



MORE is better than less.

## Dear Friends:

2025 ushered in a new administration and with that, a new regulatory outlook for media companies.

In this newsletter, we look at current media ownership regulations and how they may change in the next few years. We also look at changes broadcasters are asking for with regard to speeding the transition to ATSC 3.0 – also known as NextGen TV – and at some of the Trump administration’s key regulatory appointments.

We are looking forward to the MFM 2025 Annual Conference, May 18-21 at the Marriott Crystal Gateway Hotel, Arlington, Va. Szabo Associates is pleased to sponsor the opening night party aboard The Odyssey DC as we cruise the Potomac.

A handwritten signature in cursive script that reads "Robin".

Best wishes for a happy and healthy spring!

## As President Trump Starts His Second Term, Local Media Companies have Renewed Hope for Regulatory Relief

When Donald J. Trump was re-elected president of the United States, many media company owners rejoiced. After getting close during Trump’s first administration, the Federal Communications Commission, under the leadership of Chair Jessica Rosenworcel, decided to instead maintain certain caps on ownership. Media entities were hopeful that an era of less regulation was upon them when Trump won re-election and immediately announced the nomination of Republican FCC Commissioner Brendan Carr to become FCC Chair.

Carr had already set forth his agenda, writing in the Heritage Foundation’s “Mandate For Leadership”:

“These rapidly evolving market conditions counsel in favor of eliminating many of the heavy-handed FCC regulations that were adopted in an era when every technology operated in a silo. These include many of the FCC’s media ownership rules, which can have the effect of restricting investment and competition because those regulations assume a far more limited set of competitors for advertising dollars than exist today.

“Ultimately, FCC reliance on competition and innovation is vital if the agency is to deliver optimal outcomes for the American public. The FCC should engage in a serious top-to-bottom review of its regulations and take steps to rescind any that are overly cumbersome or outdated. The Commission should focus its efforts on creating a market-friendly regulatory environment that fosters innovation and

competition from a wide range of actors, including cable-based, broadband-based, and satellite-based Internet providers.”

### The Path to Ownership Relief.

Both radio and television broadcasters say ownership restrictions no longer make sense. They have long been pleading for relief from long-standing ownership regulations that they say stifles their business, while technology companies such as Google and Meta are allowed to operate in local marketplaces largely without regulation. Broadcasters almost were freed from them during Trump’s first term under FCC Chair Ajit Pai, but those rollbacks were challenged in court, which remanded them back to the FCC in December 2023. At the time, Rosenworcel was chair and the FCC decided to leave the rules as they were.

“For decades, the FCC has maintained strict ownership regulations on local TV and radio broadcasters. These rules were put in place when broadcasting was virtually the only game in town,” Curtis LeGeyt, president and CEO of the National Association of Broadcasters, told Washington, D.C.’s Media Institute on February 19.

Among the rules from which television broadcasters are seeking respite is the national broadcast ownership cap that restricts any one television station group owner from reaching more than

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39% of the country. This rule prevents large groups – such as Nexstar and Fox – from acquiring any additional TV stations because they are already at or near the cap. Whether or not the FCC needs Congressional approval to remove this rule is unclear, but the Commission could also grant waivers to companies if needed.

LeGeyt and others argue that when the rules were written, broadcasters were the major providers of video content in any market. That's in no way true today.

"Netflix, YouTube and Amazon have no such limit. They can reach 100% of households," said LeGeyt. "Only local broadcasters remain burdened by regulations that no longer reflect market realities. These local stations must have the ability to scale up and compete for audience and the advertising dollars that allow us to invest in providing vital emergency information and local news to communities."

Another rule – the so-called "two of four" rule – prevents one broadcast company from owning more than one of the top-four rated television stations in a given market.

"This ignores the vast array of competition broadcasters now face, from streaming platforms to social media giants. And most importantly the fact that in many markets, communities would be best served by a pool of investment in one or two strong local newsrooms, rather than four under-resourced entities," LeGeyt said.

Radio also faces ownership restrictions, with companies limited to owning eight stations per market and no more than five on one band (AM or FM) in the biggest metro areas, according to *Inside Radio* on February 18.

"[S]treaming services, like Spotify, SiriusXM, Amazon and Apple, have no limits. They can offer as many channels as they like. The trade off: it will cost you a subscription fee. Meanwhile, a local radio group, which offers a product that is

locally focused and freely available to all, is restricted in its ability to offer more than five FM stations in many markets," LeGeyt said.

Unlike TV, the radio industry is divided on whether they want these rules changed. Radio's largest owner, iHeartMedia, would prefer for the FCC to eliminate AM caps but retain FM limits, *Inside Radio* reports.

Broadcasters' biggest competitor is no longer each other, but Big Tech, they argue.

"These national and local ownership rules were crafted to promote competition, but in practice they give Big Tech a free pass to dominate and serve audiences with content based on algorithms that reinforce our biases and divide us rather than bring us together. In contrast, local stations deliver content that is meant to serve our collective community. Yet, we are competing with both arms tied behind our backs," LeGeyt said.

Carr, who has made clear his dislike of bureaucracy, may also be more inclined to speed transactions through the FCC's pipeline than previous commissions, Adonis Hoffman, a media attorney and founder of The Advisory Council, told industry website *TVNewsCheck*. "I think ... Carr is going to be able to really streamline the way business is done," Hoffman said.

The Rosenworcel-led FCC, in contrast, because of its insistence of an administrative hearing, sank Standard General's \$8.6 billion acquisition of TEGNA in May 2023. Many broadcasters feel that decision has chilled mergers and acquisitions in the broadcast space ever since.

### Time Remains an Issue.

While Carr and a Republican-led FCC seem inclined toward broadcast deregulation, time remains an issue. The Commission would need to issue a notice of proposed rulemaking, take public comments and draft a decision that would then still be subject to court appeals. If the past is prologue, public interest groups are likely to oppose any change to the rules.

In the meantime, the Eighth Circuit Court of Appeals in St. Louis, Mo., will hear oral arguments on March 19 on radio and television broadcasters' multi-court challenge of the FCC's 2023 decision, made

under Rosenworcel, that left the existing ownership rules in place.

In December 2023, Nexstar filed its appeal in the Fifth Circuit Court of Appeals in New Orleans.

"Rather than taking account of the increasing competition that radio and television broadcasters encounter from contemporary sources, the Commission adhered to narrow and inappropriate market definitions," Nexstar wrote in its petition to the court. Nexstar also took issue with the FCC's multicasting rule that allows the agency to consider "the combined audience share of all free-to-consumer, non-simulcast multicast programming airing on streams owned, operated, or controlled by that station as measured by Nielsen Media Research or by any comparable audience ratings service." That rule could lead to issues with stations carrying a second major network affiliation on a digital subchannel if that's considered in violation of the "two of four" rule."

Radio owner Beasley Media Group and broadcaster Tri-State Broadcasting filed their appeal in the 11th Circuit Court of Appeals in Atlanta, arguing that "the Commission opted to stick with 'analog-era' local radio ownership rules and even make local TV ownership limits more restrictive," according to *Inside Radio*.

And finally, Zimmer Radio argued in the Eighth Circuit that the FCC decision "deviates from – and often ignores outright – the competition-centric approach" required by the Telecommunications Act of 1996.

Even a favorable result in that case may not result in a quick resolution, David Oxenford, partner at Wilkinson Barker Knauer LLP, and author of the *Broadcast Law Blog*, told *TVRev*.

"Even if the court rules quickly on that appeal, that decision, even if favorable to broadcasters, may not immediately result in a change in the rules – the court could just tell the FCC to revise the rules taking into account all the competition that is in the marketplace. Thus, finalizing any court-ordered change will still take time," Oxenford said.

Also slowing the process is that

Congress still needs to approve a fifth commissioner. Trump on January 16 nominated Republican Olivia Trusty, an aide to the Senate Commerce, Science and Transportation Committee, to the post. The nomination was referred to the Committee on February 11.

One way around delays is by approving mergers on a case-by-case basis and issuing waivers where it deems appropriate. "Other quick changes might include easing rules on joint sales and shared services agreements and reducing paperwork burdens," Oxenford said.

One challenge that broadcasters face is an increased emphasis on their public interest obligations. Those haven't been clearly defined since 1934, Oxenford said. "Trying to define those obligations could complicate things, as opinions on what serves the public interest vary widely."

Finally, there is Congress, but that's "another wildcard," Oxenford told *TVRev*. "Legislative changes could bypass the usual FCC process, but even Congress takes time. There are several FCC-related issues pending before Congress that may require them to

pass FCC-related legislation – issues dealing with spectrum allocation, auction authority, and broadband funding. Changes to broadcast ownership rules could get attached to broader telecom legislation, which is how the current rules were put in place in 1996."

### Seeking Help with NextGen TV.

Looking ahead, broadcasters would like the FCC to actually apply more regulation to the adoption of ATSC 3.0, also known as NextGen TV, to try to speed that technology's adoption. Currently, the industry's transition to NextGen TV is voluntary and requires consumers to purchase televisions with ATSC 3.0 receivers. Meanwhile, the FCC also requires broadcasters to continue simulcasting on the existing standard, ATSC 1.0, with no mandated sunset. Because of this, consumers have not felt pressure to move to the new standard. In the meantime, other technologies are moving forward, making things like 4K video and Dolby audio a required part of the video experience.

The NAB on February 26 filed a petition for rulemaking that would have the FCC sunset ATSC 1.0 in two steps, reported *PolicyBand's*

Ted Hearn. In phase one, stations in the top 55 markets – which include about 70% of the U.S. population – would transition fully to ATSC 3.0 in February 2028, with limited waivers for smaller or noncommercial stations if necessary. In phase two, the remaining stations would transition in or before February 2030.

"In addition to setting a timeline, this transition requires updates to outdated rules," NAB wrote in the petition.

In terms of specifics, NAB said the FCC, pursuant to the All-Channel Receiver Act of 1961, should require ATSC 3.0 tuners in new TV sets no later than February 2028 – a proposal that the Consumer Technology Association (CTA), which been critical of past tuner mandates, might oppose, noted Hearn. "Many, if not most, of these questions can be addressed without the need for regulatory involvement," NAB wrote.

In its *Future of Television* report, released in mid-January, NAB and its partners found that the "Commission should move expeditiously to usher in this industry-wide transition. In particular, the FCC should seek comment on establishing a transition timeline to help align stakeholder efforts, provide the certainty needed to expand access to affordable receiver devices, drive robust consumer education initiatives, foster the growth of innovative ATSC 3.0 content and ensure readiness across the industry and among consumers. Broadcasters have already begun to offer ATSC 3.0 services in more than 75 markets, covering over 75% of U.S. households. Now is the time to harness this momentum and complete the transition, ensuring that all consumers continue to have access to high quality, free and local over-the-air television."

### Other Key Pending Appointments.

Beyond the FCC, Trump has named Andrew N. Ferguson chair of the Federal Trade Commission, which works to promote competition in American business while protecting and educating consumers. Ferguson is a University



Flo: I'm headed out, Boss, but I've noticed you've been working late for the past few weeks. What's keeping you here? Boss: I'm making sure all of our books are in order in case the FCC changes ownership regulations. If long-standing rules like the national 39% ownership cap or the dual-network rule go away, mergers and acquisitions will start up in our space and I want us to be prepared. Flo: Wow, I didn't realize that was imminent. Let me know if you need me to stay and help!

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of Virginia trained lawyer, who previously clerked for U.S. Supreme Court Justice Clarence Thomas in 2016-17. He was chief counsel to the Senate Judiciary Committee and then as chief counsel to Senate Minority Leader Mitch McConnell (R-Ky.) from 2019-21. He was named solicitor general of Virginia in January 2022 and confirmed to the FTC as a commissioner in

March 2024.

“Under the President’s leadership, we will end the previous administration’s assault on the American way of life, and we will usher in a new Golden Age for American businesses, workers, and consumers,” said Ferguson in a statement.

Trump also has nominated Arielle Roth, an advisor to Senator Ted Cruz (R-Texas), former advisor to two Republican Federal Communications Commissioners and a contributor to the Federalist Society, to head the National Telecommunications and

Information Administration. The NTIA advises the president on technology-related issues, including spectrum.

### What’s Next?

Time will tell, but with the arrival of the new administration, both television and radio broadcasters’ hopes are high that the regulatory shackles will soon be taken off, allowing them to compete more freely in the modern marketplace. If not, workarounds might be necessary. ♦



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