) through (e), respectively; and

6 (2) by inserting before subsection (b) the fol-

7 lowing new subsection:

8 “(a) PUBLIC INTEREST OBLIGATION TO COVER PUB-

9 LICLY IMPORTANT ISSUES.—A broadcast licensee shall af-

10 ford reasonable opportunity for the discussion of con-

11 flicting views on issues of public importance. The enforce-

12 ment and application of the requirement imposed by this

13 subsection shall be consistent with the rules and policies

14 of the Commission in effect on January 1, 1987.”.

15 **SEC. 4. BROADCASTING OWNERSHIP LIMITATIONS.**

16 (a) ESTABLISHMENT OF BROADCASTING MULTIPLE

17 OWNERSHIP LIMITATIONS.—Part I of title III of the Com-

18 munications Act of 1934 is amended by inserting after

19 section 339 (47 U.S.C. 339) the following new section:

20 **“SEC. 340. BROADCASTING MULTIPLE OWNERSHIP LIMITA-**

21 **TIONS.**

22 “(a) NATIONAL TELEVISION AUDIENCE REACH LIM-

23 ITATION.—The Commission shall not permit any license

24 for a commercial television broadcast station to be grant-

25 ed, transferred, or assigned to any party (including all

26 parties under common control) if the grant, transfer, or

1 assignment of such license would result in such party or
2 any of its stockholders, partners, or members, officers, or
3 directors, directly or indirectly, owning, operating or con-
4 trolling, or having a cognizable interest in television sta-
5 tions which have an aggregate national audience reach ex-
6 ceeding 25 percent.

7 “(b) RADIO OWNERSHIP LIMITATIONS.—

8 “(1) NATIONAL RADIO OWNERSHIP LIMITA-
9 TIONS.—The Commission shall modify section
10 73.3555 of its regulations (47 C.F.R. 73.3555) to
11 establish provisions limiting the number of AM or
12 FM broadcast stations which may be owned or con-
13 trolled by one entity nationally. Such limitation shall
14 not exceed 5 percent of the total number of AM and
15 FM broadcast stations.

16 “(2) LOCAL RADIO OWNERSHIP LIMITATIONS.—
17 The Commission shall revise section 73.3555(a) of
18 its regulations (47 C.F.R. 73.3555) to provide
19 that—

20 “(A) in a radio market with 45 or more
21 commercial radio stations, a party may own,
22 operate, or control up to 5 commercial radio
23 stations, not more than 3 of which are in the
24 same service (AM or FM);

1 “(B) in a radio market with between 30
2 and 44 (inclusive) commercial radio stations, a
3 party may own, operate, or control up to 4 com-
4 mercial radio stations, not more than 2 of
5 which are in the same service (AM or FM);

6 “(C) in a radio market with between 15
7 and 29 (inclusive) commercial radio stations, a
8 party may own, operate, or control up to 3 com-
9 mercial radio stations, not more than 2 of
10 which are in the same service (AM or FM), ex-
11 cept that a party may not own, operate, or con-
12 trol more than 25 percent of the stations in
13 such market; and

14 “(D) in a radio market with 14 or fewer
15 commercial radio stations, a party may own,
16 operate, or control up to 3 commercial radio
17 stations, not more than 2 of which are in the
18 same service (AM or FM), except that a party
19 may not own, operate, or control more than 40
20 percent of the stations in such market.

21 “(c) CABLE/BROADCASTING OWNERSHIP RESTRI-
22 CTIONS.—The Commission shall not permit any license for
23 a commercial television broadcast station to be granted,
24 transferred, or assigned to any party (including all parties
25 under common control) if the grant, transfer, or assign-

1 ment of such license would result in such party or any
2 of its stockholders, partners, or members, officers, or di-
3 rectors, directly or indirectly, owning, operating or control-
4 ling, or having a cognizable interest in such station and
5 directly or indirectly owning or controlling a cable tele-
6 vision system whose service area overlaps in whole or in
7 part with such television broadcast station's predicted
8 Grade B contour, computed in accordance with section
9 73.684 of the Commission's regulations (47 C.F.R.
10 73.684).

11 "(d) SATELLITE/BROADCASTING OWNERSHIP RE-
12 STRICTION.—The Commission shall not permit any license
13 for a commercial television broadcast station to be grant-
14 ed, transferred, or assigned to any party (including all
15 parties under common control) if the grant, transfer, or
16 assignment of such license would result in such party or
17 any of its stockholders, partners, or members, officers, or
18 directors, directly or indirectly, owning, operating or con-
19 trolling, or having a cognizable interest in such station and
20 directly or indirectly owning or controlling a satellite car-
21 rier that provides service to customers who are located
22 within such television broadcast station's predicted Grade
23 B contour, computed in accordance with section 73.684
24 of the Commission's regulations (47 C.F.R. 73.684).

1 “(e) NO GRANDFATHERING.—The Commission shall
2 require any party (including all parties under common
3 control) that holds licenses for commercial broadcast sta-
4 tions in excess of the limitations contained in subsection
5 (a), (b), (c), or (d) to divest itself of such licenses as may
6 be necessary to come into compliance with such limitation
7 within one year after the date of enactment of this section.

8 “(f) SECTION NOT SUBJECT TO FORBEARANCE.—
9 Section 10 of this Act shall not apply to the requirements
10 of this section.

11 “(g) DEFINITIONS.—

12 “(1) NATIONAL AUDIENCE REACH.—The term
13 ‘national audience reach’ means—

14 “(A) the total number of television house-
15 holds in the Nielsen Designated Market Area
16 (DMA) markets in which the relevant stations
17 are located, or as determined under a successor
18 measure adopted by the Commission to delin-
19 eate television markets for purposes of this sec-
20 tion; divided by

21 “(B) the total national television house-
22 holds as measured by such DMA data (or such
23 successor measure) at the time of a grant,
24 transfer, or assignment of a license.

1 No market shall be counted more than once in making
2 this calculation. The Commission shall not provide
3 any discount in the measurement of national
4 audience reach for UHF stations, or on the basis of
5 any other class or category of television station.

6 “(2) COGNIZABLE INTEREST.—Except as may
7 otherwise be provided by regulation by the Commission,
8 the term ‘cognizable interest’ means any partnership
9 or direct ownership interest and any voting
10 stock interest amounting to 5 percent or more of the
11 outstanding voting stock of a licensee.”.

12 (b) DURATION OF LICENCES.—

13 (1) AMENDMENT.—Section 307(c)(1) of the
14 Communications Act of 1934 (47 U.S.C. 307(c)(1))
15 is amended by striking “8 years” each place it ap-
16 pears and inserting “3 years”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by paragraph (1) shall be effective with respect to
19 any license granted by the Federal Communications
20 Commission after the date of enactment of this Act.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 629 of the Departments of Com-
23 merce, Justice, and State, the Judiciary, and Re-
24 lated Agencies Appropriations Act, 2004, is re-
25 pealed. Subject to the amendments made by this

1 subsection, section 202 of the Telecommunications
2 Act of 1996 shall be applied as if such section 629
3 had not been enacted. This paragraph shall be effec-
4 tive as if enacted on the day after the date of enact-
5 ment of Departments of Commerce, Justice, and
6 State, the Judiciary, and Related Agencies Appro-
7 priations Act, 2004.

8 (2) Subsections (a) and (b) of section 202 of
9 the Telecommunications Act of 1996 (Public Law
10 104–104; 110 Stat. 110) are repealed

11 (3) Section 202(c)(1) of such Act is amended—
12 (A) by striking “its regulations” and all
13 that follows through “by eliminating” and in-
14 serting “its regulations (47 C.F.R. 73.3555) by
15 eliminating”;

16 (B) by striking “; and” at the end of sub-
17 paragraph (A) and inserting a period; and

18 (C) by striking subparagraph (B).

19 **SEC. 5. INVALIDATION OF MEDIA OWNERSHIP DEREGULA-
20 TION.**

21 (a) **DEFINITION.**—For purposes of this section, the
22 term “media ownership proceeding” means the Federal
23 Communications Commission proceeding on broadcast
24 media ownership rules (MB Docket No. 02–277, MM

1 Docket No. 01-235, MM Docket No. 01-317, and MM
2 Docket No. 00-244).

3 (b) NEW RULES INVALIDATED.—Except as provided
4 in subsection (d), the final rules adopted by the Federal
5 Communications Commission pursuant to its media own-
6 ership proceeding, and announced by the Commission on
7 June 2, 2003, shall be invalid and without legal effect.

8 (c) REINSTATEMENT OF PREVIOUS RULES.—Except
9 as provided in subsection (d), any rule of the Federal
10 Communications Commission that was in effect on June
11 1, 2003, and that was amended, repealed, or otherwise
12 modified by the Commission pursuant to the media owner-
13 ship proceeding is hereby reinstated as it was in effect on
14 June 1, 2003. Any such rule shall be applied and enforced
15 both prospectively after the date of enactment of this Act
16 and retroactively to June 2, 2003, as if the media owner-
17 ship proceeding had not occurred.

18 (d) EXCEPTION.—This section shall not apply to the
19 limitations required by section 340 of the Communications
20 Act of 1934, as added by section 4 of this Act.

21 (e) USE OF BIENNIAL REVIEW PROHIBITED.—The
22 Federal Communications Commission shall not apply sec-
23 tion 202(h) of the Telecommunications Act of 1996 or sec-
24 tion 11(b) of the Communications Act of 1934 (47 U.S.C.

1 161(b)) to any review of broadcast media ownership rules
2 after the date of enactment of this Act.

3 **SEC. 6. REVIEW PROCESS FOR MEDIA OWNERSHIP.**

4 (a) THREE-YEAR REVIEW PROCESS.—The Commission
5 shall, once each 3 years beginning in 2006, conduct
6 a review of—

7 (1) how the Commission's regulations con-
8 cerning media ownership promote and protect local-
9 ism, competition, diversity of voices in the media, di-
10 versity in broadcast ownership, children's program-
11 ming, small and local broadcasters, technological ad-
12 vancement; and

13 (2) what regulations should be strengthened,
14 added, eliminated, or altered, consistent with the
15 priorities described in paragraph (1).

16 (b) REPORT TO CONGRESS.—The Commission shall,
17 promptly after the conclusion of each review under sub-
18 section (a), submit a report thereon to Congress.

19 (c) PUBLICATION OF FINAL RULES PRIOR TO COM-
20 MENT; HEARINGS.—Before issuing any final rule con-
21 cerning limitations on media ownership, the Commission
22 shall—

23 (1) publish such rule in the Federal Register;
24 (2) conduct not less than 5 public hearings in
25 various regions of the country to afford the public

1 a reasonable opportunity to comment on such rule;
2 and

3 (3) widely advertise the time and place of such
4 hearings in advance.

5 **SEC. 7. PUBLIC INTEREST REPORTS.**

6 Section 309(k) of the Communications Act of 1934
7 (47 U.S.C. 309(k)) is amended by adding at the end the
8 following new paragraph:

9 “(5) PUBLIC INTEREST SERVICE REPORTS RE-
10 QUIRED.—

11 “(A) REPORT AND HEARINGS.—For the
12 purposes of enabling the Commission to render
13 the determinations required by paragraph
14 (1)(A), each broadcast licensee shall—

15 “(i) at least once every 2 years, sub-
16 mit to the Commission and publish, or oth-
17 erwise make broadly available to the public
18 at no cost, a report on how the broadcast
19 station is meeting the requirement to serve
20 the public interest in accordance with sub-
21 paragraph (B); and

22 “(ii) conduct public hearings in ac-
23 cordance with subparagraph (C).

1 “(B) REPORT CONTENTS.— The informa-
2 tion in the report required by subparagraph
3 (A)(i) shall include—

4 “(i) the broadcaster’s attempts to as-
5 certain and satisfy local community needs;

6 “(ii) the broadcaster’s use of public
7 service announcements;

8 “(iii) the level and variety of the
9 broadcaster’s children’s programming and
10 the extent of the broadcaster’s restraint
11 from improper commercial advertising dur-
12 ing children’s programming; and

13 “(iv) the level and variety of the
14 broadcaster’s nonentertainment progra-
15 ming, particularly public affairs progra-
16 ming;

17 “(v) the broadcaster’s proposals for
18 future programming; and

19 “(vi) the broadcaster’s coverage of
20 issues important to its local communities,
21 and how that coverage reflects the diverse
22 interests and viewpoints of that local com-
23 munity.

24 “(C) PUBLIC INTEREST HEARINGS.—Each
25 broadcast licensee shall hold at least two public

1 hearings each year in its community of license
2 during the term of each license to ascertain the
3 needs and interests of the communities they are
4 licensed to serve. One hearing shall take place
5 two months prior to the date of application for
6 license issuance or renewal. The licensee shall,
7 on a timely basis, place transcripts of these
8 hearings in the station's public file, make such
9 transcripts available via the Internet or other
10 electronic means, and submit such transcripts
11 to the Commission as a part any license re-
12 newal application. All interested parties shall be
13 afforded the opportunity to participate in such
14 hearings.”.

15 **SEC. 8. PREVENTION OF PROGRAMMING VERTICAL INTE-
16 GRATION.**

17 Part I of title III of the Communications Act of 1934
18 is amended by inserting after section 340 (as added by
19 section 3) the following new section:

20 **“SEC. 341. PREVENTION OF PROGRAMMING VERTICAL IN-
21 TEGRATION.**

22 “(a) LIMITATIONS ON VERTICAL INTEGRATION IN
23 THE ACQUISITION OF PROGRAMMING.—The Commission
24 shall, in accordance with subsection (b), prescribe rules
25 to prevent the persons controlling the distribution of video

1 programming over network distribution systems from ac-
2 quiring unreasonable proportions of such programming
3 from subsidiaries or affiliates contrary to the public inter-
4 est in the goals of diversity and competition in the media
5 marketplace.

6 “(b) MINIMUM STANDARDS.—The rules required by
7 subsection (a) shall, at a minimum—

8 “(1) for any of the four largest national tele-
9 vision networks, prohibit such network from distrib-
10 uting network produced programming over such net-
11 work in an amount that exceeds, for any month,
12 more than 60 percent of their primetime program-
13 ming;

14 “(2) for any other national television network,
15 other than a network described in paragraph (3),
16 prohibit such network from distributing network
17 produced programming over such network in an
18 amount that exceeds, for any month, more than 70
19 percent of their primetime programming;

20 “(3) for a national television network that has
21 been in operation for less than 3 years, prohibit such
22 network from distributing network produced pro-
23 gramming over such network in an amount that ex-
24 ceeds, for any month, more than 90 percent of their
25 primetime programming;

1 “(4) for a cable network that is owned or con-
2 trolled by a large cable operator or by a national tel-
3 elevision network, prohibit such network from distrib-
4 uting network produced programming over such net-
5 works in an amount that exceeds, for any month,
6 more than 65 percent of their primetime program-
7 ming; and

8 “(5) for any other cable networks, prohibit such
9 network from distributing network produced pro-
10 gramming over such network in an amount that ex-
11 ceeds, for any month, more than 75 percent of their
12 primetime programming.

13 “(c) DEFINITIONS.—As used in this section:

14 “(1) NETWORK PRODUCED PROGRAMMING.—
15 The term ‘network produced programming’ means
16 programming that is owned or produced by an entity
17 controlled by or affiliated with the same entity own-
18 ing or controlling the network, or one over which the
19 network has sole or joint creative control, acts as the
20 distributor, or has a financial interest, but does not
21 include programming that is owned or produced, or
22 under the sole creative control, by an affiliated tele-
23 vision broadcast station that is not owned or con-
24 trolled by such network.

1 “(2) PRIMETIME PROGRAMMING.—The term
2 ‘primetime programming’ means programming
3 broadcast during the hours of 8 p.m. to 11 p.m.,
4 Monday through Sunday, but does not include news-
5 casts, sports programs, or telecasts of feature films.

6 “(3) CABLE NETWORK.—The term ‘cable net-
7 work’ means a cable channel that broadcasts video
8 programming which is primarily intended for the di-
9 rect receipt by a cable operator or a satellite oper-
10 ator for their retransmission to cable or satellite
11 subscribers, but does not include a cable channel
12 that reaches less than 16 million cable households.

13 “(4) LARGE CABLE OPERATOR.—The term
14 ‘large cable operator’ means a cable operator, as
15 such term is defined in section 602, that has
16 3,000,000 or more subscribers in the aggregate na-
17 tionwide.”.

18 **SEC. 9. IMPLEMENTATION.**

19 Within 180 days after the date of enactment of this
20 Act, the Federal Communications Commission shall com-
21 plete all actions necessary to prescribe regulations, or
22 changes in regulations, to carry out the amendments made
23 by this Act.

