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Communications Advisory

FCC Adopts Further Notice of Proposed Rulemaking on Broadcast Ownership Rules

At its June 21, 2006 Open Agenda Meeting, the FCC adopted a Further Notice of Proposed Rule Making (“FNPRM”) concerning its broadcast multiple ownership rules and at the same time announced the beginning of its quadrennial ownership review required by Congress. The FNPRM has two purposes: (1) it seeks comment on how to address the issues raised by the Third Circuit Court of Appeals in *Prometheus Radio Project, et al. v. FCC*, 373 F. 3d 372 (3rd Cir. 2004), and (2) it opens a comprehensive review of all the FCC’s multiple ownership rules.

The item expressly seeks comment on the cross-media limits which the FCC adopted in 2003 and tentatively concludes that the diversity index does not accurately measure diversity. Parties are encouraged to refresh the existing rulemaking record and to submit further studies presenting current empirical evidence and economic theory. Chairman Martin noted that the FCC intends to conduct some independent studies of its own. Commissioner Copps announced that he is concurring and dissenting to the FNPRM because, among other matters, “the issue of localism is not front and center in the proceeding” and “the item fails to include specific proposals for studying minority ownership.” Commissioner Adelstein stated that he is dissenting because “there is no provision giving the public the right to comment on specific proposals before the new rules are finalized.” He also objected to the fact that the item does not include a localism inquiry. Chairman Martin and Commissioners Tate and McDowell supported the item, noting among other things that the new proceeding was broad in scope and very encouraging of wide public participation. Commissioner Tate stressed that whatever the FCC does it must take the competitive marketplace into account. Chairman Martin said his intention is to fold the FCC localism proceeding into the new rule making.

The FNPRM will allow an extended 120 day period for comments and reply comments.

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