Before the
Federal Communications Commission
Washington, D.C. 20554

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

COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS

NATIONAL ASSOCIATION OF BROADCASTERS
1 M Street, SE
Washington, DC 20003
(202) 429-5430

Rick Kaplan
Jerianne Timmerman
Erin Dozier
Nandu Machiraju
Emily Gomes

December 17, 2025

TABLE OF CONTENTS

Before the
Federal Communications Commission
Washington, D.C. 20554

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

COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS

I. INTRODUCTION AND SUMMARY

When the Commission first adopted rules prohibiting common ownership of AM, FM, or television stations serving substantially the same area, Franklin D. Roosevelt occupied the White House. Now in the third decade of the 21st century, FCC rules still restrict local common ownership of AM and FM stations separately by service and in total and prevent ownership of more than two TV stations in all local markets. Even beyond the vast changes this century in the media marketplace – both audio and video and the two combined – the FCC has no justification to keep *ex ante* local ownership rules when its license transfer review process is far better suited to evaluating the public interest benefits of proposed transactions. In this 2022 quadrennial review,[1] the National Association of Broadcasters (NAB)[2] accordingly urges the FCC to expeditiously eliminate all of its *ex ante* local broadcast ownership rules.

---

[1] *See 2022 Quadrennial Regulatory Review*, Notice of Proposed Rulemaking, MB Docket No. 22-459, FCC 25-64 (Sept. 30, 2025) (Notice).

[2] NAB is the nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

The information and data provided here show the increasingly untenable position of broadcast stations in a radically altered competitive landscape. Rules restricting radio and TV broadcasters *alone* in a marketplace with smart devices from phones to TVs, satellite radio, cable and satellite TV, free and subscription audio and video streaming services, Google/YouTube, Meta, and Amazon are irrational on their face. These asymmetric restrictions on broadcasters' scale seriously exacerbate their struggles to compete effectively, hinder rather than serve the FCC's goals, and impair local stations' provision of their most important public service – offering news, emergency information, and valued entertainment and sports programming in local communities across the country at no cost to the public.

The Commission now should repeal its *ex ante* local ownership rules. No other media or FCC licensees are subjected to any comparable *ex ante* restrictions. Indeed, the FCC disavowed *ex ante* rules in favor of a case-by-case approach decades ago in the wireless context, yet it still ensures that transactions involving those licensees serve the public interest. Similarly, removing the *ex ante* broadcast ownership rules will not hobble the FCC's ability to ensure that radio and TV station transactions serve the public interest. Even without those rules, the FCC still must review all proposed station transactions, guarding against the possibility that a radio or TV station merger could raise any public interest concerns. Given the FCC's authority over broadcast transfers and assignments under the Communications Act of 1934 (Act or 1934 Act), and the fact that no one set of rules appropriately accounts for the complex workings of every local market, the *ex ante* rules preventing many transactions at the outset serve no purpose. This revised approach also would allow the FCC to properly consider relevant competitive factors in its review of transactions, rather than blindly applying arbitrary numerical limits that ignore actual competitive conditions in widely divergent local markets.

Both marketplace realities and the governing legal framework support broadcast ownership deregulation. The quadrennial review statute is a deregulatory provision focused on competition, and Congress intended Section 202(h) to continue the process of ownership deregulation it began in the 1996 Telecommunications Act (1996 Act) due to the growing competition radio and TV broadcast faced even then, including from non-broadcast sources.

The Commission here finally must recognize the intense competition local broadcast stations experience in a digital-dominant marketplace. The FCC's analysis of the necessity for its ownership rules, however, neither requires nor benefits from formal market definition, and its past attempts at market definition have revealed its fundamental misunderstanding of market definition principles and of competition itself. And rather than focusing as the Department of Justice does on the prices that advertisers pay, the FCC's attention under the 1934 Act and the 1996 Act must be on the viability of broadcast stations and their ability to serve local communities. However, if the FCC believes it must formally define a market in this review, then it should – consistent with its competition reports to Congress since 2018 – define the audio market to include, at the least, terrestrial radio broadcasters, satellite radio providers, and online audio providers and the video market to include, at the least, broadcast TV stations, multichannel video programming distributors (MVPDs), and online video distributors (OVDs).

An examination of the media and advertising markets shows the unnecessary – indeed, harmful – impact of outmoded rules on local broadcasters. Competition from unconstrained media outlets has fragmented the formerly mass audiences for AM/FM and TV broadcasting and substantially reduced listening to and viewing of local stations. AM/FM radio's share of time spent listening to audio sources fell 37.7 percent from 2014 to 2025, due to competition from streaming and online outlets. And *ex ante* restrictions on local TV broadcasters alone lack any rational basis in a market where every month just YouTube and

Netflix combined either nearly equal or exceed *all* broadcast TV's share of total TV usage.

The digital revolution also has transformed the advertising market. Local digital advertising accounted for about 70 percent of all local ad spending in 2024, and the "lion's share" of that digital advertising goes to pureplay digital companies such as Google and Facebook. Local media outlets, including broadcast stations, capture only about 15 percent of all locally-spent digital advertising. Due to digital competition, radio and TV stations' total ad revenues have fallen over time by double-digit percentages (on both nominal and real bases). But to date, the FCC has turned a blind eye to this economic reality.

In this competitive landscape, the FCC's *ex ante* ownership rules harm broadcasters and the public. Chairman Carr has recognized the urgent need to promote investment in broadcasting by removing legacy regulations that prevent capital from flowing to broadcasters. Indeed, the FCC's "primary goal" in this proceeding "is to promote investment in local broadcasters" that provide trusted news and information to local communities.[3] NAB again explains the litany of harms inflicted by asymmetric regulation such as broadcast-only ownership rules. And potential investors know that FCC rules prevent broadcasters but not their competitors from taking advantage of important economies of scale.

Broadcasters are now caught in a vicious circle – asymmetric ownership rules prevent greater scale economies and reduce investment in stations that then struggle to fund any innovation or invest in more attractive programming to gain audiences (and thus advertising revenues), which in turn further reduces the attractiveness of station groups to investors. The FCC needs to end this negative feedback loop by eliminating its *ex ante* local ownership limits.

Forcing broadcasters into uneconomic ownership structures also harms consumers. A

[3] Notice, Statement of Chairman Carr.

new BIA report shows that removal or relaxation of the local radio caps should again spur growth in the variety of programming offered to local audiences, just as the 1996 Act's reform of the caps did three decades ago. Given radio stations' strong incentives to air new types of programming to attract more listeners and advertisers, allowing broadcasters now constrained by 30-year-old limits to acquire additional stations will enable them to offer more and different programming to listeners in local markets. No rational broadcaster would use additional outlets to repeat the same types of programming they already air.

On the TV side, NAB previously demonstrated, and economic studies have shown, that economies of scale promote local TV news provision, including increased local news telecasts and hours of local news. Data on the ad revenues of TV stations in all 210 DMAs also demonstrate the harm of the FCC's two-station local ownership limit. Given the extremely limited ad revenues garnered by the lower-earning half of all TV stations in local markets, the retention of an *ex ante* two-station cap prevents combinations of multiple lower-earning and resource-starved stations that would promote, not injure, competition.

The local radio and TV rules are irrational. Neither address actual competition in local markets, but apply numerical caps by rote, disregarding facts on the ground. Both rules ignore highly relevant competitive factors, including the size of any market's advertising base and its (in)ability to support multiple separate station owners; the effects of competing nonbroadcast outlets and digital ad platforms; and the strengths and weaknesses of any stations, including those proposing to be commonly owned. The radio rule instead sets inflexible caps based on arbitrary gradations in the number of stations in a market, while the TV rule treats New York City the same as Glendive, Montana. These *ex ante* restrictions simply make no sense.

There is a better way. Repeal of the unjustifiable *ex ante* local ownership rules will enable appropriate consideration of proposed station transactions via the FCC's license transfer review process. It is past time to remove the last vestiges of ownership rules now in their ninth decade, as required by the 1996 Act and the Administrative Procedure Act (APA).

II. THE FCC SHOULD NO LONGER MAINTAIN BROADCAST-ONLY *EX ANTE* LOCAL OWNERSHIP RESTRICTIONS

The FCC should not retain its local broadcast radio and TV ownership rules as they are no longer – if they ever were – in the public interest. No comparable *ex ante* limits apply to the numerous competitors that now vie with broadcast stations for audiences, advertisers, and investment. These broadcast-only caps impose unnecessary – indeed harmful – asymmetric burdens on local stations and prevent at the outset beneficial station combinations.

A. No Other Media or FCC Licensees Are Subjected to Remotely Comparable *Ex Ante* Rules

The FCC has correctly moved away from rigid *ex ante* ownership or aggregation limits for the other services it regulates. In doing so, the FCC has recognized that bright-line caps are increasingly mismatched to modern, converged markets in which services, platforms, and delivery mechanisms overlap. Instead, the FCC has embraced case-by-base, *ex post* frameworks that allow for more nuanced and evidence-based assessments of the competitive and public interest effects of proposed transactions – but not for the broadcast services.

For example, the Commission previously subjected wireless providers to spectrum caps, fixed limits on how much spectrum any single provider could hold. Recognizing increased competition in spectrum markets, in 2003 the FCC replaced its rigid wireless spectrum-cap regime with spectrum screens, an analytical tool that prompts deeper review of particular markets when potential competitive concerns arise in wireless transactions.[4] A

---

[4] *2000 Biennial Regulatory Review Spectrum Aggregation Limits For Commercial Mobile Radio Services*, Report and Order, 16 FCC Rcd 22668, 22670-71 (2001) (determining that “in

decade later, the FCC affirmed its continued use of the screen as opposed to a rigid cap, explaining that the "flexibility to reach the appropriate decision in each case, on the basis of the particular circumstances of that case" outweighs the predictability of a "bright-line limit."[5] The FCC also cautioned that in the context of transaction reviews "*ex ante* limits on spectrum aggregation may prevent transactions that are in the public interest."[6]

Arbitrary *ex ante* ownership limits placed on MVPDs have fared no better. In 2009, the D.C. Circuit Court of Appeals vacated the FCC's rule prohibiting any MVPD from serving more than 30 percent of all U.S. MVPD subscribers. The court found that rule arbitrary and capricious because the Commission failed to account for fundamental marketplace changes.[7]

---

light of the strong growth of competition in CMRS markets since the initiation of the spectrum cap" the FCC "should move from the use of inflexible spectrum aggregation limits to case-by-case review of spectrum aggregation and enforcement of other safeguards applicable to such carriers based on evidence of misconduct" and establishing a January 1, 2003 sunset date). Although the FCC initially retained cellular cross-interest rules in rural service areas, it later eliminated them in favor of case-by-case review, determining that retaining "prophylactic limits" could "impede market forces that could drive financing and development of new services in rural and underserved areas." *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services; 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services; Increasing Flexibility to Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and to Facilitate Capital Formation*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 19078, 19113 (2004).

[5] *Policies Regarding Mobile Spectrum Holdings, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6133, 6223 (2014) (citations modified). The FCC retained *ex ante* spectrum aggregation limits for bidders in certain spectrum auctions, concluding that bright-line limits in that context would afford more certainty to potential bidders than *ex post* case-by-case review. However, those restrictions were time-limited and expired once the auction and initial holding period concluded.

[6] *Id*.

[7] *Comcast Corp. v. FCC*, 579 F.3d 1, 8 (D.C. Cir. 2009) ("Considering the marketplace as it is today and the many significant changes that have occurred since 1992, the FCC has not identified a sufficient basis for imposing upon cable operators the special obligations represented by the 30% subscriber limit.") (citation modified).

Although the relevant statutory standard required the FCC's rules to "reflect the dynamic nature of the communications marketplace," the court concluded that the FCC had not demonstrated that the cap still played any meaningful role in protecting competition or preserving programming diversity in a landscape characterized by growing competitive options.[8] And, in the court's view, ordinary antitrust oversight provided an adequate safeguard even without the rule.[9] Since that decision, the FCC has abandoned the idea of imposing *ex ante* horizontal ownership limits on MVPDs.

The same logic applies with equal force to broadcasters today. Eliminating broadcast-specific *ex ante* ownership restrictions would not diminish the FCC's ability to ensure that future broadcast station transactions serve the public interest. Every assignment or transfer of control would still require review under Section 310(d) of the Act. This process provides a flexible mechanism for addressing any transaction that might harm the public interest, while avoiding the inefficiencies and market distortions caused by one-size-fits-all local ownership caps in today's hyper-competitive and diverse media and advertising markets. Given the FCC's authority over all broadcast license transfers and assignments, blanket ownership limits that preemptively bar many transactions – including pro-competitive ones – serve no meaningful regulatory function. This revised approach would allow the Commission to properly consider relevant competitive factors in its review of transactions, rather than blindly applying numerical ownership caps that have nothing to do with actual conditions or the position of the merging parties in widely divergent local radio and TV markets.

As Chairman Carr noted in this proceeding, the FCC must adapt to "today's converged

---

[8] *Id.*

[9] *Id*. at 9 ("Although vacatur will eliminate the subscriber limit, cable operators will remain subject to, and competition will be safeguarded by, the generally applicable antitrust laws.").

markets" and move away from outdated regulatory silos that no longer reflect marketplace realities.[10] Broadcasters compete directly with streaming platforms, cable operators, satellite providers, and digital media outlets, none of which are subject to remotely comparable ownership limits. The Commission has already eliminated *ex ante* ownership caps for other licensed services, recognizing that flexible, case-by-case review better promotes competition, innovation, and the public interest in a rapidly evolving ecosystem. Against that backdrop, retaining strict *ex ante* local ownership rules for broadcasting alone is untenable. It would perpetuate regulatory disparity, stifle needed investment, and impede broadcasters' ability to compete on a more equal footing in a marketplace defined by convergence rather than siloed service categories.

B. The FCC's *Ex Ante* Local Rules Do Not Promote the Public Interest but Hinder Broadcast Stations' Provision of Their Most Important Public Service

The *ex ante* ownership restrictions on broadcast licensees did not contribute to the creation of the abundant and diverse modern media and advertising marketplace. Rather, internet ubiquity, the dominance of smart devices that allow access to virtually infinite online content 24-7-365, and the astounding growth of technology and streaming platforms combined to transform the analog marketplace into today's digital-dominant one. But the FCC has yet to fully account for the profound competitive effects this market metamorphosis has had on local broadcasters, as reflected in its continued reliance on analog-era ownership restrictions, as well as other unduly burdensome rules that apply only to broadcast stations.[11]

---

[10] *See* Notice, Statement of Chairman Brendan Carr.

[11] *See* FCC Public Notice, *In re: Delete, Delete, Delete*, GN Docket No. 25-133, DA 25-219 (Mar. 12, 2025) (seeking to alleviate unnecessary regulatory burdens and encourage investment, competition, and innovation); Comments of NAB, GN Docket No. 25-133 (Apr. 11, 2025) (detailing several rules that the FCC has imposed on broadcasters alone that serve to choke off revenue and investment).

As shown below and in many earlier filings, the FCC's asymmetric *ex ante* rules now only function to prevent broadcasters from effectively competing for audiences, advertising revenue, and scarce investment capital.[12] These outdated rules do not promote the FCC's goals of competition, localism, or viewpoint diversity. Instead, they hinder those goals and significantly impair local broadcast stations' provision of their most important service – offering news, emergency information, and valued entertainment and sports programming in local communities across the country at no cost to the public. As the Notice suggested,[13] moreover, the public interest is directly served by maintaining both a resilient nationwide broadcast infrastructure, which continues to operate when the internet is unavailable or mobile phone networks are congested, and viable, adequately staffed local stations able to provide local weather, EAS alerts, and other important emergency and recovery information to everyone free over-the-air.[14] The explicit purposes of the Communications Act and establishment of the Commission include "national defense" and "promoting safety of life and property."[15]

---

[12] *See, e.g.*, Comments of NAB, MB Docket No. 17-318, at 6-25 (Aug. 4, 2025); Comments of NAB, MB Docket No. 18-349, at 15-19 (Sept. 2, 2021); Comments of NAB, GN Docket No. 24-119, at 21-36 (June 6, 2024).

[13] See Notice at ¶ 10.

[14] *See, e.g.*, *The LA Fires: How Multiplatform Local Media Became a Lifeline*, Nielsen (Feb. 2025), https://www.nielsen.com/insights/2025/la-fires-multiplatform-local-media-tv-radio-lifeline/ (describing the vital role of local TV and radio in disseminating timely, life-saving information during the Los Angeles wildfires); *Local Broadcasters Become Lifeline for Hard-hit North Carolina Communities in Wake of Helene's Wrath*, CNN (Sept. 30, 2024), https://www.cnn.com/2024/09/30/media/hurricane-helene-local-radio-north-carolina (detailing how, when Hurricane Helene crippled power and cellular networks across western North Carolina, local radio stations became the primary means of delivering evacuation guidance and emergency updates to stranded residents). Television broadcasters continue to make investments in ATSC 3.0 that enable them to offer improved viewing experiences, a complementary positioning, navigation, and timing (PNT) solution to address critical national security needs, and advanced emergency information.

[15] 47 U.S.C. § 151.

Unfortunately, the FCC has only rarely recognized that the broadcast "industry's ability to function in the 'public interest, convenience and necessity' is fundamentally premised on its economic viability."[16] The need for this recognition has only become more urgent in today's marketplace, where broadcasters face unprecedented competition for audiences and the advertising revenues that sustain local station operations. In major legislation including the Cable Television Consumer Protection and Competition Act of 1992 (Cable Act) and the 1996 Act, Congress acted to enhance the competitiveness of broadcast stations and the economic viability of over-the-air local broadcasting.[17] The FCC here must give full effect to Congress's

---

[16] *Revision of Radio Rules and Policies*, Report and Order, 7 FCC Rcd 2755, 2760 (1992).

[17] Congress's "overriding" purpose in enacting the must-carry provisions of the Cable Act was to "guarantee the survival" of broadcast TV and ensure that every individual could access free TV programming. *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 647, 662-63 (1994) (agreeing with Congress that "preserving the benefits of free, over-the-air local broadcast television" was an "important governmental interest"). In highly specific legislative findings, Congress reaffirmed the value it places on local commercial TV stations serving communities throughout the country and on the viability of local OTA TV stations. *See* Cable Act, Section 2(a)(9) (stating that having cable systems carry the signals of local commercial TV stations was necessary to serve the goals of providing a fair, efficient and equitable distribution of broadcast services under Section 307(b) of the Act); Section 2(a)(16) (stating that without a must-carry requirement, "the economic viability of free local broadcast television and its ability to originate quality local programming will be seriously jeopardized"). 47 U.S.C. § 521 nt. In the main legislative report on the Cable Act, the Senate Commerce Committee found that enactment of retransmission consent was necessary to address a "distortion in the video marketplace which threatens the future of over-the-air broadcasting." S. Rep. No. 102-92, at 35 (1991), *reprinted in* 1992 U.S.C.C.A.N 1133, 1168. Congress similarly enacted the 1996 Act "to preserve and to promote the competitiveness of over-the-air broadcast stations," stressing that Congress and the FCC needed to "ensure the industry's ability to compete effectively in a multichannel media market." H.R. Rep. No. 104-204, at 48, 55 (1995), *reprinted in* 1996 U.S.C.C.A.N 10, 11, 19. A long series of satellite television bills also evidence Congress's concern with preserving our system of local broadcast TV stations and OTA television. *See, e.g.,* S. Rep. No. 113-322, at 2-3 (2014) (discussing legislative limits on importation of "distant" TV signals to preserve localism and to prevent non-local signals from "taking viewers away from local broadcast television stations that provide community-focused programming such as local news and weather," and stating that Congress determined that "over-the-air television would not be adversely impacted" by a license permitting satellite carriers to provide "local-into-local service," as such service would give more viewers access to local stations, thereby increasing their advertising revenues).

explicit direction to "ensure that our system of free broadcasting remains vibrant."[18]

As Congress recognized in a much less competitive and diverse analog media environment, "[p]ermitting common ownership of stations will promote the public interest by harnessing operating efficiencies of commonly owned facilities, thereby increasing competition and diversity," as well as supporting quality local service.[19] In today's digital, internet-centric environment, promoting viable free OTA broadcasting in all-sized markets can best be accomplished by repealing *ex ante* local ownership rules that effectively prevent at the outset many beneficial transactions and broadcasters' achievement of necessary economies of scale.

III. SECTION 202(h) REQUIRES THE FCC TO CONTINUE THE PROCESS OF DEREGULATION IN THIS PROCEEDING

The text, structure, purpose, and history of Section 202 of the 1996 Act show that Section 202(h) is a deregulatory provision focused on competition.[20] The very first page of the 1996 Act states that its purpose is to "promote competition and reduce regulation."[21] Congress intended in Section 202(h) to continue the process of broadcast ownership deregulation it began in the 1996 Act due to the growing competition radio and TV broadcasters faced, including from non-broadcast sources. The recent decision by the Eighth Circuit Court of Appeals[22] buttresses the previous decisions by the D.C. Circuit Court of

---

[18] S. Rep. No. 102-92, at 36 (1991), *reprinted in* 1992 U.S.C.C.A.N. 1133, 1169.

[19] H.R. Report No. 104-204, at 118 (1995), *reprinted in* 1996 U.S.C.C.A.N. 10, 86.

[20] *See* Comments of NAB, MB Docket No. 18-349, at 38-52 (Sept. 2, 2021).

[21] Pub. L. No. 104-104, 110 Stat. 56. *See Bittner v. U.S.*, 598 U.S. 85, 98 n.6 (2023) (stating that a preamble or purpose clause "is a permissible indicator of meaning," one that "is a key to open the mind of the makers" as to the objects that "are to be accomplished by the provisions of the statute") (citations omitted).

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

Appeals that the quadrennial review process is a deregulatory one, as Chairman Carr has explicitly recognized.[23]

A. Section 202(h) Is Deregulatory

Section 202(h) directs the Commission to periodically "determine" whether its broadcast ownership rules "are" – presently – "necessary in the public interest as the result of competition," and then to "repeal or modify" any rule determined to be "no longer in the public interest."[24] That is, the burden is on the FCC to demonstrate every four years based on a new record that the existing rules are still needed. If the Commission determines that a rule is still necessary, that is the end of the matter and the rule remains. But if the FCC concludes that a rule is no longer needed, it has two options: "repeal" the rule entirely or "modify" – i.e., *loosen* – the restriction. It would be bizarre to interpret the statute as though Congress authorized the FCC to add to or tighten an unnecessary rule.

In *Zimmer Radio*, the Eight Circuit endorsed NAB's interpretation of Section 202(h)'s text and its two-part structure[25] and concluded that the Commission lacked authority to make

---

[23] *See, e.g.*, Dissenting Statement of Comm'r Brendan Carr, *2018 Quadrennial Regulatory Review*, Report and Order, 38 FCC Rcd 12782, 12873 (2023) (2018 Quadrennial Review Order) (stating that the FCC has "consistently ignored Congress's deregulatory mandate" under § 202(h)); Dissenting Statement of Comm'r Brendan Carr, *Political Programming and Online Public File Requirements for Low Power Television Stations*, Notice of Proposed Rulemaking, 39 FCC Rcd 6318, 6396 (2024) (2024 LPTV Notice) (referring to quadrennial ownership review as "a proceeding that Congress directed" the FCC to "undertake for the purposes of reducing regulations").

[24] Pub. L. No. 104-104, 110 Stat. 111-112 ("The Commission shall review its rules adopted pursuant to this section and all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 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.").

[25] *See* Comments of NAB, MB Docket No. 18-349, at 43-47 (Sept. 2, 2021) (explaining that interpreting the term "modify" as somehow authorizing reregulation in the face of clear

the local TV rule more restrictive, as it had attempted in the 2018 quadrennial review. Under the structure of Section 202(h), modification comes into play only *after* the FCC has concluded that a rule as currently constituted is no longer needed; thus, "modify" in the second sentence must run in one direction, i.e., loosening the rule. "To read the language any other way would be to authorize the Commission to tighten a rule that is no longer necessary – an irrational reading."[26]

The Eighth Circuit further added that, even if the court had rejected this two-part framework and assumed that the statutory inquiry turned on the meaning of "modify," it was not convinced by the (former) FCC's argument. Rather than reading words in a statute in isolation, the court recognized that "[l]inguistic and statutory context also matter."[27] It concluded that Section 202(h)'s context indicated that a narrower definition of "modify" as meaning loosen was more appropriate for several reasons, including that term's proximity to "repeal" and the "deregulatory nature of the 1996 Act."[28] Congress, moreover, consistently

---

congressional intent to deregulate is inconsistent with the text, structure, legislative history, and purpose of Section 202 generally and Section 202(h) specifically).

[26] *Zimmer Radio*, 145 F.4th at 859. The court also found the FCC's assertion about the meaning of "modify" as encompassing tightening or loosening to be a "red herring" because the FCC only has authority under Section 202(h) to "modify" a regulation that it has "determine[d] to be no longer in the public interest." *Id*. at 860.

[27] *Id*. at 860, quoting *Dubin v. U.S*., 599 U.S. 110, 120 (2023). *Accord*, *e.g., Gundy v. U.S*., 588 U.S. 128, 140 (2019) (describing statutory interpretation as a "holistic endeavor which determines meaning by looking not to isolated words, but to text in context, along with purpose and history") (citation omitted); *Republic of Sudan v. Harrison*, 587 U.S. 1, 11 (2019) (stating that a "fundamental canon of statutory construction" requires the words of a statute to be "read in their context and with a view to their place in the overall statutory scheme") (citation omitted).

[28] *Zimmer Radio*, 145 F.4th at 860-61, *citing*, *inter alia*, *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 523 (2018) (a "statute's meaning does not always 'turn solely' on the broadest imaginable 'definitions of its component words'") (citation omitted); *Yates v. U.S.*, 547 U.S. 528, 543 (2015) (under the principle of *noscitur a sociis*, "a word is known by the company it

used the term “modify” throughout Section 202 of the 1996 Act to direct the elimination or easing of ownership rules, but never to tighten any rules.[29]

In short, this court’s recent interpretation of the “repeal or modify” directive represents the “best reading” of those statutory terms, Section 202(h)’s structure, and the purpose of the 1996 Act.[30] The Commission should no longer adhere to its erroneous position in the 2018 Quadrennial Review Order that Section 202(h) “creates no ‘presumption in favor of repealing or modifying the ownership rules,’” and that the FCC therefore “has discretion ‘to make [the rules] more or less stringent.’”[31]

While *Zimmer Radio* appears in tension with the Court of Appeals for the Third Circuit in *Prometheus I* on this point,[32] the Third Circuit’s brief analysis is inaccurate. As the Eighth

---

keeps”); *Gustafson v. Alloyd Co*., 513 U.S. 561, 575 (1995) (relying on doctrine of *noscitur a sociis* “to avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words”). The court also observed that dictionary definitions of “modify” from the time of Section 202(h)’s enactment were ambiguous.

[29] Section 202(a) instructed the FCC to “modify” its regulations by “eliminating” the national radio cap; Section 202(c)(1)(A) directed the FCC to “modify” its rules by “eliminating” the numerical cap on TV station ownership nationwide; and Section 202(c)(1)(B) required the FCC to “modify” its rules by increasing the national TV audience reach cap. *See also* Section 202(c)(2) (instructing the FCC to conduct a rulemaking to “determine whether to retain, modify, or eliminate” its existing numerical limitations on local TV station ownership, thereby permitting the FCC to steer a course between retention and elimination of those limitations, but not to create new or more stringent ones).

[30] *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2266 (2024) (stressing that courts should use all “traditional tools of statutory construction” to “determine the best reading of the statute”).

[31] Notice at ¶ 3, quoting 2018 Quadrennial Review Order, 38 FCC Rcd at 12790-91, ¶ 17. The Notice (at ¶ 3) very questionably describes the 2018 Quadrennial Review Order as “reaffirm[ing] the relevant legal framework” for evaluating the ownership rules pursuant to Section 202(h). In light of the decisions of the Eighth Circuit and the D.C. Circuit, as discussed below, this “framework” must be overhauled to be consistent with the majority (and better reasoned) judicial authority.

[32] *Prometheus Radio Project v. FCC*, 373 F.3d 372, 394 (3d Cir. 2004) (*Prometheus I*) (declining to read the “repeal or modify” provision as a “one-way ratchet, *i.e*., the Commission can use the review process only to eliminate then-extant regulations”).

Circuit explained, the Third Circuit erroneously suggested that reading the "repeal or modify" language of Section 202(h) as a one-way (i.e., deregulatory) ratchet somehow ignored both "modify" and the requirement that the Commission act "in the public interest."[33] In fact, the Eighth Circuit's narrow reading of "modify" does neither. The court's approach allows the FCC to "modify" its regulations "so long as it does not *tighten* them, and it still requires the Commission to act 'in the public interest' as it does so."[34] The Third Circuit's position that Section 202(h) authorizes *re*regulation must be rejected. That view misunderstands Section 202(h)'s structure, ignores Congress's placement of "modify" next to "repeal" as the FCC's only two statutory – and rational – options after it finds a rule to be no longer necessary, and undermines Congress's clear deregulatory intent.

The Eighth Circuit's recognition of the deregulatory purpose of the 1996 Act and Section 202(h) is consistent with the decisions of the Court of Appeals for the D.C. Circuit, the third court that has addressed and interpreted the quadrennial review statute.[35] In *Fox*, the D.C. Circuit found that in the 1996 Act "Congress set in motion a process to deregulate" the

---

[33] *Zimmer Radio*, 145 F.4th at 861, quoting *Prometheus I*, 373 F.3d at 394.

[34] *Zimmer Radio*, 145 F.4th at 861-62 (emphasis in original).

[35] The Supreme Court in *FCC v. Prometheus Radio Project*, 592 U.S. 414 (2021), did not interpret Section 202(h). That case was decided solely under the APA. *See id*. at 417 (concluding that the FCC's 2017 reconsideration order eliminating or relaxing certain ownership rules was "reasonable and reasonably explained for purposes of the APA's deferential arbitrary-and-capricious standard"). In its 2018 Quadrennial Review Order, the FCC claimed that it had "considerable latitude in our interpretation and application of section 202(h)" and that the Supreme Court in *Prometheus* "only affirm[ed] this conclusion by underscoring the Commission's broad discretion." 2018 Quadrennial Review Order, 38 FCC Rcd at 12791, ¶ 18. The Supreme Court did not do so, given that its decision did not even reach Section 202(h). *See* 592 U.S. at 427, n.3 (stating that it need not reach arguments about the text of § 202(h) because it was reversing the Third Circuit's judgment "under ordinary principles of arbitrary-and-capricious review"). The FCC should not repeat its error here. *See* Notice at ¶ 3 & n.11 (discussing the 2018 Quadrennial Review Order as "reaffirm[ing] the relevant legal framework" for its § 202(h) reviews and citing the highly problematic ¶ 18 of that Order, which misleadingly conflated the APA and § 202(h)).

broadcast industry's structure.[36] Congress itself began this deregulation by eliminating or relaxing a number of ownership restrictions in Section 202 of the 1996 Act.[37] Section 202(h) follows those provisions and instructs the Commission, "in order to continue the process of deregulation,"[38] to "promptly – that is, by revisiting the matter biennially [now, quadrennially] – [ ] 'repeal or modify' any rule that is 'not necessary in the public interest.'"[39] And rather than taking an incremental approach to the deregulation of broadcast ownership, the D.C. Circuit instead likened the "mandate of § 202(h)" to "Farragut's order at the battle of Mobile Bay ('Damn the torpedoes! Full speed ahead.')."[40] At base, "Section 202(h) carries with it a presumption in favor of repealing or modifying the ownership rules."[41]

---

[36] *Fox TV Stations, Inc. v. FCC*, 280 F.3d 1027, 1033 (D.C. Cir. 2002), *modified on reh'g on other grounds*, 293 F.3d 537 (D.C. Cir. 2002). *Accord Sinclair Broad. Group v. FCC*, 284 F.3d 148, 159 (D.C. Cir. 2002).

[37] Sections 202(a)-(f) directed the FCC to revise its rules to (1) eliminate the national cap on radio station ownership and loosen restrictions on ownership of radio stations in local markets; (2) repeal the numerical limit on common ownership of TV stations nationally and increase the maximum percentage of households a single TV broadcaster may reach nationally; (3) relax the radio/TV cross-ownership rule; (4) ease the dual network rule; and (5) eliminate certain cable/broadcast network cross-ownership restrictions. In Section 202(i), Congress repealed the statutory provision banning common ownership of a cable system and a broadcast TV station in the same local market.

[38] *Fox*, 280 F.3d at 1033.

[39] *Id*. at 1042, quoting Section 202(h). If the Third Circuit's view of Section 202(h) as permitting *re*regulation were correct, then the FCC could use its quadrennial reviews to reimpose rules, such as the national radio cap, that Congress had expressly directed the FCC to eliminate entirely, a highly implausible reading.

[40] *Id*. at 1044. *Accord Sinclair*, 284 F.3d at 164 (finding that the FCC's "wait-and-see approach" to further relaxation of local ownership restrictions "cannot be squared with its statutory mandate").

[41] *Fox,* 280 F.3d at 1048. The Eighth Circuit agreed with the D.C. Circuit that "'the [deregulatory] presumption in [Section] 202(h) would lose much of its bite'" if a reviewing court lacked the power to require the FCC to vacate an ownership rule it had improperly retained and could require the FCC only to reconsider its decision. *Zimmer Radio*, 145 F.4th at 857 n.11, quoting *Fox*, 280 F.3d at 1048.

The D.C. Circuit's and the Eighth Circuit's correct interpretation of Section 202(h) as deregulatory also properly reflects this section's imposition of an obligation on the Commission beyond its general administrative law duty, recognized by many cases, to reexamine its rules as circumstances change.[42] Despite this long-standing administrative law requirement for the FCC and other agencies to "monitor" their regulations and make adjustments to reflect "new developments or better understanding of the relevant facts,"[43] Congress nonetheless imposed additional obligations on the Commission under Section 202(h) to: (1) regularly conduct, as part of its broader regulatory reform review under Section 11 of the 1934 Act,[44] an analysis of its broadcast ownership rules in particular to determine "whether any of such rules" remain "necessary in the public interest as the result of competition" specifically; and (2) repeal or modify any rules determined by that analysis to be no longer in the public interest. Section 202(h) therefore cannot be read as only imposing the "same old, same old" administrative law obligations but clearly places the FCC "under a mandate that extends beyond its normal monitoring responsibilities."[45]

---

[42] *See, e.g., Cincinnati Bell Tel. Co. v. FCC*, 69 F.3d 752, 767 (6th Cir. 1995); *Bechtel v. FCC*, 957 F.2d 873, 881 (D.C. Cir. 1992); *Geller v. FCC*, 610 F.2d 973, 979-80 (D.C. Cir. 1979).

[43] *ACLU v. FCC*, 823 F.2d 1554, 1565 (D.C. Cir. 1987), *citing Am. Trucking Ass'ns v. Atchison, T. & S. F. Ry.*, 387 U.S. 397, 416 (1967).

[44] The 1996 Act added Section 11 to the Act to ensure that the FCC reviewed periodically its regulations governing telecommunications services to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition" and to "repeal or modify any regulation it determines to be no longer necessary in the public interest." 47 U.S.C. § 161.

[45] *Cellco P'ship v. FCC*, 357 F.3d 88, 99 (D.C. Cir. 2004) (concluding that, after the FCC has determined under Section 11(a) that a regulation "is no longer necessary in the public interest as the result of meaningful economic competition," Section 11(b)'s directive to "repeal or modify" any such regulation "make[s] clear that the Commission is under a mandate that extends beyond its normal monitoring responsibilities").

That encapsulates the Third Circuit's error. The majority in *Prometheus I* misread Section 202(h) by reducing it to a timing requirement, contending that the only "deregulatory" aspect of the statute is requiring the Commission "periodically" to justify its existing rules.[46] But if that had been Congress's intent, it would not have placed Section 202(h) within Section 11's broader regulatory reform review. Nor would it have directed the FCC to determine whether any of its rules remain necessary in the public interest due to competition particularly and mandated an outcome (i.e., repeal or modification of unnecessary rules). Instead, Congress would have just directed the FCC to examine its ownership rules periodically. Downplaying the statute's deregulatory purpose and slighting the additional, express requirements placed on the FCC beyond its normal administrative law duties, as the Third Circuit did in *Prometheus I*, makes Section 202(h) virtually redundant and superfluous. As the Supreme Court has made clear, no statute should be interpreted in such a manner.[47]

B. The FCC Must Give Full Effect to All Terms, Including the Specific Reference to "Competition," in Section 202(h)

The Supreme Court has identified "one, cardinal canon" in interpreting a statute: that "a legislature says in a statute what it means and means in a statute what it says there."[48] Section 202(h) plainly says that the Commission must determine whether any of its ownership rules are "necessary in the public interest *as the result of competition*." The FCC

---

[46] *Prometheus I*, 373 F.3d at 395. In his dissent Chief Judge Scirica disagreed, explaining that in the 1996 Act, "[o]n the cusp of an unprecedented revolution in communications technologies, Congress set in motion this statutorily-prescribed process of media deregulation." *Id.* at 438. He also stressed that the FCC bears the "burden for maintaining regulations" in its § 202(h) reviews. *Id*. at 442.

[47] *See, e.g., Corley v. U.S.*, 556 U.S. 303, 314 (2009) ("[O]ne of the most basic interpretive canons" is that a statute should be construed "so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.") (citations omitted).

[48] *Connecticut Nat'l Bank v. Germain*, 503 U.S. 249, 253-54 (1992). *See also Lackey v. Stinnie*, 145 S. Ct. 659, 666 (2025) ("When interpreting a statute, we begin with the text.").

lacks discretion to underplay this language or to treat Section 202(h) as though it said "necessary in the public interest" alone.

Notably, competition is the only public interest factor Congress specifically identified in Section 202(h). Even though for many decades the Commission included competition as one of the public interest goals of its broadcast ownership rules (along with viewpoint diversity and localism), Congress nonetheless explicitly cited "competition" alone, as well as referring to the "public interest." Given this language, "competition" in Section 202(h) is best understood as the lens through which the public interest need for the ownership rules must be viewed.

Beyond the singling out of competition in Section 202(h), the legislative history of the 1996 Act shows Congress's focus on broadcasting's competitiveness. One of the "three main components" of that legislation sought "to preserve and to promote the competitiveness of over-the-air broadcast stations."[49] Indeed, the section of the House Commerce Committee report on the 1996 Act pertaining to broadcasting is entitled "Broadcast Communications Competitiveness."[50] "To ensure the [broadcast] industry's ability to compete effectively," Congress understood that it and "the Commission must reform Federal policy and the current regulatory framework to reflect the new marketplace realities."[51] "[P]romot[ing] competition," along with "reduc[ing] regulation," are the purposes of the 1996 Act.[52]

Although in previous quadrennial reviews those supporting retention – or even tightening – of analog-era ownership restrictions attempted to ignore Congress's emphasis on

---

[49] H.R. Rep. No. 104-204, at 48 (1995), *reprinted in* 1996 U.S.C.C.A.N. 10, 11.

[50] *Id.* at 54, *reprinted in* 1996 U.S.C.C.A.N. at 18.

[51] *Id*. at 55, *reprinted in* 1996 U.S.C.C.A.N. at 19.

[52] Pub. L. No. 104-104, 110 Stat. 56. The House and Senate Conference Reports similarly state that the 1996 Act is "to provide for a pro-competitive, de-regulatory national policy framework." H.R. Rep. No. 104-458, at 1 (1996) (Conf. Rep.), *reprinted in* 1996 U.S.C.C.A.N. 124; S. Rep. No. 104-230, at 1 (1996) (Conf. Rep.).

competition, the "public interest" language in Section 202(h) is not free-standing. The clear directive for the Commission to "determine" whether its ownership rules "are necessary in the public interest as the result of competition" obviously is not the equivalent of directing the FCC to "determine" whether its rules are "necessary in the public interest." Reading the first sentence of Section 202(h) in that latter manner would ignore "the question that Congress required" the FCC "to answer."[53] As NAB earlier explained in detail, it also would be inconsistent with several basic principles of statutory interpretation.[54]

The Commission furthermore must reject any suggestion that the second sentence of Section 202(h) – requiring the FCC to "repeal or modify any regulation it determines to be no longer in the public interest" – empowers it to consider the public interest unbounded by competition. As NAB previously explained,[55] this second sentence does not stand alone and cannot be interpreted so as to ignore Congress's emphasis on competition in the first sentence. The two sentences work together and should be read accordingly. Specifically, the word "determines" in the second sentence refers back to the determination required by the first sentence, where the "public interest" is cabined by "the result of competition."[56]

---

[53] *Fox*, 280 F.3d at 1044 (concluding that retaining the national TV ownership rule was contrary to Section 202(h) because FCC did not conduct an adequate competition analysis).

[54] *See* Comments of NAB, MB Docket No. 18-349, at 47-50 (Sept. 2, 2021). Construing § 202(h) as though competition has no distinctive role in the FCC's analysis of the public interest need for its ownership rules would (1) be contrary to the plain language of the statute; (2) create a superfluity problem by not giving effect to the phrase "as the result of competition"; (3) ignore Congress's deliberate alteration of the familiar "public interest" language used throughout the 1934 Act by including the distinctive phrase "as the result of competition," which must mean something different; and (4) be contrary to the commonplace of statutory construction that the specific governs the general.

[55] *See* Comments of NAB, MB Docket No. 18-349, at 50-51 (Sept. 2, 2021).

[56] In *Gundy*, the Supreme Court soundly rejected a party's interpretation of a section of a statute based on the "first half" of that section "isolated from everything else – from the second half of the same section, from surrounding provisions in [the statute], and from any conception of the statute's history and purpose." 588 U.S. at 140.

Congress's specific focus on competition cannot be (re)written out of the statute.[57] Instead, this review must fully consider the competition broadcasters face in today's marketplace for audiences, advertisers, and investors when determining the public interest necessity of its local ownership rules.

C. "Competition" in Section 202(h) Should Be Read Broadly

As detailed above, both the text and legislative history of Section 202(h) and the 1996 Act place competition front and center. Under the best reading of the unequivocal statutory language, the FCC should view "competition" in Section 202(h)'s first sentence broadly and consider competition in all its forms and from all sources.

Congress did not in any way qualify its instruction for the FCC to determine the public interest necessity of its ownership rules "as the result of competition." It could have, for example, told the FCC to consider competition "in the broadcast industry" or "among radio stations and among TV stations." It did not. Nor did Congress exclude competition from media outlets that might only be partial competitors to broadcast stations. Nothing in Section 202(h) suggests complete substitution between outlets is required for competition to count.[58] The FCC cannot properly impose that extra-statutory requirement or decline to consider competition from non-broadcast sources across the board due to claimed uncertainty about the precise degree of their substitutability with broadcasting. In *Sinclair,* the D.C. Circuit firmly rejected as contrary to Section 202(h)'s mandate the FCC's contention that "unresolved

---

[57] The Third Circuit in *Prometheus I* did not analyze the meaning of the phrase "as the result of competition." Even the heading of subsection II.B.1. of the court's opinion addressing § 202(h)'s first sentence said, "**Determine whether any such rules are necessary in the public interest**," lopping off "as the result of competition" and focusing solely on the meaning of the term "necessary." *Prometheus I*, 373 F.3d at 391-94 (bold in original).

[58] *See* Section IV.B., *infra,* explaining that the 2018 review order's determination to count only total substitutes as competitors to broadcast stations also was "inconsistent with sound economics," "unduly restrictive," and limited the FCC's ability to properly evaluate the market.

questions on substitutability," due to the "absence of definitive empirical studies," "precluded further relaxation of local ownership restrictions."[59]

The statute also does not suggest that marketplace competitors must operate in the exact same way, or under the same regulatory strictures, as broadcasters for them to be relevant under Section 202(h). The fact that other audio and video outlets are subject to different legal requirements or reach consumers with content and advertising via different technologies than OTA broadcasting in no way reduces – and is irrelevant to analyzing – the intense competitive effects non-broadcast outlets have on radio and TV stations today.

The history of the 1996 Act and its broadcast provisions in fact show that Congress took account of non-broadcast competition and its impact on the broadcast "industry's ability to compete effectively in a multichannel media market."[60] Congress recognized that the "explosion in programming distribution sources" other than broadcast stations "call[ed] for a substantial reform of Congressional and Commission oversight of the way the broadcasting industry develops and competes."[61] When crafting the 1996 Act and in earlier legislation, Congress specifically found that the "cable industry now competes with broadcasters for

---

[59] 284 F.3d at 164. *See also Public Citizen v. Fed. Motor Carrier Safety Admin.,* 374 F.3d 1209, 1218-19 (D.C. Cir. 2004) (finding that safety agency erred in disregarding certain effects on truck drivers of their time spent on-task, because the mere fact that the magnitude of such effects was "*uncertain* is no justification for *disregarding* the effect entirely") (emphases in original).

[60] H.R. Rep. No. 104-204, at 55 (1995), *reprinted in* 1996 U.S.C.C.A.N. 10, 19.

[61] *Id.* at 54-55, *reprinted in* 1996 U.S.C.C.A.N at 18-19 (stating that cable TV systems pass 95% of all U.S. TV households; that other technologies, such as wireless cable, backyard dishes, satellite master antenna television service, and video cassette recorders, "provide consumers with additional program distribution outlets that compete with broadcast stations"; and that competition from telephone companies providing video programming is "becom[ing] a reality").

audiences shares and advertising,"[62] and the 1996 Act cited the "pervasive presence" of cable programming.[63] The statute also took account of the "rapidly developing array of Internet and other interactive computer services."[64] Congress clearly wanted the FCC to consider competition beyond broadcasting and empower broadcasters to adapt successfully to current and new forms of competition.[65] It makes no sense that Congress, on the one hand, would repeatedly cite the "explosion" in programming distribution services, while intending for the FCC to exclude or discount new media technologies and non-broadcast competitors from its evaluation of competition in Section 202(h).

Improperly limiting competition in the first sentence of Section 202(h) by ignoring or discounting all non-broadcast competitors also undermines the acknowledged deregulatory purpose of the 1996 Act and its broadcast provisions. Treating as relevant only competition among broadcast radio stations and among broadcast TV stations is inherently regulatory, as shown by the 2018 Quadrennial Review Order, in which the FCC effectively decided not to count competitive audio and video outlets unless they were complete substitutes for broadcast radio and TV stations,[66] and thus retained (and even tightened) its asymmetric

---

[62] S. Rep. No. 104-23, at 2-3 (1995). In the 1992 Cable Television Consumer Protection and Competition Act, Congress found, *inter alia*, that due to the "growth of cable television, there has been a marked shift in market share from broadcast television to cable" and that cable TV systems and broadcast TV stations "increasingly compete for television advertising revenues." Sections 2(a)(13) & (14), 47 U.S.C. § 521 nt.

[63] § 551, 110 Stat. 56, 139.

[64] § 509, 110 Stat. 56, 138.

[65] "Despite the explosion of video distribution technologies and subscription-based programming sources . . . free over-the-air broadcasting should remain a vital element in the video market." H.R. Rep. No. 104-204, at 55 (1995), *reprinted in* 1996 U.S.C.C.A.N. 10, 19. *See also* S. Rep. No. 104-23, at 3 (1995) (stating that the "growth of cable programming has raised questions about the rules that govern broadcasters," and observing that "broadcasters provide their services for free to consumers" but are restricted in use of their spectrum).

[66] *See, e.g.*, 2018 Quadrennial Review Order, 38 FCC Rcd at 12823-24.

20th century ownership limits. Taking the 2018 Order's position to its logical conclusion demonstrates the fallacy of the FCC's reasoning. Under that Order's approach, even if streaming services like Netflix accounted for 98 percent of viewership and audio streaming services like Spotify accounted for 98 percent of listenership, leaving TV and radio broadcasters with only two percent audience share, that non-broadcast competition still would not count under Section 202(h) – and presumably the broadcast ownership limits would remain – because substitution is not complete. Stated another way, broadcasters could be taken to near death by competition from internet-based services, satellite, and cable without such competition being treated as relevant. Congress did not intend such a nonsensical and harmful result; indeed, its intention – "to preserve and to promote the competitiveness" of broadcast stations[67] – was exactly contrariwise.

NAB recognizes that the Eighth Circuit in *Zimmer Radio* – stressing the FCC's discretion under the public interest standard and the court's deferential review under the APA[68] – did not overturn the FCC's constricted view of competition in the 2018 Quadrennial Review Order. But the court also acknowledged that "[w]riting from a blank slate, we might have viewed the marketplace differently" and that "disregard[ing] the significant marketplace changes in the audio and visual industries" may "feel counterintuitive."[69] At the least, the Commission based on the record in this quadrennial review should exercise its discretion to view marketplace competition much more realistically by taking proper account of broadcasters' digital and multichannel competitors. Indeed, for the reasons detailed above, Section 202(h)'s text, especially in light of the history and purpose of the 1996 Act, is best

---

[67] H.R. Rep. No. 104-204, at 48 (1995), *reprinted in* 1996 U.S.C.C.A.N. at 10, 11.
[68] *Zimmer Radio*, 145 F.4th at 844-51.
[69] *Id*. at 850-51.

understood as requiring the Commission to analyze the impact of all sources of competition on radio and TV broadcasters and their provision of OTA programming free to consumers everywhere. Simply put, Section 202(h) cannot reasonably be read as permitting the FCC to virtually ignore the majority of media marketplace competitors.[70]

IV. THE FCC SHOULD FOCUS ON THE IMPACT OF COMPETITION ON BROADCAST STATIONS AND THEIR SERVICES, RATHER THAN ON NEEDLESS FORMALITIES SUCH AS FORMULATING A MARKET DEFINITION

The FCC's approach to date of evaluating competition in the modern media marketplace has ignored competitive realities. As discussed in Sections V. and VI., broadcast TV and radio stations face a torrent of competition. If there is any doubt about how rapidly competition can alter the media marketplace, one need look no further than a federal district

---

[70] NAB questions for several reasons the Eighth Circuit's deference to the 2018 Quadrennial Review Order's inappropriately limited treatment of competition in § 202(h). First, the statutory text in no way limits "competition." Second, the court did not address Congress's evident concern, as detailed in this section, with the "explosion" of non-broadcast competition and its intent for the FCC to revise its regulatory framework to take such competition into account and ensure broadcasters' ability to compete effectively in a multichannel media market. Third, the court's deference to the FCC's erroneous interpretation of competition in § 202(h) is inconsistent, or at least in considerable tension, with its position later in its opinion about the deregulatory nature of the 1996 Act. *See Zimmer Radio*, 145 F.4th at 860-61. Fourth, the court over-relied on the FCC's "consistent" limitation, beginning with the initial 1998 ownership review, of relevant competition to just broadcast stations in its § 202(h) reviews. *Id*. at 845. What the court viewed as the FCC's consistency over time may more accurately be seen as refusal to acknowledge obvious and vast competitive changes over time. *See FCC v. Prometheus*, 592 U.S. at 419 (observing that § 202(h) "*requires* the FCC to keep pace with industry developments and to regularly reassess how its rules function in the marketplace") (emphasis added). "[V]intage" is, in any event, a "slender reed to support a significant government policy." *Judulang v. Holder*, 565 U.S. 42, 61 (2011). And the unduly narrow view of competition initiated in the 1998 review order was notably *in*consistent with the FCC's view of local media market competition prior to that review, when the FCC in ownership orders in the 1980s and 1990s treated local ad markets as encompassing broadcast TV and radio, newspapers, and cable TV. *See*, *e.g*., First Report and Order, 4 FCC Rcd 1723, 1727 (1989); *Revision of Radio Rules and Policies*, Report and Order, 7 FCC Rcd 2755, 2756, 2759 (1992); *Capital Cities/ABC, Inc*., Memorandum Opinion and Order, 11 FCC Rcd 5841, 5892 (1996); *Stockholders of Renaissance Communications Corp.,* Memorandum Opinion and Order, 12 FCC Rcd 11866, 11886 (1997).

court's recent decision to dismiss the Federal Trade Commission's (FTC) monopolization suit against Meta Platforms, Inc.[71] The court recognized that media marketplace competition transformed so rapidly over just a five-year period that, at the three different times the court examined the marketplace, it found that competition never looked the same.[72] In light of these rapidly shifting market conditions, the court ruled that the FTC failed to properly define a market where Meta exhibits monopoly power and dismissed the lawsuit.[73]

And yet the Commission, in evaluating its broadcast TV and radio ownership rules in quadrennial reviews spanning nearly three decades, has somehow retained the same market definition despite the total transformation of the media marketplace. It did this by, first, ignoring competition from cable and satellite TV and satellite radio, and then similarly discounting rapidly growing competition from Big Tech platforms and social media, like Google/YouTube, Meta, and Tik Tok, and streaming services including those offered by Spotify, Amazon, Netflix, and Apple, which now dominate the media landscape. Instead, the FCC has only looked at competition among broadcast TV stations alone and competition among broadcast radio stations alone in reviewing its local ownership rules.[74] Although the FCC may have wrongly settled on such a fossilized view of competition for various reasons,

---

[71] *FTC v. Meta Platforms, Inc.*, 2025 U.S. Dist. LEXIS 226858 at *9 (D.D.C. Nov. 18, 2025).

[72] *Id*. at *130 ("Like Heraclitus's river, the rapids of social media rush along so fast that the Court has never even stepped into the same case twice. It considered motions to dismiss in 2021 and 2022, motions for summary judgment in 2024, and a full merits trial this year. Each time it examined Meta's apps, they had changed. The competitors had, too. The Court's two Opinions on motions to dismiss did not even mention the word 'TikTok.' Today, that app holds center stage as Meta's fiercest rival.").

[73] *Id*.

[74] *See, e.g.*, 2018 Quadrennial Review Order, 38 FCC Rcd at 12799, 12822 (finding markets limited to radio and broadcast TV); 2010/2014 Quadrennial Review Order, 31 FCC Rcd at 9872, 9899 (same); 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9833, 9841 (same).

one major flaw in its approach has been relying on formalistic market definition. It has employed market definition in past quadrennial reviews to put up artificial blinders that block consideration of a broader set of media marketplace competitors. Given how market definition has led the Commission to take an unduly narrow view of the marketplace, it is worth pausing at square one to ask: Why does the FCC define a market in the first place?

As discussed below, the FCC does not need to formally define a market, and in fact, engaging in market-definition analysis only interferes with the FCC's ability to consider the competitive impact of the broader media marketplace. Rather, the Commission must focus on how the depth and breadth of competition in today's media landscape impacts local stations and their service to the public. If the FCC nonetheless believes it must "define the market" in this proceeding, a more economically sound approach would be consistent with its past communications marketplace reports to Congress, in which the video marketplace encompassed TV broadcasters, MVPDs, and OVDs and the audio marketplace included broadcast radio, satellite radio, and online audio providers.

A. Formalized Market Definitions Generally Serve a Limited Purpose and Are Not Helpful for the FCC's Purposes in This Proceeding

To begin, nothing in the Communications Act requires the FCC to define a market before analyzing whether its local ownership rules serve the public interest. Nor does Section 202(h) of the 1996 Act require a formalized market definition in determining whether the ownership regulations remain "necessary in the public interest as the result of competition." What's more, in prior quadrennial reviews, the Commission has provided scant explanation for why it is necessary to define markets for the purpose of reviewing its broadcast ownership rules. The FCC has essentially assumed that it must formally define a market without pausing to consider whether defining a market adds anything to its analysis.[75]

Indeed, the market definition exercise, which is formal step for many – though not all – antitrust claims, has unnecessarily ballooned into the *sine qua non* of regulatory competitive analyses. Market definition analysis is necessary under Section 7 of the Clayton Act (the antitrust merger statute) because the statute requires an analysis of whether a merger substantially lessens competition "in any line of commerce in any section of the country," which the Supreme Court has interpreted as requiring the plaintiff to define the market.[76] And market definition remains important to calculating market shares, which are relied upon as part of the burden-shifting framework for evaluating antitrust concerns in horizontal merger reviews, and more generally for evaluating the existence of market power.[77] But thought leaders, academics, and even the antitrust agencies are questioning why so much emphasis has been placed on this formality, even in the strict antitrust context. The FTC and the Department of Justice (DOJ) deemphasized market definition in their 2010 Horizontal

---

[75] *See, e.g.*, 2018 Quadrennial Review Order, 38 FCC Rcd at 12799, 12822 (commencing an analysis of the local TV and radio market definitions without explaining why the FCC needs to engage in such a step); 2010/2014 Quadrennial Review Order, 31 FCC Rcd at 9872, 9899 (same); 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9833, 9841 (same).

[76] *Brown Shoe Co. v. United States*, 370 U.S. 294, 324 (1962) (finding that "[d]etermination of the relevant market is a necessary predicate to finding a violation of the Clayton Act" due to the line-of-commerce-in-any-part-of-the-country requirement (quoting *United States v. E.I. duPont de Nemours & Co.*, 353 U.S. 586, 593 (1957)).

[77] *United States v. Baker Hughes, Inc.*, 908 F.2d 981, 982 (D.C. Cir. 1990) ("The basic outline of a section 7 horizontal acquisition case is familiar. By showing that a transaction will lead to undue concentration in the market for a particular product in a particular geographic area, the government establishes a presumption that the transaction will substantially lessen competition.").

Merger Guidelines by relegating it to a later step in the analysis[78] and pushed it down even further in the 2023 Merger Guidelines.[79] Leading academics such as Harvard Law professor Louis Kaplow have questioned why antitrust law should rely on market definition at all.[80] Herbert Hovenkamp, a University of Pennsylvania Law professor and author of the leading antitrust treatise, also has queried whether market definition is necessary in merger cases.[81] American University law professor and former FCC Chief Economist Jonathan Baker noted that, in merger cases, market definition is most relevant to antitrust agencies' anticompetitive-effects assessment when firms may be susceptible to post-merger tacit coordination.[82] Many antitrust scholars and practitioners would be all too happy to drop the requirement to formally define markets and allow for it only when it aids in the analysis.

As a general matter, market definition requires separating a set of competitors that compete closely with each other and therefore are relevant to evaluating competition in a particular marketplace from those that are such remote competitors (i.e., customers don't view them as particularly good substitutes) that considering them would only cloud the

---

[78] D. Crane, *Market Power Without Market Definition*, 90:1 Notre Dame L. Rev. 31, 32 (2014) ("In recent years, however, traditional market definition has come under severe attack in the legal academy and in the antitrust agencies. In 2010, the Justice Department and the Federal Trade Commission (FTC) drastically revised their Horizontal Merger Guidelines (Horizontal Merger Guidelines or Guidelines) and demoted market definition from the critical starting point to merely one available tool in merger cases.").

[79] Fed. Trade Comm'n & Dep't of Justice, Merger Guidelines (Dec. 18, 2023) (relegating market definition to Section 4 of the Guidelines instead of earlier where it would be viewed as the starting point for an antitrust merger analysis).

[80] L. Kaplow, *Why (Ever) Define Markets?* 124 Harv. L. Rev. 437, 440 (2010).

[81] H. Hovenkamp, Markets in Merger Analysis, 57 ANTITRUST BULL. 887 (2012), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1945964.

[82] J. Baker, "Market Definition," Horizontal Merger Guidelines Review Project at 142:10 (Dec. 3, 2009), https://www.ftc.gov/sites/default/files/documents/public_events/horizontal-merger-guidelines-review-project/091203transcript.pdf (explaining "that market definition is more important for analyzing coordinated effects than for unilateral effects").

analysis. One only needs to conduct a market definition analysis if it is important to carefully separate competitors. That kind of parsing is especially important when focused on *commercial* activities where market share estimates are required. In the context of broadcast TV and radio mergers, for example, the DOJ has focused on the commercial side (e.g., spot advertising) where it defines a market to calculate market shares that are used for the antitrust burden-shifting framework in antitrust merger cases.[83] But the FCC's quadrennial reviews do not really investigate market power.[84] Nor does the FCC focus on spot advertising rates or ensuring the competitiveness of those rates for advertisers.

Rather, the FCC's quadrennial reviews traditionally focus on three objectives – promoting competition, localism, and viewpoint diversity[85] in the public's interest – none of which materially benefit from parsing out competitors. So, in the absence of a statutory requirement to define a market, why introduce this formalistic step into the analysis? There is no good reason. Certainly, the FCC has not shown in any of its past quadrennial reviews why cutting off a fulsome analysis of the competitive impact that other media marketplace participants have on broadcast stations aids its review of the public interest necessity for its ownership rules. And as discussed at length in Sections V. and VI., copious evidence

---

[83] *See, e.g.*, Competitive Impact Statement. at *16, U.S. v. Nexstar Media Group, Inc., No. 1:19-cv-02295 (D.D.C. Aug. 1, 2019); Competitive Impact Statement at *6, U.S. v. Entercom Commc'ns Corp., No. 1:17-cv-02268 (D.D.C. Nov. 1, 2017).

[84] For example, in the 2018 Quadrennial Review Order, the FCC only mentions "market power" once to claim local radio ownership rules are important for "preventing the acquisition of market power in local radio markets." 2018 Quadrennial Review Order, 38 FCC Rcd at 12805. But nowhere does the FCC describe how it measures market power, how market power is exercised against listening audiences that don't pay a direct price to access content, or how certain quantitative or qualitative evidence corresponds to preventing stations from acquiring market power. Indeed, there is nary any evidence of market power cited. And there is no direct discussion of market power in relation to broadcast television.

[85] *See, e.g.*, Notice at ¶ 7.

demonstrates that by cutting off its evaluation of myriad media marketplace rivals, the FCC's analysis has been both factually and legally deficient.

Consider the FCC's definition of markets limited to broadcast TV and radio, respectively, used to justify retention of its local TV and radio ownership rules in the 2018 Quadrennial Review Order. Market definition, as the Commission has employed it, does nothing to shed light on whether the local TV or radio ownership rules are needed to serve the public interest objectives of competition, localism, and viewpoint diversity.

First, even the FCC's public interest objective of promoting "competition" does not merit a market definition analysis. While at first blush, it may seem that the FCC's use of a market definition is helpful because antitrust authorities use market definition in their competition analyses, in reality, the FCC's use of market definition bears no relation to an antitrust market definition analysis.

In its 2018 review, the Commission analyzed competition to evaluate whether TV and radio stations faced enough competition to incentivize the production of more local programming.[86] The FCC doesn't calculate market shares for viewers and listeners, and to the extent it even considers how many viewers or listeners engage with broadcast TV and radio, it isn't for the purposes of rigorously evaluating market power.[87] The Commission has reviewed some radio station groups' local market shares of broadcast radio-only advertising revenue and pointed to DOJ's finding of a spot advertising market for broadcast radio or TV stations as

---

[86] *See* 2018 Quadrennial Review Order, 38 FCC Rcd at 12801-02, 12825.
[87] *See supra* n. 84.

corroborating its own narrow market definition.[88] But the FCC has never explained why such narrow advertising revenue-based market shares are relevant to its evaluation of the competition facing broadcast radio or TV stations or carefully considered how that competition impacts their provision of content to the public.[89] And reliance on the antitrust authorities' market definition analysis is misplaced, as DOJ evaluates whether a merger may eliminate competition to sell spot advertising inventory to *advertisers*. That doesn't provide much guidance as to whether a station combination would affect the availability or quality of viewing or listening options for the *public*. As it turns out, this misplaced use of the DOJ's analysis is but one example of the FCC's fundamental misunderstanding of market definition principles.

In the 2018 Quadrennial Review Order, the Commission also claimed that because the FTC and DOJ excluded broadcast radio stations from its market definition in the *Meta* and *Google* litigation cases, respectively, that somehow corroborated its finding that digital advertising doesn't compete with broadcast radio stations.[90] But this argument misses a fundamental point about competition: Competition in the real world is rarely symmetrical. For example, as described in Section V., radio stations compete for audiences with SiriusXM, which provides hundreds of audio programming channels to consumers in every local market

---

[88] *See, e.g.*, 2018 Quadrennial Review Order, 38 FCC Rcd at 12810-11 (citing advertising revenue-based market shares of the largest radio station groups as supposed support for its local radio ownership rule designed to protect listening audiences); *id* at 12799-800, 12824 (relying on DOJ market definitions to corroborate the FCC's market definition).

[89] Paradoxically, the Commission only looks at radio station groups' share of broadcast radio-only advertising revenue to conclude that radio station markets are concentrated. *Id.* at 12810. These shares, however, are meaningless as the FCC is essentially assuming that it has correctly defined the market around just local radio stations without doing real legwork to prove that local radio-only markets are appropriate or that relying on advertising-based market shares are a reliable way to measure concentration *to the listening public*. The FCC should not repeat its circular logic in this proceeding.

[90] 2018 Quadrennial Review Order, 38 FCC Rcd at 12799, n.103.

in the United States, even though local radio stations do not compete with SiriusXM in the provision of a nationwide satellite radio service. Rather than reflexively excluding satellite radio from any consideration of the competition radio stations face, the FCC must understand the asymmetrical competition all broadcasters experience from non-broadcast platforms and outlets in their local markets.

Likewise, broadcast TV stations struggle to compete with YouTube for audiences and with Google for advertising – and data discussed in Section VI. show TV stations' loss of viewership and ad revenues to these competitors – but Alphabet does not experience a remotely comparable competitive threat from TV broadcasters. Thus, the inability of local TV (and radio) broadcasters to competitively discipline the behavior of Google/YouTube does not mean that TV stations don't compete with Google/YouTube or that the effect of competition from Google/YouTube on TV stations (and their service to the public) should not be considered by the FCC. Indeed, this type of asymmetric competition from Big Tech platforms like Google directly led to the demise of thousands of newspapers. Suffice to say, this misunderstanding of how market competition works only casts further doubt on the FCC's use of market definition and highlights why clinging to this formality has led it to erroneously dismiss media marketplace competitors that provide vigorous competition to broadcast TV and radio stations.

The Commission, moreover, likely lacks authority to rely on protection of advertisers in determining whether its ownership rules promote competition. As the Fifth Circuit concluded earlier this year, the "FCC's public-interest authority must be interpreted in light of the 'targets' of the Communications Act."[91] And nowhere in the Act does it say or even suggest that advertisers or advertiser welfare are "targets" of the statute. In considering the public interest, it is the interest of the "listening [and viewing] public" that matters.[92] By contrast, it is squarely within the DOJ's statutory remit to investigate the competitive effects of a broadcast TV or radio merger on advertisers.[93] Market definition simply is not useful for the FCC's evaluation of whether its ownership rules promote competition, let alone localism or viewpoint diversity, to the benefit of audiences and communities.

Second, looking at how the Commission used market definition to inform its public interest analysis in the 2018 Quadrennial Review Order, the FCC's approach clearly distracted from its core inquiries. The FCC effectively presumed that there must be a certain number of unique, non-substitutable sources of audio and video programming[94] to promote

---

[91] *Nat'l Religious Broad., et al. v. FCC,* 138 F.4th 282, 292 (5th Cir. 2025) (concluding that the collection of employment data under the EEO rules was not one of the FCC's functions under the Act).

[92] *FCC v. Pottsville*, 309 U.S. 134, 138 n.2 (1940). *See also, e.g.*, 47 U.S.C. § 307(b) (directing FCC to make a "fair, efficient, and equitable distribution of radio service" to the "several States and communities").

[93] The Notice (at ¶ 26) inquires whether there are certain advertisers for whom online advertising is not an adequate substitute for broadcast TV advertising, and whether broadcast TV advertising has characteristics that other forms of advertising do not have and that are valuable to advertisers. These issues are DOJ's concern, not the FCC's.

[94] 2018 Quadrennial Review Order, 38 FCC Rcd at 12799 (finding a radio listening market appropriate because of the "unique characteristics of broadcast radio and the lack of substitutability with other audio sources, elements that remain fundamentally unaltered in spite of larger marketplace changes"); *id*. at 12822 (finding that "broadcast television remains unique and non-substitutable with other sources of video programming, particularly with respect to fulfilling traditional public interest objectives").

competition,[95] localism,[96] and viewpoint diversity.[97] Having begun with that presumption, it then essentially posed an artificial question: Would elimination of either the broadcast TV or radio ownership rule reduce the number of separately-owned, locally-oriented programmers that provide free content to audiences? If so, by the FCC's reckoning, the rule must stand.

While eliminating the rules won't inevitably lead to a dearth of separate broadcast owners,[98] the FCC assumed that because it artificially constrained its inquiry to maintain a set number of locally-oriented programmers that provide free OTA content (i.e., broadcast TV and radio stations), so it could conclude that its existing restrictive local ownership caps are valid. But that is a tail-wagging-the-dog approach to defining the market and evaluating the ownership rules. In its 2018 Quadrennial Review Order, the FCC assumed the answer (i.e., local ownership rules must exist) and generated a set of criteria – i.e., the only competitors that count in a market are ones that are subject to public interest obligations,[99] provide free

---

[95] *Id.* at 12803 (finding that even though "[t]oday's consumers have a broad selection of audio options that can be accessed on an increasing number of devices . . . that does not mean competition among local radio station should be weakened or that consumers and advertisers consider non-broadcast options to be appropriate substitutes for local radio"); *id.* at 12822 (finding that retaining local broadcast TV ownership rules fulfill "our traditional public interest objectives of competition (e.g., in terms of competition among local broadcast television stations and with respect to local programming)").

[96] *Id.* at 12801 (finding that "the local nature of broadcast radio makes it unique within the broader audio landscape"); *id.* at 12822 (finding that retaining local broadcast TV ownership rules fulfill "our traditional public interest objectives of . . . localism (e.g., in terms of supplying locally responsive programming)").

[97] *Id*. at 12808 (claiming that eliminating local radio ownership rules could "threaten[] viewpoint diversity"); *id.* at 12822 (finding that retaining local broadcast TV ownership rules fulfill "our traditional public interest objectives of . . . viewpoint diversity (e.g., in terms of airing a multitude of viewpoints through local news and other local programming)").

[98] In the absence of *ex ante* local radio and TV station limits, the FCC still would review all proposed station transactions under its Section 310(d) authority.

[99] 2018 Quadrennial Review Order, 38 FCC Rcd at 12822 (stating that only broadcast stations are licensed by FCC to use the airwaves "in exchange for a unique obligation to serve the public interest").

OTA content,[100] generate local content,[101] etc. – designed to justify the current ownership rules. But the 2018 review's backward approach barely scratched the surface of the core issue: Do the local TV or radio ownership rules promote the FCC's public interest goals? By posing an artificially narrower question, the Commission absolved itself of addressing the holistic statutory question of whether its existing ownership rules – or any rules at all – remain "necessary in the public interest as the result of competition."

The FCC's whole conception of competition – that it must preserve some pre-conceived number of separately-owned service providers to maintain competition – is furthermore utterly divorced from decades of economic literature showing that merely looking at market concentration or counting extant competitors says very little about the competitiveness of an industry or the participants in that industry.[102] Allowing stations to combine, and thus attract more investment and achieve greater economies of scale, will better position them to respond to the intense competition they face from larger rivals, including cable, satellite, streaming services, and Big Tech, and provide more, richer local programming to the viewing and listening public.[103] Put plainly, the FCC's market definition analysis, which has been used to justify rules that artificially maintain a set number of

---

[100] *Id*. at 12823 (noting that subscription or user fees required to access cable, satellite, and streaming media all distinguish them from broadcast media).

[101] *Id*. at 12825 (arguing that local ownership rules "[s]pur[] competition among broadcast television stations [and] also promotes localism, as licensees seek to differentiate themselves while fulfilling their obligation to air programming responsive to the needs and interests of their local communities").

[102] S. Berry, M. Gaynor & F. Morton, *Do Increasing Markups Matter? Lessons from Empirical Industrial Organization*, 33:3 J. of Econ. Perspectives, 44 (Summer 2019) (dismissing recent studies purporting to show a link between industry concentration and higher markups and citing earlier studies that debunk the finding that that industry concentration necessarily diminishes competition).

[103] *See* Sections V. and VI., *infra*.

separately-owned broadcast TV and radio stations in the marketplace, is nothing more than a feint to avoid the core analysis required by Section 202(h).

Finally, even if, for the sake of argument, a market definition analysis was a valid way to examine public interest objectives, the FCC's market definition analysis, in practice, rests on unreliable methodology. Antitrust plaintiffs employ several different methods to analyze market definition: the hypothetical monopolist test[104]; *Brown Shoe* factors[105]; direct evidence[106]; testimony from parties and third-party customers and suppliers[107]; critical loss analysis[108]; upward pricing pressure analysis[109], and other methods. Plaintiffs adduce these various quantitative metrics and qualitative evidence that derive from a diverse set of sources to attempt to define a market. And even then, the correctness of those market definition analyses is hotly contested. By contrast, the Commission heavily relies on comments from the

---

[104] U.S. Dep't of Justice & Fed. Trade Comm'n, 2023 Merger Guidelines, § 4.3 ("The Hypothetical Monopolist/Monopsonist Test ('HMT') evaluates whether a group of products is sufficiently broad to constitute a relevant antitrust market. To do so, the HMT asks whether eliminating the competition among the group of products by combining them under the control of a hypothetical monopolist likely would lead to a worsening of terms for customers.")

[105] *Brown Shoe Co. v. United States*, 370 U.S. 294, 324 (1962).

[106] U.S. Dep't of Justice & Fed. Trade Comm'n, 2023 Merger Guidelines, § 4.3 ("Direct evidence of substantial competition between the merging parties can demonstrate that a relevant market exists in which the merger may substantially lessen competition and can be sufficient to identify the line of commerce and section of the country affected by a merger, even if the metes and bounds of the market are only broadly characterized.").

[107] *Id.* at § 4.1 ("The Agencies often obtain substantial information from the merging parties, including documents, testimony, and data."); *id*. ("Customers can provide a variety of information to the Agencies, ranging from information about their own purchasing behavior and choices to their views about the effects of the merger itself."); *id*. ("Similarly, other suppliers, indirect customers, distributors, consultants, and industry analysts can also provide information helpful to a merger inquiry.").

[108] B. Harris & J. Simons, *Focusing Market Definition: How Much Substitution is Necessary?* 12 Rsch. in L. & Econ. 207 (1989).

[109] J. Farrell & C. Shapiro, *Upward Pricing Pressure and Critical Loss Analysis: Response*, The CPI Journal (Feb. 2010).

public, which are a self-selected group of responses with widely varying levels of evidentiary support. While the FCC's approach is undoubtedly probative to evaluating many communications policy issues, it is insufficient for rigorously defining the borders of media market competition.

B. If Compelled to Define a Market, the FCC's Approach in its Competition Reports to Congress Is Much More Economically Sound than its Position in Prior Reviews

If the FCC believes it must define a market, then it should reject the absolutist position it has taken in previous reviews.[110] In its 2018 Order, the FCC essentially reverse engineered a market definition based on the characteristics of broadcast TV and radio stations and found that only complete or total substitutes to those stations should be included in the market.[111] That unduly restrictive approach is inconsistent with sound economics, limits the FCC's ability to properly evaluate marketplace conditions, and is inconsistent with how competition authorities approach market definition. In a world of differentiated competition, the important question is not whether two competitors are absolute substitutes for each other -- it is whether two differentiated competitors are *close enough* competitors that they competitively discipline each other's behavior. An absolutist approach misunderstands that fundamental point. If the

[110] *See Zimmer Radio*, 145 F.4th at 843-44 ("In defining the market for purposes of quadrennial reviews, the 'critical question,' as stated by the FCC, is 'whether and to what extent such [non-broadcast] programming options can be considered substitutes to broadcast programming.' . . . But the parties dispute when a competitor is an adequate 'substitute.' The FCC effectively determined that only *complete* substitutes – competitors in every facet of the business – constitute substitutes for purposes of this inquiry.") (emphasis in original).

[111] *Id*.; *see also* 2018 Quadrennial Review Order, 38 FCC Rcd at 12799-802 (listing characteristics of broadcast radio stations, such as an affirmative obligation to serve the public interest, free OTA availability, provision of local programming, and differentiated advertising opportunities to find that other forms of audio programming are not substitutes); *id.* at 12822-28 (listing characteristics of broadcast TV stations, such as being licensed by FCC to serve the public interest, free OTA availability, provision of local news and information, lack of competition for retransmission consent fees, and differentiated advertising opportunities to find that other forms of video programming are not substitutes).

FCC feels compelled to define a market, it should look to the broader media marketplace and evaluate how other ecosystem rivals impact and incentivize broadcast TV and radio stations.

For instance, cable, satellite, streaming services, or Big Tech platforms need not provide comparable programming (e.g., local newscasts) or be available at the same price point to provide competition that incentivizes local TV stations to provide quality programming to the public, including locally-oriented programming such as news. Locally-oriented programming is a competitive differentiator that helps TV stations compete in a marketplace with MVPDs, streaming services, and tech platforms. As rival services provide more and improved content, that intensifies pressure on local TV stations to offer more or better differentiated content, including local news coverage and local sports. Similarly, satellite radio or online audio streaming platforms like Spotify, Apple Music, or Amazon Music need not offer the same local content or price point to push local radio stations to provide attractive locally-focused programming. The competitive pressure that other audio platforms exert on local radio stations to compete for the attention of audiences (which affects stations' ability to attract advertisers) incentivizes local radio stations to provide differentiated programming, including locally-focused content.[112] And digital outlets and platforms that compete with broadcasters for audiences and ad dollars – and that now dominate local advertising markets – directly impact the competitive viability of broadcast stations and their ability to serve local communities and audiences.

In short, a less absolutist approach to market definition would help the FCC holistically examine all competitive and marketplace factors necessary to evaluate the continued public interest necessity of a restrictive set of *ex ante* local ownership rules that shackle broadcast

---

[112] See Sections V.C. and VI.B, *infra*, for a further discussion of radio and TV broadcasters' incentives to exploit a market niche by providing locally-oriented programming.

TV and radio stations alone. Were it to take a more economically sound approach, the Commission may come to define the market consistent with the way it has approached the audio and video marketplaces in multiple biennial reports to Congress on competition in the communications marketplace. For instance, starting in 2018, the Commission recognized TV broadcasters, MVPDs, and OVDs as the "major participants in the marketplace for the delivery of video programming" and "provide[d] data regarding competition among and between" these market participants.[113] More specifically, the FCC reported that "MVPDs, OVDs, and television broadcasters compete with each other in several main respects," observing that "[c]onsumers typically compare video services based on key factors (price, devices, necessary equipment, channel lineups) and select video service, or services, that best fit their preferences."[114] Importantly, rather than reverse engineering a market definition, the Commission identified salient factors that consumers use in choosing among video programming options and found that these factors presented ways for each video programming option to differentiate itself and compete for viewer attention.

In its 2020 Report, the FCC extended the natural logic of its analysis by concluding that the "video marketplace continues to be dominated by the three categories of participants that have *defined the market* for the past decade: multichannel video programming distributers (MVPDs), online video distributors (OVDs), and broadcast television stations."[115] Similarly, the FCC found in 2020 that "[t]hree categories of audio providers dominate the

---

[113] *2018 Communications Marketplace Report*, 33 FCC Rcd 12558, 12596 (2018).

[114] *Id*. at 12621; *see also id*. at 12630-31 (also identifying terrestrial radio broadcasters, satellite radio, and online audio providers as the "major participants in today's marketplace for the delivery of audio programming").

[115] *2020 Communications Marketplace Report*, 36 FCC Rcd 2945, 3047 (2020) (emphasis added).

audio marketplace in the United States: 1) terrestrial radio providers, 2) satellite radio, and 3) online audio providers."[116] After NAB cited the 2020 Report and its broader market definition in supplemental comments in the then-pending 2018 quadrennial review,[117] the FCC in its 2022 Communications Marketplace Report – perhaps realizing the danger that a more realistic market definition presented to justifying retention of outmoded ownership rules – backpedaled on its previous findings about the definition of the video and audio marketplaces. Nonetheless, even the 2022 Report still recognized that MVPDs, OVDs, and broadcast TV stations remained the primary category of participants in the video marketplace and that intermodal competition existed among these video programming options.[118]

Given the overwhelming evidence showing fierce competition to broadcast TV and radio stations for audiences and advertising revenues, the Commission – if it believes it must formally "define the market" at all – should do so consistent with its previous reports to Congress. Thus, the FCC should define the audio market to include, at the least, terrestrial radio broadcasters, satellite radio providers, and online audio providers and the relevant video market to include, at the least, broadcast TV stations, MVPDs, and OVDs.

Finally, NAB observes that even if the Commission were to retain its unrealistically narrow definition of the market here, such a conclusion would not justify ignoring the increased competition radio and TV stations face from many other audio and video content

---

[116] *Id*. at 3086-87 (also calling terrestrial radio, satellite radio, and online audio providers the "major participants in today's marketplace for the delivery of audio programming").

[117] *See* Comments of NAB, MB Docket No. 18-349, at 62-63 (Sept. 2, 2021).

[118] *2022 Communications Marketplace Report,* 37 FCC Rcd 15514, 15652 (2022) (noting that, "in the past two years, competition among both these participants and video programming options have evolved"). *See also id.* at 15680-81 (discussing "various aspects of competition among MVPDs, OVDs, and broadcast television stations," including for programming).

providers and advertising platforms. In its 2017 reconsideration order upheld by the Supreme Court in 2021, the FCC declined on the then-current record to expand the relevant market for the purpose of the local TV rule (although noting that its conclusion not to include other types of video programming providers within the market "could change in a future proceeding with a different record").[119] The FCC nonetheless stressed that its conclusion did "not mean" that "changes outside the local broadcast television market should not factor into its assessment of the rule under Section 202(h) or that the Commission is free to retain its existing rule without any adjustments that take into account marketplace changes."[120] Indeed, the FCC found that broadcasters' "important role" made it critical for the FCC to "ensure that its rules do not unnecessarily restrict their ability to serve their local markets" in the face of ever-growing program options.[121] Taking particular account of consumers' increasing use of non-broadcast options – which has exponentially expanded since 2017 – the FCC determined to relax the local TV rule to help local broadcasters "achieve economies of scale and improve their ability to serve their local markets" in an evolving marketplace.[122]

Similarly, as NAB explains in Sections V. and VI., *ex ante* rules are a drag on investment in the broadcast industry, prevent realization of scale economies, and discourage at the outset station combinations that may be in the public interest. The FCC has historically approached its quadrennial reviews by gushing about the importance of local TV and radio to America's public life while maintaining rules that strangle the resources broadcast outlets need to compete more effectively against streaming services and multichannel providers.

---

[119] 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9833.

[120] *Id*. at 9833-34.

[121] *Id.* at 9834.

[122] *Id*. at 9834-35 (eliminating the eight-voices test from the local TV rule).

Even if the Commission inappropriately decides here that it must keep its current narrow market definitions, it can still recognize the direct negative impact that its *ex ante* restrictions have on the broadcast industry – along with the vicissitudes of broader media marketplace competition – and find that maintaining *ex ante* rules is no longer in the public interest. Indeed, it would be arbitrary and capricious and contrary to Section 202(h) to recognize the value that investment and scale have for the broadcast industry while failing to recognize the serious harm that the local ownership rules impose on broadcast stations.

V. THE *EX ANTE* LOCAL RADIO OWNERSHIP CAPS ARE UNNECESSARY UNDER SECTION 202(h), ARBITRARY UNDER THE APA, AND HARM THE PUBLIC'S FREE OTA RADIO SERVICE

As discussed in Section II., the Commission should no longer maintain broadcast-only *ex ante* ownership restrictions. A more detailed examination of the audio marketplace and local advertising markets strongly confirm that radio ownership caps – especially those dating from the analog-era – are unnecessary in the public interest as the result of competition. Indeed, rules restricting terrestrial radio broadcasters alone that predate smartphones and other smart devices, satellite radio, free and subscription audio streaming services, podcasts, automotive phone integration systems, Google, YouTube, and Facebook are irrational on their face. Their retention for nearly three decades ignores the profound competitive impact the digital transformation of the audio and advertising markets has had on local radio stations and their ability to attract audiences in a fragmented media environment, earn vital ad revenues, obtain needed investment, and most importantly, to serve their communities as both broadcasters and the Commission want.

Seven and a half years ago, NAB proposed reforming the antiquated local radio ownership rules by providing maximum regulatory relief to AM radio and to all broadcasters in smaller markets with more limited advertising bases, and by giving additional flexibility to station owners in larger markets. Specifically, NAB proposed that, if the FCC ultimately maintained radio-specific ownership restrictions, it should allow radio broadcasters to achieve greater economies of scale by (1) eliminating caps on AM ownership in all markets; (2) permitting a single entity to own up to eight commercial FM stations in Nielsen Audio markets 1-75; and (3) imposing no restrictions on FM ownership in Nielsen markets 76 and lower and in unrated areas.[123]

But given the increased competition in the audio and ad markets just since that time – let alone since 1996 – and the even greater competitive challenges facing radio stations, the FCC now should no longer retain *ex ante* local radio ownership restrictions in every market. The current regulatory construct imposed on radio stations, moreover, is irrational. It reflects analog conceptions about AM and FM competition and regulation at odds with reality in the modern audio market. It also is based on arbitrary gradations in the total number of stations in a market – regardless of those stations' characteristics – and treats all markets in the same tier as though they were competitively the same (which they are not). This fundamentally arbitrary regulatory regime cannot be fixed by merely tweaking tiers.

Indeed, the "very purpose of § 202(h)" – "ensur[ing] that the Commission's regulatory framework would keep pace with the competitive changes in the marketplace"[124] – does not rationally lead to the conclusion that ownership regulations originating in the World War II era still should be imposed on broadcasters alone among all audio content providers in today's

---

[123] Letter from Rick Kaplan, NAB, to Michelle Carey, Esq., Chief, Media Bureau (June 15, 2018), cited in *2018 Quadrennial Regulatory Review*, Notice of Proposed Rulemaking, 33 FCC Rcd 12111, 12118 (2018).

[124] *Prometheus Radio Project v. FCC*, 824 F.3d 33, 50 (3d Cir. 2016) (citation omitted).

online-centric environment. The only solution is to repeal arbitrary *ex ante* rules and review proposed radio station transactions on a case-by-case basis under the Act.

A. Local Radio Stations Compete Against Streaming, Multichannel, and Technology Platforms for Audiences and Advertisers

1. Consumer Adoption of Digital Devices and Competing Audio Services Continues Apace, Resulting in Increased Fragmentation of and Decline in Radio's Formerly Mass Audiences

NAB has previously documented that local radio stations face intense and increasing competition for audiences from an expanding universe of audio (and video) content providers accessible via virtually ubiquitous digital devices that strongly affect consumers' content choices.[125] These trends have only accelerated since the last quadrennial review and have directly led to substantial declines in radio (and TV) stations' audiences shares, as consumers substitute online content sources for traditional broadcast outlets. NAB here updates information pertaining to these technological and marketplace changes and provides additional data about broadcast radio's increasingly fraught competitive position.

As of early 2025, 91 percent of the total U.S. population ages 12+, or 262 million people, owned smartphones, up from 10 percent in 2009.[126] Despite the prevalence of smartphones and tablets, 83 percent of U.S. adults still own laptops.[127] Since 2017, smart speaker ownership has risen from seven to 35 percent of the 12+ population (101 million

---

[125] *See, e.g.*, Comments of NAB, GN Docket No. 24-199, at 5-13 (June 6, 2024); Comments of NAB, MB Docket No. 22-459, at 15-25 (Mar. 3, 2023); Comments of NAB, MB Docket No. 18-349, at 69-75 (Sept. 2, 2021).

[126] Edison Research, *The Infinite Dial 2025,* at 6 (Mar. 20, 2025) (Infinite Dial 2025).

[127] D. Milden, *Sorry Smartphones, but Laptops Aren't Going Anywhere, CNET Survey Finds. Here's Why*, cnet.com (Aug. 12, 2025). Edison Research last surveyed tablet ownership in 2022, finding that 53% of the 12+ population owned tablets. *The Infinite Dial 2022*, at 7 (Mar. 23, 2022) (Infinite Dial 2022).

people) and smart watch ownership from nine to 27 percent (78 million people).[128] An estimated 170 million people (59 percent of 12+ population) now own Bluetooth-enabled wireless headphones.[129]

In sharp contrast to the growth of newer devices, the decline in ownership of AM/FM radios, particularly among the young, has been well documented. From 2008-2022, the number of homes with no radios increased from four to 39 percent. Fifty-seven percent of the homes of those ages 12-34 lacked radios in 2022.[130] This matters for stations because 87 percent of AM/FM listening still occurs via traditional radios.[131]

These changes in technology and ownership of technology have fundamentally altered the public's audio (and video) consumption habits. According to Edison Research, 38 percent of audio listening time (U.S. population 13+) is done via mobile devices, and 60 percent of all listening time is via digital devices of various kinds, including mobile devices, computers, internet connected TVs, and smart speakers.[132] Only 28 percent of audio listening time is via AM/FM radio receivers.[133] For persons ages 13-34, over three-quarters (76 percent) of their audio listening time is via digital devices, with half done via mobile devices.[134] Data over time show that consumers have substituted mobile devices in place of AM/FM radios for listening. From 2014-Q3 2025, listening done via AM/FM receivers fell from 49 to 28 percent of all

---

[128] Infinite Dial 2025 at 7, 11.

[129] Infinite Dial 2025 at 8.

[130] Larry Rosin, *Radio's Hardware Problem Deepens*, Edison Research (Mar. 16, 2022).

[131] Edison Research, *Most AM/FM Radio Listening Remains on Radio Receivers* (Nov. 19, 2025).

[132] Edison Research, *Share of Time Spent Listening to Audio Sources Q3 2025* (Oct. 13, 2025) (Edison Q3 2025 Share of Ear).

[133] *Id*. The remaining listening time is done via SiriusXM receivers, CD players, etc.

[134] Edison Q3 2025 Share of Ear.

audio listening time, while practically in lockstep listening via mobile devices rose from 18 to 38 percent.[135] According to Jacob Media's 2025 tech survey, "Mobile is like media's 'connective tissue' – all roads lead to mobile."[136]

Notably, digital devices are multi-purpose and permit consumers to access different types of audio content and to switch between audio and video content, thereby increasing competition between audio and video services for audiences' time and attention. For example, how people consume content on their TVs is changing, with more time being spent accessing audio on internet-connected TVs.[137] Audio and video services also now blend together. Music is not just about listening. It has become more of a visual experience as consumers' engagement with social media, short video clips, and music videos grows via platforms like YouTube, TikTok, and Instagram.[138] Similarly, podcasting is no longer merely aural, and the rapid growth of video podcasting has increased podcast consumption overall.[139] Non-broadcast platforms – especially YouTube and Spotify – "are racing to dominate video podcasting."[140] Netflix is moving into video podcasts to rival YouTube, and recently agreed to stream a selection of Spotify's video podcasts starting in 2026.[141] And Spotify has a new FAST channel focusing on video podcasts that will be available for free

---

[135] Edison Q3 2025 Share of Ear.

[136] Jacobs Media, *techsurvey 2025: 10 Key Takeaways* (Apr. 2025).

[137] Edison Research, *America's Surprising TV Habit*, Weekly Insights (July 9, 2025).

[138] The majority (53%) of time spent consuming audio content on internet-connected TVs is spent with YouTube for music and music videos. *Id.*

[139] *See* Infinite Dial 2025 at 41, 43, 45, 47-48.

[140] J. Goldman, *Gen Z drives Spotify's pivot toward video podcasting*, emarketer.com (June 25, 2025).

[141] T. Spangler, *Nextflix to Stream Selection of Spotify Video Podcasts Starting in 2026,* variety.com (Oct. 14, 2025).

exclusively on Samsung TVs.[142] As the silos between audio and video continue to break down, the range of content against which radio and TV stations must compete will only grow.

Predictably in light of consumers' rapid adoption of myriad digital devices, online audio (and video) has exploded in popularity. Seventy-three percent of the U.S. 12+ population (210 million people) listen at least weekly to online audio[143] – which was nonexistent when the local radio caps were last reformed and now is radio stations' primary competitor. Among those ages 12-34, 90 percent listen at least monthly to online audio, as do 87 percent of those ages 35-54, numbers that approach broadcast radio's monthly 92 percent reach of U.S. adults.[144] Spotify, YouTube Music, Apple Music, Pandora, and Amazon Music – nary a small competitor among the lot – remain the "top five" online audio brands used by consumers.[145]

Fifty-five percent of the U.S. population ages 12+ (158 million people) also listen to or watch podcasts – another type of competing audio (and video) content that did not exist in 1996 – at least monthly, and 40 percent (115 million people) consume podcasts weekly.[146] All demographic groups have embraced podcasts, with 58 percent of Black Americans and 51 percent of Latino Americans being monthly podcast consumers.[147]

Unsurprisingly, the widespread consumer adoption of non-broadcast technologies and non-broadcast audio (and video) content has fragmented and significantly reduced terrestrial

---

[142] R. Davies, *Spotify's first ever TV channel is coming exclusively to Samsung TVs – and it's completely free to access*, techradar.com (Oct. 16, 2025).

[143] Infinite Dial 2025 at 29.

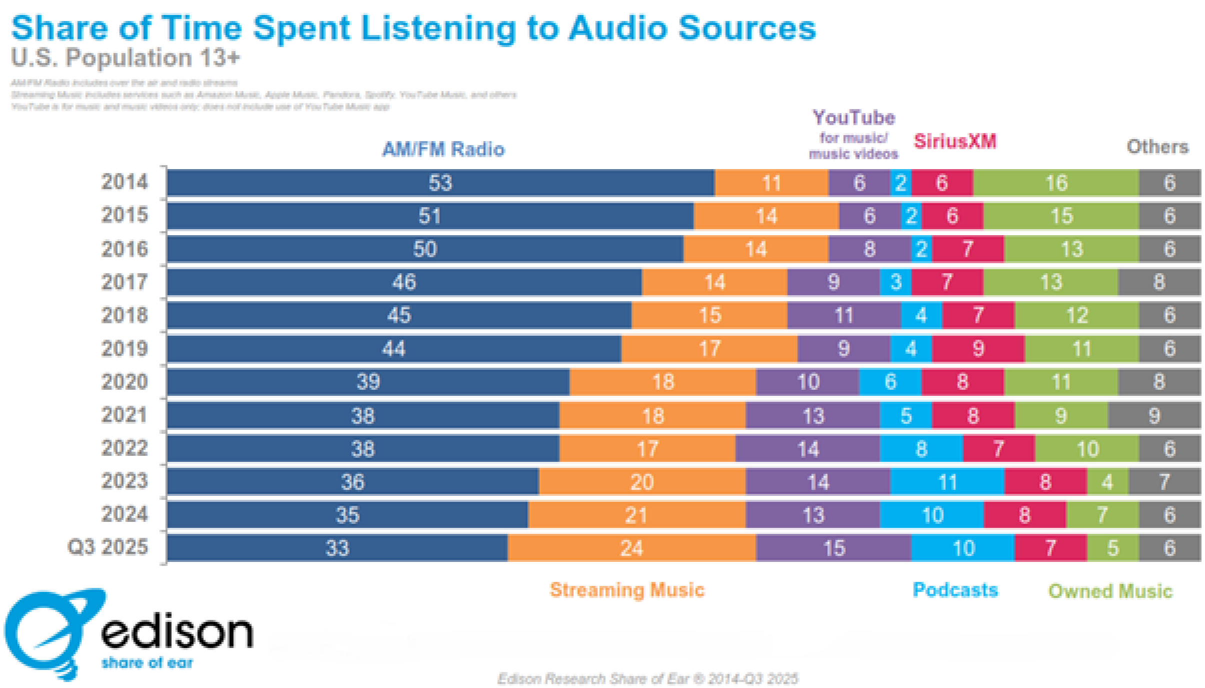
[144] *Id*. at 27; C. Coats, *Nielsen: Radio's 92% Reach and ROI Rival Social Media*, radioink.com (Oct. 15, 2025).

[145] Infinite Dial 2025 at 31-32.

[146] Infinite Dial 2025 at 41, 47. Younger consumers listen to or watch podcasts more frequently, with 66% of those ages 12-34 consuming podcasts at least monthly. *Id*. at 45.

[147] Edison Research, *The Podcast Consumer 2025,* at 13-14 (July 23, 2025) (ages 12+).

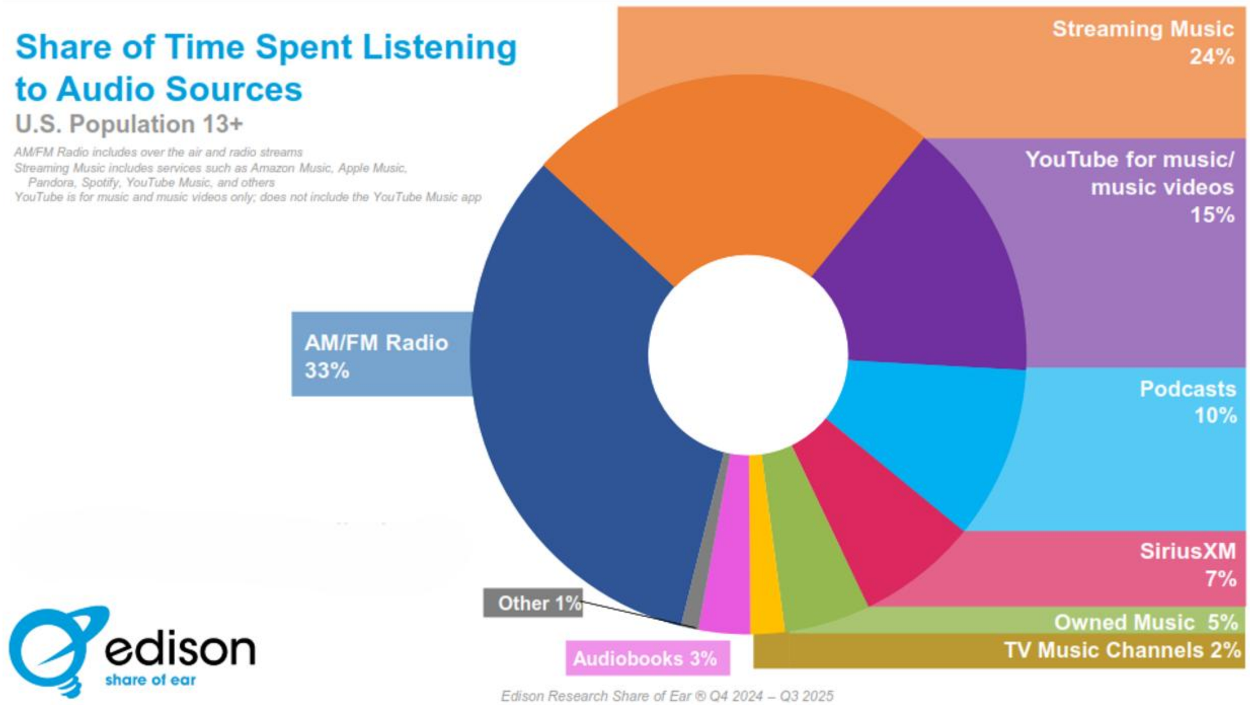
radio broadcasters' formerly mass audiences.[148] Edison Research's first "Share of Ear" survey in 2014 (see first graphic below) showed that AM/FM radio's share of all the time consumers spent listening to audio sources was 53 percent (counting both OTA and radio streams). But by the third quarter of 2025 (see both graphics below), broadcast radio's share had fallen to 33 percent, a **decline of 37.7 percent** in just over a decade. Time spent with "pureplay" streaming music, YouTube, and podcasts[149] all increased very substantially during those 11 years – by 118.2, 150, and 400 percent, respectively – at broadcast radio's expense.[150]



[148] *See* Notice at ¶ 14 (inquiring whether online audio and other media platforms compete with broadcast radio).

[149] "Streaming music" includes services such as Amazon Music, Apple Music, Pandora, Spotify, and YouTube Music. "YouTube" is for music and music videos only and does not include the YouTube Music app.

[150] Obviously, the decline in broadcast radio's share of listening from 1996 – before the advent of streaming audio services and satellite radio – would be much greater. By 2014, radio stations' mass audiences had already begun to erode, with 25% of listening time spent with streaming music, YouTube, SiriusXM, and podcasting.



These data establish that consumers are increasingly substituting non-broadcast audio sources in place of much of their listening to terrestrial radio stations. That substitution, moreover, will only continue to increase because younger consumers (ages 13-34) now spend only 18 percent of their listening time with AM/FM radio, less than their share of time spent with music and music videos on YouTube *alone*.[151] Jacobs Media's 2025 survey of AM/FM listeners found that "listening more to non-radio sources" was the reason most frequently

[151] Americans ages 13-34 spend 69% of their time listening to streaming music (37%), YouTube (21%), and podcasts (11%). Edison Q3 2025 Share of Ear.

given by those saying they had listened less to radio in the past year.[152] Audiences clearly are substituting "non-radio sources" for AM/FM radio in their listening.[153]

While AM/FM radio remains stronger among in-car users, only 28 percent of audio consumption occurs in the car,[154] and even there, consumers have increasingly incorporated non-broadcast audio at the expense of local stations. Fifty-five percent of audio listening time in a car/truck is still to AM/FM radio, but 35 percent of in-car listening time is now earned by streaming music, YouTube, and Sirius/XM combined, with remaining listening to podcasts, owned music, and audiobooks.[155] Younger consumers lead the shift to online audio in vehicles, with 82 percent of those ages 18-34 reporting use of online audio in the car in the last month, compared to only 54 percent using AM/FM.[156] Last July, Sirius/XM launched a lower-cost, ad-supported subscription tier "in an attempt to steal listeners and brands from over-the-air radio."[157]

---

[152] Half of those radio listeners who reported that they listened less to AM/FM year-over-year gave "listening more to non-radio sources" as their "main" reason for doing so. "Lifestyle change," "less time in a car," and "too many commercials" were the only other reasons cited by over one-third of respondent radio listeners. Significantly, 80% of Gen Z, 67% of Millennials, and 57% of Gen X cited "listening more to non-radio sources" as their "main" reason for listening less to AM/FM. Jacobs Media, *techsurvey 2025: 10 Key Takeaways* (Apr. 2025) (online survey with nearly 25,000 listeners to 500 commercial radio stations completing responses).

[153] *See* Notice at ¶ 15 (asking whether non-broadcast audio sources provide competitive service from listeners' perspective).

[154] Edison Q3 2025 Share of Ear. The majority of audio listening (55%) occurs at home, and AM/FM radio receives only 24% of in-home listening, with streaming music, YouTube, and podcasts receiving 58% of in-home listening. *Id*. (U.S. population 13+).

[155] Edison Q3 2025 Share of Ear (U.S. population 13+).

[156] Infinite Dial 2025 at 54 (U.S. population 18+ who had driven/ridden in a car in the last month).

[157] C. Coats, *SiriusXM's Big Play: New Ad Tier Takes Aim at Broadcast Radio,* radioink.com (July 15, 2025). Priced at under $7 per month, this new SiriusXM Play service offers over 130 channels of music, sports, news, and talk in the car, along with expanded content via the SiriusXM app, and claims it will have half the ad load of AM/FM radio. *Id*.

Among those ages 18+ who have driven/ridden in a car in the past month, 40 percent have either Apple Car Play or Android Auto in their primary vehicle,[158] and this has significantly transformed in-car listening. Those with neither Apple CarPlay nor Android Auto in their primary vehicle spend 62 percent of their in-car listening time with AM/FM radio, while those with one of the systems spend only 47 percent of their in-car listening time with AM/FM, while listening more to streaming platforms and SiriusXM.[159] Consumers clearly are substituting streaming and satellite radio in place of terrestrial radio even in its traditional stronghold of the car. And as more Americans have vehicles with auto/phone integration systems and built-in connectivity,[160] AM/FM radio will experience ever greater competition for in-car audiences – even assuming automobile manufacturers will continue making AM/FM radio reasonably accessible within their vehicles' in-dash infotainment systems or keep AM/FM receivers in vehicles at all.[161]

Notably, radio stations' competition for audiences comes not just from free streaming platforms but also from paid audio services. Edison Research reported that, as of Q1 2025, 51 percent of Americans ages 13+ paid for at least one audio subscription (e.g., paid on-

---

[158] Infinite Dial 2025 at 50.

[159] Edison Research, *CarPlay and Android Auto Bring Digital into the Car, but Radio Remains Popular*, Weekly Insights (Sept. 10, 2025) (U.S. population 13+).

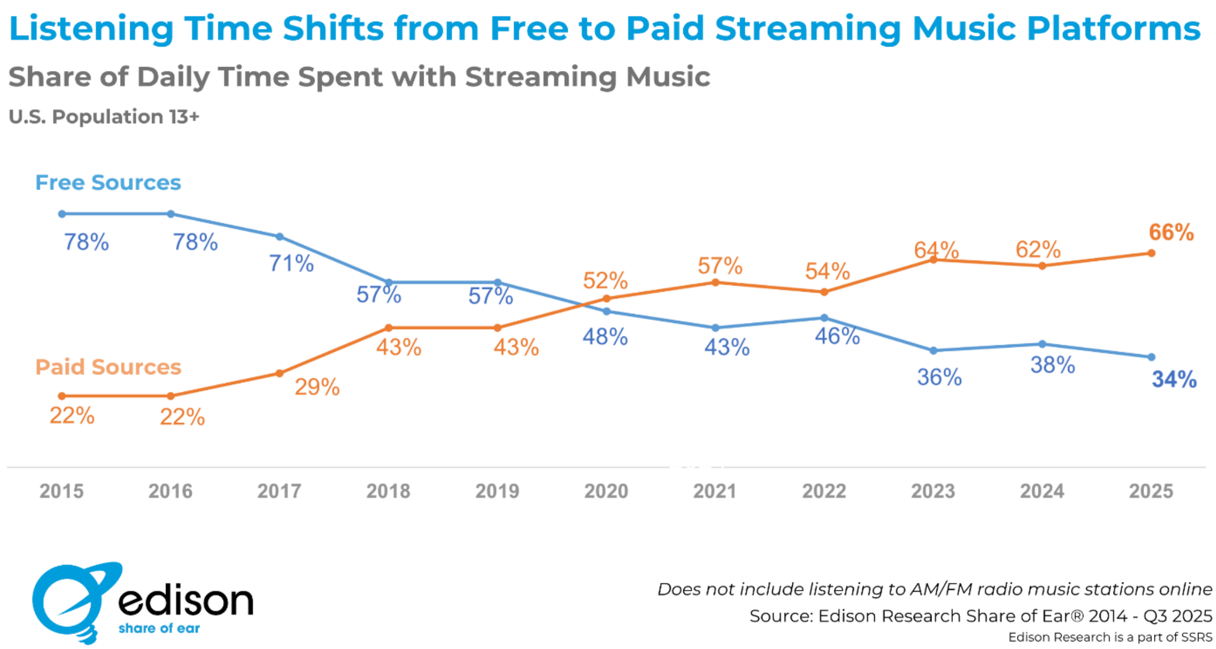
[160] McKinsey & Co. forecasts that 90% of cars will have built-in connectivity by 2030. Gracenote/Nielsen, *In the driver's seat: How infotainment systems can level up the in-car entertainment experience* (Oct. 2025).

[161] Major auto makers such as GM have plans to drop CarPlay and Android Audo in favor of their own infotainment systems and software. *See, e.g.*, J. Charniga, *GM plans to drop CarPlay, Android Auto for all cars in favor of voice-activated system*, usatoday.com (Oct. 27, 2025); D. Newcomb, T*he Real Reason Automakers Are Ditching Apple CarPlay and Android Auto*, motortrend.com (May 14, 2025).

demand streaming service, satellite radio).[162] According to RIAA's conservative estimates, the number of paid premium music streaming subscriptions reached 105.3 million by mid-year 2025, up from only 10.8 million in 2015.[163] Even though providers such as Spotify, Amazon, Pandora, and YouTube Music offer both free and paid versions of their streaming music platforms, listening time has shifted dramatically from free to paid streaming music services. As shown below, in 2015 free sources received 78 percent of listeners' daily time spent with streaming music, while only 22 percent of listening time went to paid streaming sources, but as of Q3 2025, the script had flipped. Paid platforms now receive 66 percent of daily time spent with streaming music, and free sources only receive 34 percent of such time spent listening. The Commission therefore cannot ignore or discount competition to terrestrial radio from paid music streaming and other subscription audio sources.

[162] Edison Research, *Majority of Americans Pay for Audio, But Some are Cutting Services*, Weekly Insights (May 14, 2025). Thirty-five percent of Americans pay for one audio subscription service, 10% pay for two services, and 6% pay for more than two. The number of consumers paying for more than two services has declined since 2022, but the number paying for one subscription audio service has grown.

[163] M. Stassen, *US Streaming Subscriptions Hit 105.3M In H1 2025, But Recorded Music Revenue Was Up By Less Than 1% YoY,* musicbusinessworldwide.com (Sept. 9, 2025); RIAA, *2018 Year-End Music Industry Revenue Report*, at 2 (Feb. 28, 2019). RIAA counts multi-user plans as a single subscription and excludes limited-tier subscriptions (services limited by factors such as catalog availability, product features, or device/access restrictions).



In short, being free clearly does not make AM/FM radio "unique" in any realistic analysis of competition under Section 202(h) and the APA.[164] First, myriad free music streaming platforms are available to anyone with a smartphone – that is, virtually everyone. The major music streaming platforms offer free tiers with varying features, and recommendations abound for those wanting to stream music without spending a dime.[165] YouTube provides free ad-supported music and music videos online, and podcasts are easily accessible on free platforms including YouTube and Spotify, the leading podcast platforms.[166] Second, the evidence is clear that free and paid directly compete, and that many consumers have replaced free with paid sources for substantial portions of their audio (and video)

---

[164] *See* Notice at ¶ 15 (inquiring whether radio's free, over-the-air availability made it unique).

[165] *See, e.g.*, J.L. Wilson and G. Zamora, *The Best Free Online Streaming Services for 2025*, pcmag.com (updated Mar. 5, 2025).

[166] M. Jones, *Podcast ad revenues will grow consistently despite broader ad pullbacks,* emarketer.com (updated Apr. 22, 2025) (noting affordability of podcasting as a medium).

consumption. The mere fact that AM/FM radio offers services free to audiences cannot justify retention of burdensome caps and subcaps on ownership of broadcast radio stations alone.

Given this overwhelming evidence, the Commission can no longer rationally retain *ex ante* local radio ownership caps that reflect the analog marketplace of the past century. These limits are not needed now to ensure that consumers enjoy a wide and diverse – indeed, an almost unlimited – range of audio content available via a plethora of devices. The FCC must account for the vast array of non-broadcast competitors, especially online audio and satellite radio providers, and the resultant splintering of, and substantial decline in, radio stations' mass audiences that existed prior to the digital revolution. Similarly, the Commission must take account of that revolution's transformation of the advertising market and its profound impact on local stations' financial wherewithal, which NAB addresses below.

2. Radio Industry Advertising Revenues Have Not and Are Not Projected to Reach – Let Alone Surpass – the Level of Revenues Earned Two Decades Ago

The Notice (at ¶ 16) correctly recognized the "importance of advertising revenue to local commercial radio's viability." Due to the dominance of digital platforms in the advertising marketplace, as well as the growth of advertising on other audio platforms, the financial health of local radio stations has significantly declined over the past two decades.

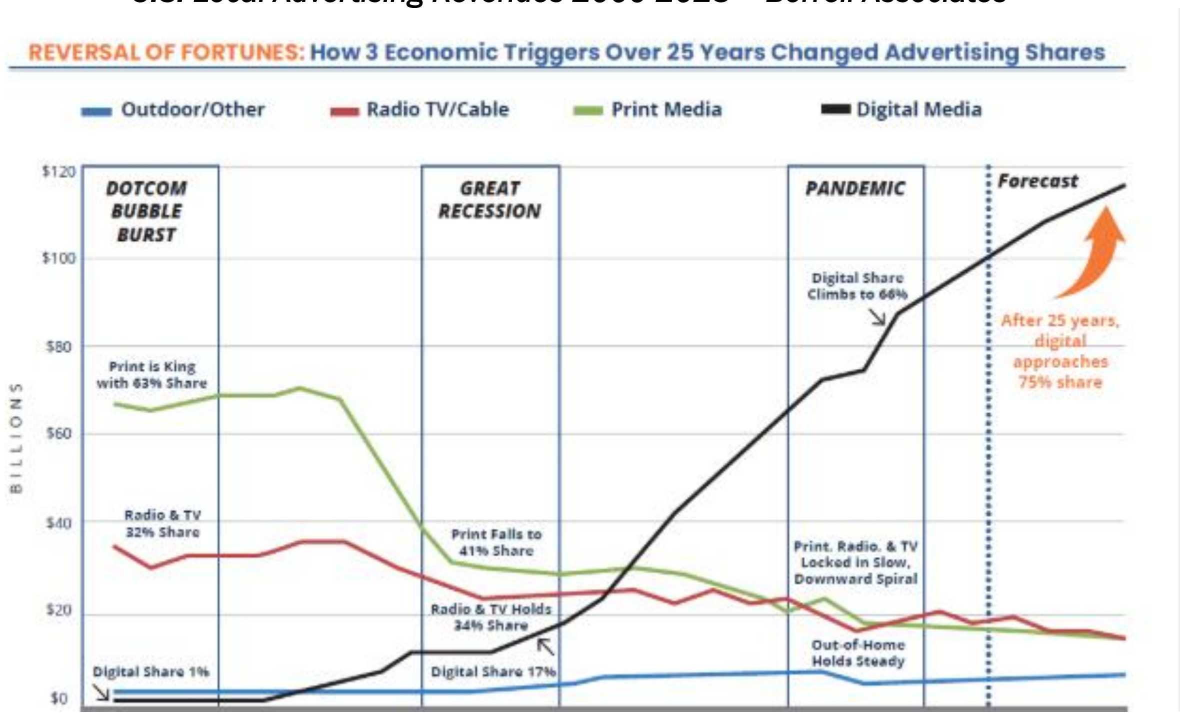
Borrell's 2025 advertising report estimated that local digital advertising reached $103 billion in 2024, accounting for about 70 percent of all local ad spending.[167] This report reconfirmed that the "lion's share of digital advertising" leaves local markets and "goes to the pureplay digital companies such as Google, Facebook, and others," with local media outlets including radio and TV stations and newspapers capturing only about 15 percent of all locally

---

[167] Borrell Associates, *2025 Annual Report Benchmarking Local Digital Media*, at 5-7 (May 15, 2025) (2025 Borrell Report).

spent digital advertising.[168] Competition between traditional media and digital platforms for local advertisers is clearly shown below: Print and radio/TV ad revenues fell as digital advertising spend rose starting in the 2000s. Borrell projects local digital ad spend to continue growing, reaching nearly $121 billion by 2028 and extending digital's share gains at the expense of traditional media.[169] Thus, the reshaping of the advertising market that has radically undercut support for local media and journalism will only continue.

U.S. Local Advertising Revenues 2000-2028 – Borrell Associates



Other findings in the 2025 Borrell Report demonstrate the competitiveness of local ad markets and the wide variety of advertising and marketing options used by local advertisers, with the report identifying 20 different types of advertising bought by those advertisers. While

---

[168] *Id*. at 8-9. In 2020, local media companies' share of all locally spent digital advertising was just over 12%, so there is potential for broadcast stations to claw back at least some of these digital dollars. *Id.*

[169] *Id*. at 6-7 (projecting local digital ad spend to reach $120.9 billion in 2028).

34 percent of local advertisers bought AM/FM radio in 2024, 54 percent bought social media and 56 percent bought events/sponsorships, the only two types of marketing purchased by more than half of local advertisers.[170]

Revealingly, Borrell reports on the other types of advertising that radio advertisers specifically also purchase. For example, 71, 68, 56, and 54 percent of radio advertisers bought social media, events/sponsorships, banner ads, and newspapers ads, respectively, in 2024.[171] Notably, among advertisers planning to increase their spending on some form of marketing in 2025, radio advertisers were twice as likely to be increasing their spend on social media and banner ads than those advertisers who did not buy radio advertising – and radio advertisers were over *five times* more likely to be spending more on streaming audio in 2025 than advertisers not buying AM/FM radio.[172] Radio broadcasters clearly experience competition from both digital and traditional platforms for vital ad revenues.

Beyond the ascendance of digital ad platforms, competition for ad dollars among audio providers continues to grow. U.S. podcasting ad revenues surpassed $2 billion in 2024, growing 26.4 percent YoY,[173] and are projected to exceed $3 billion by 2028.[174] Digital audio

---

[170] See *id*. at 24, Figure 2.9 (listing types of advertising ranging from banner ads and search engine marketing to streaming video and audio to direct mail, out-of-home/outdoor, and newspapers and magazines).

[171] *Id*. at 34, Figure 3.12. Interestingly, about one-third of AM/FM advertisers bought broadcast TV advertising and about one-quarter bought streaming video/OTT ads in 2024, showing competition between broadcast radio and video services for ad dollars.

[172] *Id*. at 35, Figure 3.13.

[173] PwC and IAB, *Internet Advertising Revenue Report: Full-year 2024 results* (Apr. 2025). IAB projects that podcast ad spend will grow 7.9% in 2025 over 2024 levels. *See 2025 Outlook Study: September Update, a Snapshot of the Latest Ad Spend Trends, Opportunities, and Strategies for Growth*, iab.com (Sept. 2025).

[174] M. Jones, *Podcast ad revenues will grow consistently despite broader ad pullbacks*, emarketer.com (updated Apr. 22, 2025) (estimating about $2.5 billion in podcast ad spending this year).

platforms are now developing their programmatic ad offerings to capture more dollars from advertisers used to buying other advertising, e.g., display ads, through automated channels.[175] Spotify recently expanded its automated buying channels to give advertisers broader access to its podcast inventory.[176] Satellite radio also increased competitive pressure on AM/FM radio with its launch last summer of SiriusXM Play, a low-cost, ad-supported subscription package. Play adds to SiriusXM's advertising portfolio, which reaches 160 million listeners each month across satellite radio, streaming (Pandora, SoundCloud), and the SiriusXM Podcast network. By the end of 2025, SiriusXM expects advertisers to be able to "seamlessly" buy across all these options with one unified transaction.[177] Advertisers wishing to buy ads on audio services now clearly have choices besides terrestrial radio.

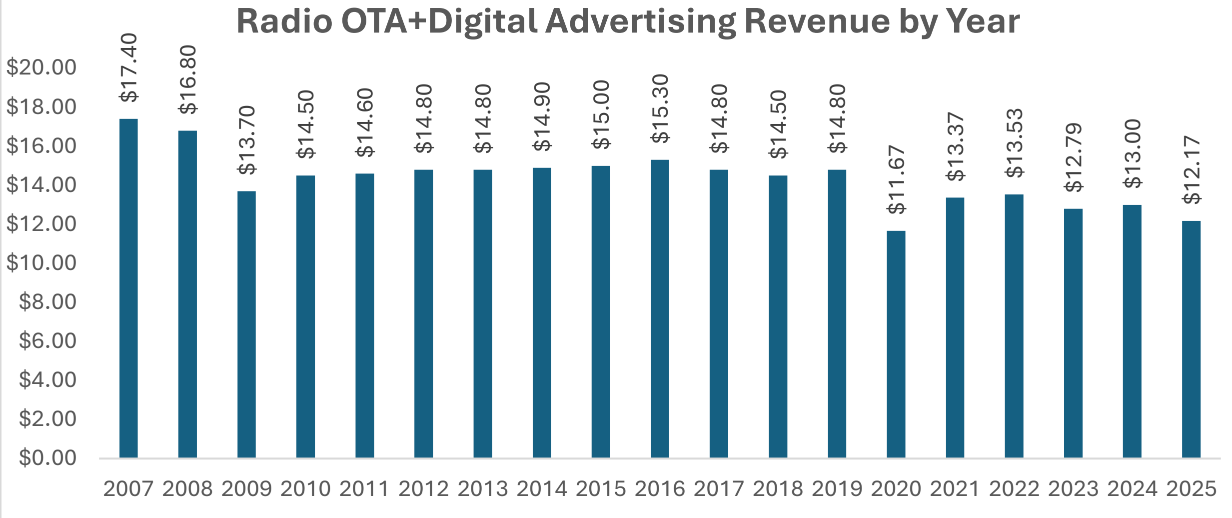
Unsurprisingly in this highly competitive marketplace in which the share of ad dollars garnered by traditional media has plummeted over time, the radio station industry's advertising revenue continues to fall. According to BIA, as shown in the graphic below, radio stations' total advertising revenue (OTA+digital) fell 30.1 percent from 2007-2025

[175] Early in 2025, eMarketer forecast that programmatic digital audio ad spending would reach $2.26 billion for the year. E. Mitchell-Wolf, *Programming Digital Audio and Podcast Ad Spending 2025*, emarketer.com (Feb. 26, 2025).

[176] *See* M. Jones, *Spotify introduces podcast buying opportunities*, emarketer.com (July 10, 2025); J. Goldman, *Spotify looks to programmatic podcast ads to power expansion*, emarketer.com (Aug. 13, 2025).

[177] SiriusXM already included some advertisements in talk and sports programming, and the new Play service includes ads in music programming for the first time. *See* PRNewswire, *SiriusXM Introduces SiriusXM Play, a New Low-Cost, Ad-Supported Subscription Plan* (July 15, 2025); *see also* C. Coats, *SiriusXM's Big Play: New Ad Tier Takes Aim at Broadcast Radio*, radioink.com (July 15, 2025). Play is expected to be available in almost 100 million vehicles by year end 2025.

(estimated), even on a nominal basis without adjusting for inflation.[178]



Source: BIA Advisory Services, LLC

As BIA's data show and as the Commission previously recognized, "radio revenue never fully recovered from the decline experienced during the recession following the 2008 financial crisis."[179] The 2020 pandemic and related recession also had a serious impact on radio station ad revenues, with those revenues not again reaching even the (lower) level achieved in 2019, let alone ever coming close to the levels reached in the mid-2000s.

Both these shocks to the advertising market gravely affected the viability going forward of ad-revenue dependent AM and FM stations, especially in an increasingly competitive audio marketplace. Between December 31, 2009 and September 30, 2025, the number of AM

---

[178] Radio stations' ad revenues counting *OTA only* were higher in the 2004-2006 period ($17.6 billion annually) than total ad revenues in 2007 ($17.4 billion) when BIA first began accounting for stations' digital ad revenues. For consistency, the graphic only includes 2007-2025, the years in which BIA estimated both OTA and digital ad revenues for radio stations.

[179] *2022 Communications Marketplace Report,* 37 FCC Rcd 15514, 15692 (2022); *accord 2020 Communications Marketplace Report*, 36 FCC Rcd 2945, 3090 (2020).

stations dropped by 447.[180] The number of commercial FM stations declined by 178 from the end of 2019 to September 30, 2025.[181] Reports continue about radio station groups shutting down stations "at an eye-catching rate."[182]

While less dramatic than station closings, declining advertising revenues over two decades necessarily harm all radio stations' ability to hire and retain talented staff, produce and acquire quality programming, including locally-oriented news and sports, and invest in their physical plant and improved technologies. Falling revenues for stations in mid-sized and small markets can push those stations to the brink, due to the much smaller population and available advertising bases in those markets. A 2019 BIA study showed that many stations, even prior to the COVID-19 pandemic, struggled to earn sufficient revenues to cover their substantial fixed operating costs – i.e., the basic costs of running a station that must be met – let alone invest in better programming, hire additional staff, or update equipment.[183] And radio station ad revenues have fallen 17.8 percent since then.

NAB also previously documented that radio stations in mid-sized and small markets earn mere fractions of the revenues garnered by stations in the top 10 markets.[184] The same

---

[180] *See* FCC News Release, *Broadcast Station Totals as of December 31, 2009* (Feb. 26, 2010) (reporting 4,790 AM stations); FCC Public Notice, *Broadcast Station Totals as of September 30, 2025* (Nov. 25, 2025) (reporting 4,343 AM stations).

[181] *See* FCC News Release, *Broadcast Station Totals as of December 31, 2019* (Jan. 3, 2020) (reporting 6,772 FM stations); FCC Public Notice, *Broadcast Station Totals as of September 30, 2025* (Nov. 25, 2025) (reporting 6,594 FM stations).

[182] R. Stine, *Groups Ponder RIS – "Reductions in Stations,"* radioworld.com (May 27, 2025).

[183] BIA found that smaller market stations and AM stations in all-sized markets experienced special difficulties in meeting their fixed costs (engineering, programming, advertising and promotion, sales, and general/administrative). *See* BIA Advisory Services, *Local Radio Station Viability in the New Media Marketplace*, at 31-34 (Apr. 29, 2019), Attachment A to Comments of NAB, MB Docket No. 18-349 (Apr. 29, 2019) (BIA 2019 Radio Study).

[184] *See e.g.*, Comments of NAB, GN Docket No. 24-119, at 19-20 (June 6, 2024) (citing 2023 data from BIA Media Access Pro).

pattern held in 2024, with the average full-power commercial radio station in the smallest Nielsen Audio markets (201-242) earning only 8.2 percent of the ad revenues (OTA+digital) garnered by the average station in the ten largest markets.[185] Similarly, the average station in markets 151-200, 101-150, 76-100, and 51-75 earned just 10.7, 11.9, 14.1, and 21.8 percent, respectively, of the revenues garnered by the average station in the top-10 markets. Even the average station in markets 26-50 garnered only 35.2 percent of the average station's revenues in the largest markets.[186]

Given all this evidence, the Commission must recognize the transformation of the advertising market, the consequent serious decline in local stations' ad revenues, and the questionable economic viability of many stations. No rational basis exists for maintaining *ex ante* restrictions on the scale of local radio (and TV) stations alone among all competitors in the modern audio (and video) markets and the digital-dominated advertising marketplace.

B. Increased Scale Will Better Enable Radio Broadcasters to Attract Audiences, Advertisers, and Investment and Serve Local Communities with Valued and More Varied Programming

To state the obvious, radio stations that have suffered double-digit ad revenue declines; that struggle to earn the revenues needed just to cover their fixed operating costs; that teeter on the brink of unviability or that have ceased operation cannot serve the public interest effectively – or at all. The artificial radio caps seriously exacerbate local stations' growing competitive challenges by imposing uneconomic ownership structures on broadcasters and impairing their ability to attract audiences, advertisers, and investment, and thus to serve their communities with more varied and locally-responsive programming.

1. Elimination of Asymmetric Ownership Caps Will Enable Broadcasters to Obtain Investment and to Achieve Vital Economies of Scale

---

185 Source: BIA Media Access Pro (Nov. 20, 2025).

186 *Id*.

Chairman Carr has recognized the urgent need to promote investment in local broadcasting by removing "legacy regulations on the books" that "prevent[] capital from flowing to broadcasters" and that also "artificially rais[e] their costs of doing business."[187] The Chairman is correct in highlighting broadcasters' need for capital and the severe impediment that "legacy" regulations place on broadcasters' ability to obtain adequate investment.

As NAB previously explained, asymmetric ownership restrictions make broadcasters less attractive to investors than their communications industry competitors.[188] The idea that the asymmetric regulation of one industry vis-à-vis other competing industries impedes investment in the more regulated industry is hardly new. Economic literature showcases the litany of harm that undue regulation can inflict on an industry.

Specifically, empirical work has shown that asymmetric regulation can undermine innovation[189] and suppress investment.[190] Retaining asymmetric regulations in the face of new competition creates regulatory distortions, drives up the regulated industry's costs, causes already scarce capital to flow to less regulated industries, deters new firm entry, and disadvantages the heavily regulated firms in relation to competitors that face fewer

---

[187] Dissenting Statement of Comm'r Brendan Carr, 2024 LPTV Notice, 39 FCC Rcd at 6396.

[188] *See, e.g.,* Comments of NAB, GN Docket No. 24-119, at 30-37 (June 6, 2024).

[189] *E.g.,* P. Aghion, A. Bergeaud & J.V. Reenen, *The Impact of Regulation on Innovation*, 113 (11) Am. Econ. Rev. 2894 (2023) (finding that significant increases in labor regulations resulted in sharp drops in innovation and discouraged incremental innovation after demand shocks).

[190] *E.g.,* T.W. Hazlett & A. Caskan, *Natural Experiments in U.S. Broadband Regulation*, 7(4) Rev. of Network Econ. 460 (Dec. 2008). The FCC recognized over a decade ago that the broadcast industry, especially smaller businesses and new entrants, suffers from a lack of investment capital. *See Commission Policies and Procedures Under Sec. 310(b)(4) of the Commc'n Act, Foreign Investment in Broad. Licensees*, Declaratory Ruling, 28 FCC Rcd 16244, 16249 (2013).

regulations.[191] Regulation that generates uncertainty in an industry also can impede investment and entry,[192] and laws or regulations that suppress mergers and acquisitions will create uncertainty around an investor's ability to freely exit after spending to grow and develop a business.[193] The antiquated broadcast-only ownership restrictions fit this bill, especially given the additional uncertainty caused by consistently belated FCC action in its "quadrennial"

---

[191] *See* Comments of NAB, MB Docket No. 18-349, at 15-19 (Sept. 2, 2021); *see also* S. Pociask and J.P. Fuhr, Jr., *Concentration by Regulation: How the FCC's Imposition of Asymmetric Regulations Are Hindering Wireline Broadband Competition in America*, The American Consumer Institute Center for Citizen Research, at 2 (Jan. 2016) (demonstrating that asymmetric regulations on incumbent telecommunications service providers providing broadband services "affects broadband competition, reduces broadband investment, increases wireline concentration and reduces consumer choice"); G.S. Ford, *Net Neutrality, Reclassification and Investment: A Counterfactual Analysis*, Phoenix Center Perspectives (Apr. 25, 2017) (showing that the threat of Title II reclassification reduced investment in broadband by at least 20 percent between 2011 and 2015); E. Ehrlich, *A Brief History of Internet Regulation*, Progressive Policy Institute, at 16-17 (Mar. 2014) (examining the impact of uneconomic broadband regulations imposed on incumbent services compared to less regulated systems and observing that "investment goes where regulation guides it by making it either welcome or unwelcome," with such regulations having the ability to "throttle the flow of capital into the sector and are therefore implemented at a potentially great cost" to overall investment in the broadband sector); R. Frieden, *Regulatory Opportunism in Telecommunications: The Unlevel Competitive Playing Fields*, 10 Commlaw Conspectus 81 (2001) (describing how "[a]symmetries in regulatory burdens create incentives to find ways to exploit artificial competitive advantages and avoid regulatory classifications that create a bias toward more pervasive and costly regulatory burdens" and have "the potential to tilt the competitive playing field in favor of one class of telecommunications carriers or service providers"); J. Bailey and D. Thomas, *Regulating Away Competition: The Effect of Regulation on Entrepreneurship and Employment*, 52 J. of Reg. Econ. 237 (2017) (finding that more regulated industries experience fewer new firm births and slower employment growth and that small firms are more likely to leave a heavily regulated industry).

[192] A.K. Dixit & R.S. Pindyck, Investment Under Uncertainty 345 (1994) (noting that regulatory uncertainties can make costs unpredictable, which can deter entry).

[193] G.M. Phillips & A. Zhdanov, *Venture Capital Investments, Merger Activity, and Competition Laws around the World*, 13(2) Rev. of Corp. Fin. Stud. 303 (2024) (finding the creation of pro-takeover laws spurring greater venture capital activity as compared to jurisdictions that have stricter antitakeover laws); *see also* X. Gao, J.R. Ritter & Z. Zhu, *Where Have All the IPOs Gone?*, 48(6) J. of Fin. & Quantitative Analysis 1663 (Dec. 2013) (finding that many firms sell to larger corporations to gain the benefits of faster "speed to market" and greater economies of scope).

ownership reviews. Conversely, reforms that reduce regulatory-related entry barriers have been shown to stimulate capital accumulation[194] and customer acquisition.[195]

Potential investors know that, due to the FCC's ownership rules, broadcasters cannot take advantage of economies of scale as can their non-broadcast audio (and video) competitors. A detailed BIA study submitted in the previous ownership review – which the 2018 Quadrennial Review Order retaining the outdated radio caps never once mentioned – demonstrated that increased scale would bring substantial financial benefits for local radio broadcasters, including improved cash flows, by allowing them to spread their significant operating costs (e.g., engineering, programming, advertising/promotion, sales, general/administrative) over more stations with greater combined revenues.[196] BIA's conclusions were hardly surprising. After all, 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."[197]

---

[194] A. Alesina, S. Ardagna, G. Nicoletti & F. Schiantarelli, 3(4) *Regulation and Investment*, J. of the European Econ. Ass'n 791 (June 2005) (finding that deregulation can spur entry and investment).

[195] T.W. Hazlett & A. Caskan, *Natural Experiments in U.S. Broadband Regulation*, 7(4) Rev. of Network Econ. 460 (Dec. 2008) (finding that DSL deregulation led to a significant increase in the number of subscribers).

[196] *See* BIA 2019 Radio Study at 26-31 (modeling the cash flow benefits of transactions prohibited by the local radio caps in different-sized markets). The cash flow benefits of permitting additional local station combinations were greatest in small markets, where radio stations most struggle to cover their fixed costs. *Id.* at 30-31. BIA also found that stations in larger groups appeared better able to turn potential audiences into revenue than were stations in smaller groups and concluded that reforming the ownership rules to permit the formation of larger combinations would likely increase station revenues, compared to the revenues earned by those same stations prior to their combination. *Id*. at 31, 37-39.

[197] J.A. Eisenach and K.W. Caves, *The Effects of Regulation on Economies of Scale and Scope in TV Broadcasting*, at 1 (June 2011), attached to Reply Comments of NAB, MB Docket No. 10-71 (June 27, 2011) (Economies of Scale Study).

The Commission itself has long recognized the benefits of scale economies in broadcasting, to both station owners and the public. When it last relaxed the radio ownership limits in 1992, the FCC found that broadcasters would realize "valuable efficiencies" by the opportunity to combine administrative, sales, promotion, production, and other functions, as well as to share studio space and equipment, and further found that these efficiencies may play a "significant part" in improving the programming available to the public.[198] In declining to tighten the radio caps in its 2006 quadrennial review following a remand from the Third Circuit in *Prometheus I*, the FCC observed that radio broadcasters had "needed regulatory relief to achieve the economies of scale necessary to compete" in 1996 -- as they do in today's more competitive marketplace – and refused to "undermine efficiency gains" that broadcasters "otherwise might realize from their current economies of scale, efficiency gains that could bolster the stations' financial standing and increase their ability to provide their local communities with quality programming."[199] The FCC has similarly acknowledged the benefits of scale economies in TV broadcasting.[200] As one small radio station owner succinctly summed up the benefits of scale economies to both broadcasters and their audiences: "If we

---

[198] *Revision of Radio Rules and Policies,* Report and Order, 7 FCC Rcd 2755, 2760-61 (1992). In more recently discussing the efficiencies stemming from greater scale, 25 radio broadcasters agreed that common ownership enables elimination of multiple studios and office space, the combination of transmission facilities at common sites, and consolidation of back office services, such as financial reporting, billing, and accounts payable. Joint Reply Comments of American General Media, et al., MB Docket No. 18-349, at 16 (May 29, 2019).

[199] *2006 Quadrennial Regulatory Review*, Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, 2074 (2008) (2006 Quadrennial Review Order).

[200] *See* Section VI.B., *infra*.

had access to more stations, we would be able to generate more revenue without increasing overhead," enabling "us to better serve our communities."[201]

Broadcasters are caught in a vicious circle here – asymmetric ownership restrictions prevent realization of greater scale economies and reduce investment in broadcast stations that then struggle to innovate and invest in more attractive programming to garner audiences and thus advertising revenues, which in turn further reduces the attractiveness of station groups to investors. To break broadcasters free, the FCC must eliminate its *ex ante* radio (and TV) local ownership limits, thereby enabling broadcasters to take advantage of scale economies and attract vital investment.

2. Owning More Stations in Local Markets Will Enable Radio Broadcasters to Attract Larger Audiences and More Advertising Dollars

It is axiomatic that permitting broadcasters to own additional radio (or TV) stations in local markets will enable them to expand their audiences and, thus, to increase their advertising revenues. Owning more stations locally allows broadcasters to program each outlet differently to attract different audiences with differing tastes and interests. No rational owner would air the same or similar programming on its stations but would provide programming across its stations to appeal to the widest range of listeners (and viewers) possible to garner the largest audiences possible – audiences that the broadcaster can then "sell" to advertisers, including those wishing to reach specific demographic groups that

[201] Decl. of M. Kent Frandsen, Frandsen Media Co. at 2, Exh. C to Joint Comments of Connoisseur Media, LLC, et al., MB Docket No. 18-349 (Apr. 29, 2019) (capitalization in heading omitted).

broadcasters with additional stations can program to target. This economic reality has been recognized by economists since the 1950s[202] and by the courts.[203]

Looking at local advertising markets more closely, the 2025 Borrell Report, as described in Section V.A.2., showed the wide array of advertising and marketing options used by local advertisers and the variety of other ad platforms used by radio advertisers specifically. Appealing to more – and more varied – consumers will help stations compete for this mix of traditional and digital ad spending. Because many advertisers want to buy from companies selling multimedia packages of digital and traditional ad products, the radio (and TV) industries have significant opportunity to increase ad revenues by offering both on-air and digital ad options to advertisers.[204] A 2024 survey by Borrell and the Radio Advertising Bureau (RAB) found that radio managers identified "training existing sales reps" and "adding digital-only sales reps" as the two best ways to drive their stations' digital ad sales.[205] Hiring, training, and retaining (i.e., competitively compensating) staff with expertise in digital advertising and in selling digital ad products that meet advertisers' needs require substantial

---

[202] *See* Peter Steiner, *Program Patterns and Preferences, and the Workability of Competition in Radio Broadcasting*, 66 Q. J. Econ. 194 (1952) (demonstrating that a consolidated owner of radio stations in a market may be more likely to program minority taste formats than if stations in the market were separately owned).

[203] "If all the television channels in a particular market were owned by a single firm, its optimal programming strategy would be to put on a sufficiently varied menu of programs in each time slot to appeal to every substantial group of television viewers in the market, not just the largest group. For that would be the strategy that maximized the size of the station's audience." *Schurz Commc'n, Inc. v. FCC*, 982 F.2d 1043, 1054 (7th Cir. 1992).

[204] *See, e.g.*, Inside Radio, *Beasley CEO Highlights Digital Transformation Amid Revenue Decline*, insideradio.com (Nov. 11, 2025) (observing that ad campaigns are "increasingly integrated across display, audio, and streaming" and that pairing broadcast advertising with targeted digital products appeals to advertisers seeking both reach and precision).

[205] Borrell Associates and RAB, *Digital Revenue Grows 10%, Blasts Through $2 Billion Mark*, at 27 (Feb. 2025).

investment.[206] Only those stations with sufficient revenues, cash flows, and investment – all of which are enhanced by scale -- can afford to pay and train digital sales staff, create strong digital ad products, and offer multimedia marketing campaigns and personalized services to attract additional advertisers in their local markets and better compete for digital advertising share.[207] Removal of the *ex ante* ownership rules would promote radio (and TV) stations' ability to invest in the staff and digital ad platforms and products necessary to grow their revenues in today's digital-centric marketplace.

3. Local Scale Increases the Variety of Radio Programming Offered to Consumers and Enables Improved Station Services

As shown above, the asymmetric radio caps "limit[] the ability or potential of broadcast radio to deliver public interest benefits to listeners"[208] by directly contributing to local stations' struggles to obtain investment, achieve necessary economies of scale, and earn advertising revenues. Repealing these anti-competitive caps will enhance station resources, enable broadcasters to improve their locally-oriented services, and as shown in the attached report by BIA, again spur growth in the variety of programming on local radio stations.[209]

---

[206] NAB has heard from its broadcast members that they experience difficulties retaining trained employees with expertise in digital ad products because such employees have other employment options.

[207] According to Borrell, traditional local media companies have "clawed back share," capturing 14.9% of locally spent digital advertising in 2024, up from 12.3% in 2020, "by offering what the large pureplay [digital] companies can't: personalized service, multimedia marketing campaigns, and creative advice and services." 2025 Borrell Report at 5, 8-9. *See also* C. Coats, *Borrell: Radio Can Win Back Ad Dollars But It Demands R&D*, radioink.com (May 30, 2025) ("You can't Google your way to a custom marketing strategy for a heating and cooling business in Paducah, Kentucky.").

[208] Notice at ¶ 13.

[209] *See* Attachment A, BIA Advisory Services, *Thirty Years After Radio Deregulation: Has the Variety of Programming Expanded?* (Apr. 2025) (BIA 2025 Radio Programming Study).

NAB previously identified nine empirical studies conducted between 1999 and 2007 agreeing that increased common ownership of radio stations starting in the 1990s resulted in greater programming diversity for audiences.[210] For example, an independent study from 1999 found that both ownership concentration and programming variety available in local radio markets had "increased substantially," consequently "suggest[ing] that the increased concentration has been good for listeners."[211] A 2007 study of the radio industry commissioned by the FCC evaluated the effects of ownership structure on programming, and its results were "consistent with the previous literature that finds more concentrated markets are associated with more, not less, program variety."[212] This study indicated that "more concentrated markets have fewer stations with the same format categories, and therefore more format diversity"; that "large national radio owners offer more formats"; and that "common ownership results in more diversity in actual programs aired."[213]

---

[210] *See, e.g.,* Reply Comments of NAB, MB Docket No. 18-349, at 45-46 (May 29, 2019).

[211] This study also found that "increased concentration *caused* an increase in available programming variety." S. Berry and J. Waldfogel, *Mergers, Station Entry, and Programming Variety in Radio Broadcasting*, Nat'l Bur. Econ. Research, Working Paper 7080, at 25-26 (Apr. 1999) (emphasis added). *Accord* S. Berry and J. Waldfogel, *Do Mergers Increase Product Variety? Evidence from Radio Broadcasting,* 116 Q. J. Econ. 1009 (Aug. 2001); *see* BIA Financial Network, *Over-the-Air Radio Service to Diverse Audiences*, at 5, 7, Attachment G, Comments of NAB, MB Docket Nos. 06-121, et al. (Oct. 23, 2006); Statement of Prof. J.A. Hausman, at 2-4, 10, Exh. 2, Comments of Clear Channel Commc'n, MB Docket Nos. 06-121, et al. (Oct. 23, 2006); Bear Stearns Equity Research, *Format Diversity: More from Less?* (Nov. 2002); BIA Financial Network, *Has Format Diversity Continued to Increase?*, Attachment A, Comments of NAB, MM Dockets Nos. 01-317, 00-244 (Mar. 27, 2002) (BIA 2002 Format Study); Statement of Prof. J.A. Hausman, at 2-3, 11-14, Exh. 3, Comments of Clear Channel Commc'n, MM Docket Nos. 01-317, 00-244 (Mar. 27, 2002); Comments of NAB, MM Docket No. 99-25, Attachment B, *Format Availability After Consolidation* (Aug. 2, 1999) (all concluding that radio programming variety increased after 1996).

[212] FCC, 2007 Ownership Study No. 5, Tasneem Chipty, CRA International, Inc., *Station Ownership and Programming in Radio,* at 45 (June 24, 2007).

[213] 2006 Quadrennial Review Order, 23 FCC Rcd at 2077, n.404, describing the findings of the FCC's 2007 Ownership Study No. 5.

Since these studies were conducted, competition for audiences and advertisers in local markets has exploded, thereby further incentivizing local radio stations to provide programming appealing to the widest possible range of listeners. But the local radio ownership caps have not changed in 30 years, thus preventing broadcasters from acquiring additional stations on which to air more varied and locally-responsive programming to local audiences. Examining the history of radio station transactions since the 1996 Act shows that most of the consolidation that occurred after loosening the caps had happened by 2006.[214]

To evaluate the impact of unchanging FCC ownership rules and the cessation of significant increases in common ownership, the BIA 2025 Radio Programming Study uses the same data source and methodology to update through 2024 the results of its previous studies finding that radio ownership deregulation in the 1996 Act led to greater programming variety. This update provides conclusive evidence that radio stations continue to provide more varied programming to their local communities than they did in 1996, prior to the increase in common ownership permitted by the 1996 Act. But BIA's new study also shows that since 2006 increases in the variety of programming have slowed down substantially, flattened, or even in some cases reversed, as the 1996 local radio ownership rules have not kept pace with profound changes in the marketplace.[215]

BIA's report first documented the average number of general radio programming formats available in local radio markets of different sizes (markets 1-10, 11-25, 26-50, 51-

---

[214] *See* BIA 2025 Radio Programming Study at 7 & n.11. Data compiled by both Kagan and BIA on annual broadcast deal volume from 1992 on show that 2006 was the last year with a high volume of radio transactions, with 1999 being the peak year for deals by a wide margin. Only two large radio transactions have occurred since 2006, one in 2011 and one in 2017.

[215] *See id*. at 3-4.

100, and 101+) from 1996 to 2024.[216] This examination showed significant growth in the number of general program formats available to consumers, especially in mid-sized and small markets, for a decade following the 1996 Act but stagnation in the number and variety of radio formats after 2006, despite radio broadcasters facing increased competition from non-broadcast audio platforms.[217] This summary table makes clear the slowdown (or even slight reversal) in the increase of programming options across all market sizes after 2006:

Table 1 Comparison of the Number of General Formats Offered: 1996 – 2004

Market Size Grouping	% Change 1996 – 2006	% Change 2006 – 2016	% Change 2016 – 2024
1-10	3.7%	1.2%	0.0%
11-25	11.0%	0.0%	1.2%
26-50	21.0%	-4.7%	-0.7%
51-100	24.8%	1.5%	-1.5%
101+	28.0%	-1.0%	1.0%

Source: BIA Advisory Services, LLC

These data reconfirm that the 1996 Act's relaxation of the radio ownership restrictions and subsequent increases in common ownership of stations benefited consumers by leading to greater programming variety in local markets. But radio broadcasters' inability to grow any further under the three-decades-old local ownership rules constrain them from continuing to expand their programming options. This result impedes the ability of local radio broadcasters to compete for audiences and advertisers and to offer consumers more varied programming free over-the-air.[218]

---

[216] BIA Media Access Pro database has long provided a classification scheme of 19 different general formats. They are: Adult Contemporary, Album Oriented Rock/Classic Rock, Classical, Contemporary Hit Radio/Top 40, Country, Easy Listening/Beautiful Music, Ethnic, Jazz/New Age, Middle of the Road, Miscellaneous, News/Sports, Nostalgia/Big Band, Oldies, Religion, Rock, Spanish, Talk, Urban, and No Reported Format. *Id*. at 4.

[217] *See* BIA 2025 Radio Programming Study at 6, Figure 1, Average Number of General Format Categories by Market Size: 1996-2024.

[218] *See id.* at 7-8.

BIA next analyzed the number of specific formats aired by local radio stations in various market size ranges from 1996-2024.[219] This examination similarly revealed significant increases in the number of specific formats offered by local radio stations across all market sizes for the decade following the 1996 Act's reform of the radio ownership caps, followed by a noticeable slowdown in the growth of programming variety from 2006-2016, and stagnation from 2016-2024:[220]

Table 2 Comparison of the Number of Specific Formats Offered: 1996 – 2024

Market Size Grouping	% Change 1996 – 2006	% Change 2006 – 2016	% Change 2016 – 2024
1-10	46.0%	9.4%	-1.0%
11-25	44.8%	12.1%	1.5%
26-50	52.6%	6.4%	0.3%
51-100	48.1%	13.9%	2.7%
101+	47.1%	19.0%	3.3%

Source: BIA Advisory Services, LLC

Once again, this result shows that broadcasters faced with continuing constraints on local radio ownership and on their acquisition of additional stations remain limited in their ability to expand into new and varied programming, despite their incentives to do so in light of

---

[219] BIA further classifies its 19 general format categories into station-stated specific formats, each falling under one of the general format classifications. Specific format categories are those actually used by station personnel in characterizing their stations' formats. Stations' adoption of new specific formats increases programming variety in local markets and may make available formats different than any other programming being provided to audiences in their local markets. *Id*. at 8. For example, while Spanish is one broad format, it includes numerous specific formats, e.g., Ranchero and Tejano, which are both genres of Mexican music, but which differ greatly. Similarly, Urban/Gospel programming would differ from Urban/R&B programming, and a Classic Country station would play different music than a Hot Country station focused on current hits.

[220] *See* BIA 2025 Radio Programming Study at 9-10 & Figure 2.

intense competition from other platforms. Hundreds of local radio clusters are constrained by the 1996 ownership caps and subcaps from further increasing their scale by acquiring more stations.[221] If allowed to grow, however, local radio groups would have clear economic incentives and additional outlets to provide new and different programming services, just as broadcasters did after passage of the 1996 Act.

Finally, BIA conducted regressions using both the general and specific formats offered in 2024 to see the impact that increased consolidation in local radio ownership had on the variety of programming offered to audiences in local markets. An earlier similar regression analysis conducted by BIA had found a "statistically significant positive relationship between the level of local ownership concentration and the level of local format diversity."[222] This 2024 update confirmed that increases in local market concentration led to local radio stations providing a greater variety of programming.[223] The Commission should eliminate its antiquated *ex ante* radio caps so broadcasters can improve their competitive position – and benefit local consumers – by offering a wider and more diverse range of programming services in local markets.

Beyond increasing the diversity of radio programming available to audiences, local scale helps enable other improvements in radio services. Those radio broadcasters lacking sufficient scale and struggling to obtain ad revenues and investment cannot pay the salaries of multiple (or perhaps any) news staffers and accordingly are unable to provide material

---

[221] The BIA 2019 Radio Study (at 19-20) found that 404 different local combinations of radio stations are constrained under the existing radio ownership limits, either by the total number of stations locally owned and/or the number of AM or FM stations owned.

[222] BIA 2002 Format Study at 17.

[223] BIA 2025 Radio Programming Study at 11-12. In the two categories of regression analyses (general and specific formats), the concentration coefficient is positive and statistically significant. *Id*. at 12.

amounts of locally produced news. Resource limited radio stations also will struggle with providing local news due to the low profitability of radio news. A 2025 survey found that only 13 percent of radio station news operations reported they were profitable – a rebound of sorts from last year's 30-year survey low of 10.1 percent profitability.[224] Given the public's reliance on radio stations for breaking local news, weather, and traffic[225] and the public's high levels of trust in radio,[226] the Commission should prioritize removal of asymmetric restrictions on radio broadcasters' scale that burden their provision of locally-oriented programming, including news and information.

Removing the artificial ownership caps will lead to the most dramatic improvements in local radio service by permitting more economically viable station groups to acquire stations unable to serve the public interest effectively due to financial constraints and lack of resources. As Chairman Carr has written, on a visit to Wyoming he observed a local radio station in Powell that was "effectively a Dell laptop playing music pumped in" from somewhere else.[227] A local broadcaster in neighboring Cody, who operated stations airing local news and entertainment programming attuned to the needs of audiences, wanted to buy the Powell station and originate live and local programming but could not do so. According to the

---

[224] K. Henderson, T. Mirabito, and B. Papper, *Radio profitability rises after a 30-year low,* RTDNA/Syracuse University Survey (Aug. 4, 2025).

[225] C. Coats, *Study: 91% of Drivers Rely on Local Radio for Breaking News*, radioink.com (May 22, 2025) (citing Audacy's latest Connected Car study, which reported that 91% of surveyed drivers relied on local radio for breaking weather news, 89% for breaking local news, and 90% for breaking traffic news).

[226] Katz Radio Group's 2024 survey on media trustworthiness found that 79% of adults ages 18+ considered radio to be either "very trustworthy" or "trustworthy," compared to only 28% for social media. C. Coats, *Katz: Radio Almost Three Times More Trusted Than Social Media*, radioink.com (June 27, 2024).

[227] Dissenting Statement of Comm'r Brendan Carr, 2018 Quadrennial Review Order, 38 FCC Rcd at 12874.

Chairman, the FCC's ownership rules were "keeping that laptop powered up while preventing actual investment" in local broadcasting, including newsgathering, in Wyoming,[228] and inflicting similar harms to localism and competition by impeding investment in and improvements of local stations and their services in markets across the country.

A leading broadcast broker and station owner has attested that there are simply no buyers for many radio stations, especially in mid-sized and small markets, other than an existing owner in those same markets who may not be allowed to purchase the stations due to current FCC ownership restrictions.[229] He has attested that, in many markets across many states, owners are "stuck in ownership positions" and "looking to sell, but cannot exit their stations" because the "best" (or only) buyer for most stations – i.e., a stronger broadcaster in the same market – cannot acquire those underperforming stations due to the FCC's rules.[230] As a consequence, many owners of weak stations are pushed into "skeletal operations" (or even bankruptcy), with no real local presence or informational programming.[231]

These underperforming stations are in a Catch-22. They lack the financial resources to invest in new or improved programming and locally-oriented services that would attract larger audiences and generate more ad dollars and thus have little or no hope of improving their competitive position. The public interest would be better served by removing the FCC's outdated rules and allowing stronger in-market radio broadcasters who, taking advantage of

---

[228] *Id*.

[229] *See* Decl. of W. Lawrence Patrick, Exh. G to Joint Comments of Connoisseur Media, LLC, et al., MB Docket No. 22-459 (Mar. 3, 2023).

[230] *Id*. at 2-3 (attesting that as a broker he saw this situation within the past year in Louisiana, Michigan, Missouri, Texas, California, Pennsylvania, Tennessee, and Alabama).

[231] *Id*. at 3.

local economies of scale, can revitalize struggling stations by infusing capital, changing formats, and providing more localized programming.

C. The *Ex Ante* Radio Ownership Caps Are Harmful and Arbitrary

In the modern digital marketplace where consumers and advertisers enjoy an (over)abundance of competing platform and content choices, the retention of radio (or TV) ownership restrictions dating from a time when scarcity was perceived to be a defining characteristic of media markets is both contrary to Section 202(h) and irrational under the APA. Retention of the arbitrary *ex ante* local radio caps serve none of the FCC's traditional goals today. Nor do outmoded restrictions imperiling the viability of local broadcast stations serve the FCC's interest in national security and public safety.[232]

The Commission has consistently referred to its local radio ownership rule as competition-based and retained that rule in the past primarily to promote competition, rather than its other traditional goals of viewpoint diversity or localism.[233] NAB has demonstrated that asymmetric local radio caps are now unnecessary and indeed harmful to competition

---

[232] *See* Section II.B., *supra* (noting public's reliance on broadcast stations as the backbone of EAS and for detailed, often live-saving emergency information during weather-related and other crises). *See, e.g.*, Inside Radio, *Nielsen: L.A. Radio Sees 115% Share Lift During First Two Days Of Fire Coverage*, insideradio.com (Jan. 27, 2025); Inside Radio, *Radio Is An Indispensable Public Safety Resource. The Maui Wildfires Were the Latest Proof*, insideradio.com (updated Oct. 3, 2023).

[233] *See* Notice at ¶ 12; *see also 2014 Quadrennial Regulatory Review, et al.*, Second Report and Order, 31 FCC Rcd 9864, 9899 (2016) (2010/2014 Quadrennial Review Order); 2006 Quadrennial Review Order, 23 FCC Rcd at 2072, 2075, 2077-78 (flatly stating that the FCC has "never found that the local radio ownership rule significantly advances our interest in localism"); *2002 Biennial Regulatory Review,* Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13713, 13738-39 (2003). The FCC, moreover, has "long maintained that broadcast radio stations are not a primary source of viewpoint diversity in local markets." 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9827 (discussing broadcast radio's diminished contributions to viewpoint diversity and the variety of other media outlets that contribute to viewpoint diversity in local markets). *Id*. at 9828-29.

(and localism) by unfairly disadvantaging radio broadcasters and by preventing them from better serving their communities with more diverse and locally-oriented programming.

To further allay any concerns about localism, NAB has previously explained that broadcast stations have strong incentives to offer locally-oriented content, including news, which helps them stand out in a crowded media landscape, thereby maximizing their audiences and, ultimately, their advertising revenues.[234] In fact, Jacobs Media's 2025 survey of radio listeners found that 88 percent "strongly agreed" or "agreed" that radio's "local feel" is one of its primary advantages, and the percentage of listeners "strongly" agreeing has increased since the COVID-19 pandemic.[235] Even the FCC has recognized the "evidence that being local is *the* defining value proposition that many radio stations see themselves as providing to consumers."[236] Thus, any suggestions that radio (or TV) broadcasters will have diminished or no incentives to offer locally-responsive programming if the FCC eliminates its ownership restrictions are erroneous. Such claims are also nonsensical, as parties opposing ownership rule reform have never explained how the numerical ownership limits – rather than competitive market forces and/or policies under the Communications Act requiring stations to serve their communities of license – actually incentivize broadcast stations to provide locally-responsive content or why repealing the ownership caps would reduce those incentives.

Relatedly, the Commission should reject the fallacious idea that because radio stations have public interest obligations, non-broadcast sources lacking such obligations may not provide a competitive service from audiences' perspective.[237] Regarding the mere existence

---

[234] *See, e.g.*, Comments of NAB, MB Docket No. 18-349, at 92-93 (Sept. 2, 2021); Reply Comments of NAB, MB Docket No. 18-349, at 21 (May 29, 2019).

[235] Jacobs Media, *techsurvey 2025: 10 Key Takeaways* (Apr. 2025).

[236] 2018 Quadrennial Review Order, 38 FCC Rcd at 12801 (emphasis in original).

[237] *See* Notice at ¶ 15.

of public interest obligations as a basis for keeping outmoded radio (or TV) ownership caps ignores Section 202(h)'s emphasis on competition and deregulation. On this theory, competition from non-broadcast sources could destroy broadcasters' viability, and yet ownership caps could still be "justified" because radio (and TV) stations have public interest obligations and other competing audio (and video) services do not. Using the existence of public interest obligations as a reason for retaining broadcast ownership limits will contribute to the decline or even demise of the only audio (and video) services with those supposedly important obligations. That approach is akin to cutting off one's nose to spite one's face.

Moreover, it is increasingly clear that the current regulatory construct imposed on radio stations – and radio stations alone – is irrational and cannot be fixed merely by tweaking tiers. The arbitrary features of the existing regime are almost endless. For example, it relies on the analog-era conception – which goes back to the origination of AM and FM broadcasting[238] – that AM and FM are somehow so different that each should be subjected to special ownership subcaps. But there is no rational basis today for maintaining any ownership restrictions, whether caps or subcaps. All terrestrial radio now faces an existential threat from competition by non-broadcast audio sources and digital advertising platforms, and old AM/FM distinctions cannot support radio-only ownership restrictions now.

In addition, the reliance on the number of stations in a market to create the different ownership tiers (and thus the station caps and subcaps) is irrational. Stations vary greatly in their power levels and the number of listeners they can reach over-the-air, and the sheer number of stations in a market says little about the "right" level at which to set any ownership caps or subcaps. It is arbitrary to treat all markets within a numerical range of stations (e.g.,

---

[238] AM radio was the "original" broadcasting service and the commercial AM service flourished in the 1920s, before FM was invented in 1933.

all markets with 30-44 stations) as sufficiently competitively similar that the exact same cap and subcap levels are right for those myriad markets. A local radio market with 30 stations in one region of the country cannot be assumed to be the same as another local radio market with 44 stations in a different region of the country. Such markets in fact can differ substantially in ways that have much more to do with the competitiveness of ad-supported radio stations, such as the size of a market's local advertising base; its (in)ability to support multiple separate station owners; and the competitive strengths, weaknesses, or other characteristics of the stations in any market.

According to BIA, for example, the wildly disparate Austin, TX and Victor Valley, CA markets fall into the 30-44 station tier.[239] Despite having very comparable total numbers of AM/FM stations, the Austin market is much more populous, and the commercial radio stations in that market earned more than 11 times the amount of ad revenues (OTA+digital) than the stations in Victor Valley did in 2024. In other cases, much more similar markets are separated into different tiers with different ownership caps. Although located in the same region, and with similar populations and advertising bases, the markets of St. Cloud, MN and Fargo-Moorhead, ND-MN nonetheless fall into different ownership tiers solely due to a minute difference in the number of radio stations.[240]

Using arbitrary gradations in the total number of radio stations in a market as the metric for determining ownership caps and subcaps cannot be addressed by tweaking or

---

[239] The Austin market has 40 full-power commercial and noncommercial radio stations and the Victor Valley market has 41. Source: BIA Media Access Pro (accessed Dec. 8, 2025).

[240] According to BIA Media Access Pro (accessed Dec. 8, 2025), St. Cloud has 30 full-power commercial and noncommercial radio stations and Fargo-Moorhead has 29, with the commercial stations in those markets earning roughly comparable OTA+digital ad revenues. In 2024, the commercial stations in St. Cloud earned about 91.1% of the total ad revenues earned by the commercial stations in Fargo-Moorhead.

adding tiers. There would be no sound basis for concluding, for instance, that the appropriate smallest market tier should be 10 or fewer stations, rather than the current 14 or fewer stations. Even more importantly, there is no sound basis for the long-standing numerical caps and subcaps. In all markets with 15-29 stations, why is 6 always the correct total ownership limit and why is 4 always the correct subcap limit? The Commission has never answered and cannot answer those questions – and saying, well, that is what Congress believed appropriate *in 1996* is not a remotely credible answer, given massive changes in the audio and ad markets since then. And the same problem would afflict any tweaks to the existing ownership caps and subcaps. Why, for example, would raising the ownership caps by one station in all tiers be the right level of allowable common ownership, e.g., why would 7 be the correct number in all markets with 15-29 stations rather than 6 or 8?

Adding more tiers does not solve the problem either. It is certainly irrational that all radio markets with 45 or more stations are subject to identical caps and subcaps. There is no basis for concluding that the limit of 8 total stations and 5 in the same service are "necessary in the public interest as the result of competition" in markets as disparate as Chicago (with over 130 stations) and Kansas City (with 45 stations). But tacking on more tiers does not address the root problem or answer difficult questions. How many new tiers should be created and how many stations could be commonly owned in those tiers? If the Commission created new tiers of the same size as the existing ones (i.e., 15 markets), then the number of tiers could easily double (e.g., markets with 45-60 stations, 61-75 stations, 76-90 stations, and then, maybe, 91 and above)? How many lines can be rationally drawn? Even the lines of just the four existing tiers are not rational. And does the number of stations that may be commonly owned increase by one (or more?) in each additional tier? Beyond all this complexity, adding tiers based on the number of stations fails to address the arbitrariness of treating all markets in a range (e.g., all those with 61-75 stations) as so similar that precisely the same cap and subcap levels are the right ones for every one of those markets.

At bottom, imposing limits on radio station ownership based on the number of stations in market size ranges and questionable AM/FM distinctions is fundamentally arbitrary and cannot be salvaged. The number of stations has nothing to do with actual competitive factors, such as the locally available advertising base or stations' power levels, coverage areas, listenership, and revenue – those all are *irrelevant* under the FCC's regime. The only solution is to repeal the irrational *ex ante* rules and review proposed radio (and TV) transactions on a case-by-case basis under the Act, in light of the transformed media and advertising markets.

VI. THE *EX ANTE* LOCAL TV OWNERSHIP LIMIT IS UNNECESSARY UNDER SECTION 202(H), ARBITRARY UNDER THE APA, AND DOES NOT PROMOTE THE PUBLIC'S FREE OTA TELEVISION SERVICE

The Notice (at ¶ 24) asks whether the local TV ownership rule continues to further broadcast television service to American consumers, or whether, in light of the pressures local TV stations now face, the rule hinders their ability to better serve their local communities and to effectively compete. The answer is that the rule unquestionably harms TV broadcasters' ability to provide quality local OTA service and compete with their much larger, less regulated competitors for viewers, advertisers, content, and investment.

In light of competition from pay TV providers, streaming platforms, and Big Tech, the need for local TV broadcasters to gain additional scale and obtain investment, and the irrationality of the existing two-station limit, NAB urges the Commission to eliminate *ex ante* regulation of local TV ownership and shift to reviewing broadcast transactions on a case-by-case basis. As discussed in Section II., the FCC's public interest review of license assignments and transfers of control pursuant to Section 310(d) of the Act will ensure that any potential harms arising from proposed TV station transactions are addressed. The current local TV rule arbitrarily treats all 210 DMAs the same, ignoring vast competitive differences between markets and between stations within markets. Rather than serving the public interest, that rule now serves to prevent pro-competitive station combinations and should be repealed.

A. Local TV Stations Compete Against Streaming, Multichannel, and Technology Platforms for Audiences and Advertisers and Face Other Significant Competitive Headwinds

In multiple proceedings, NAB has repeatedly documented the revolutionary changes to the marketplace in which local TV stations compete for viewers, advertising dollars, programming, and investment. These data demonstrate that continuing to regulate local TV stations as if they compete only with each other would defy logic, contravene Section 202(h)'s mandate that the FCC's ownership rules reflect current competitive realities, and be arbitrary and capricious in violation of the APA.[241] Below, we recap data from previous filings and update certain points to reflect newer studies and analyses.

Audiences. In filings earlier this year concerning the national TV ownership cap, NAB again demonstrated that Americans' wholesale adoption of digital devices has fundamentally altered how they consume video content and the type of content consumed, enabling an explosion in usage of unregulated streaming services, including subscription video on demand (SVOD), ad-supported subscription video on demand (AVOD), and free ad-supported streaming TV (FAST), which compete with broadcasters for audiences and advertisers.[242] Studies and data released in the past few months show that these trends have continued or accelerated. For example:

---

[241] *See* Notice at ¶ 25 (seeking comment on the market participants that the FCC should consider as part of its local TV rule analysis).

[242] Comments of NAB, MB Docket No. 17-318, at 6-12 (Aug. 4, 2025) (NAB 2025 National TV Cap Comments); Written Ex Parte Communication of NAB, MB Docket No. 17-318, at 6-13 (Apr. 2, 2025) (NAB 2025 National TV Cap Update).

- NAB earlier documented that 82 percent of U.S. TV households own smart TVs and 66 percent use them weekly for streaming, up from 47 percent in 2021.[243] U.S. homes today have an average of two smart TVs, which are also used for "non-TV" features such as listening to music or checking weather apps.[244] Because smart devices such as TVs and phones are video, audio, and internet devices, they broaden the competition TV broadcasters face beyond the video silo.

- According to a recent survey, 30 percent of viewers report that a smart TV app is the first place they turn for video viewing, up from only 10 percent in 2020.[245] If streaming media players are included (e.g., Roku, FireTV, AppleTV), connected TVs are the default choice for almost half (46 percent) of viewers.[246]

- As previously reported, video streaming is nearly universal, with almost three-quarters of Americans choosing streaming as their default source for viewing content.[247] A recent survey found "near-total penetration" for TV streaming, with only about seven percent of U.S. adults reporting no digital video consumption.[248]

- NAB earlier documented the vast number of U.S. FAST channels, which continue to proliferate, and the rapid growth in household penetration of FAST and AVOD.[249]

---

[243] NAB 2025 National TV Cap Comments at 7, *citing* Hub Entertainment Research, *Connected Home 2025* (Mar. 2025).

[244] NAB 2025 National TV Cap Comments at 7, *citing* G. Winslow, *Average U.S. Home Now Has Two Smart TVs*, tvtechnology.com (July 1, 2025); Hub Entertainment Research, *Evolution of the TV Set* (June 2025).

[245] Hub Entertainment Research, *Decoding the Default*, September 2025.

[246] *Id*.

[247] NAB 2025 National TV Cap Update at 8-9 (citing Kantar's finding that streaming reaches 96 percent of US households, which subscribe to 4.1 paid video streaming services on average, and Adtaxi's streaming TV survey finding that streaming is the first destination for 73 percent of viewers). *Accord* H. Avery, *Boomerang Subscribers Up 27%: How Winning Back Customers Became Streaming's New Growth Strategy in the US,* kantar.com (Nov. 4, 2025) (average number of paid video subscriptions, either ad-free or ad-supported, remained at 4.1 per household).

[248] G. Winslow, *Study: Most U.S. TV Viewers Choose Streaming As Default Viewing Option*, tvtechnology.com (Apr. 21, 2025).

[249] NAB 2025 National TV Cap Update at 8-9; *see also* K. Flynn, *Free TV is booming*, axios.com (May 13, 2025); Nielsen Gracenote, *FAST momentum continues with global channel count growing nearly 14% year-to-date* (Aug. 27, 2025), https://www.nielsen.com/news-center/2025/fast-momentum-continues-as-global-channel-count-grows-nearly-1425-in-q3-2025/ (the number of global FAST channels rose to 1,850).

Two thirds of streaming households now use ad-supported platforms.[250] A recent Comscore report found that total hours watched across major free ad-supported streaming services grew by *43 percent* from 2024 to 2025.[251] The number of U.S. viewers using AVOD is projected to rise from around 200 million in 2024 to over 278 million by 2029, and the number of FAST users will increase from nearly 150 million last year to around 250 million by 2029. Even currently, 82 percent of viewers see ads on streaming TV services, thereby increasing the competition broadcasters face for ad dollars as well as eyeballs.[252] And PwC projects fast growth for FAST, recently forecasting that U.S. FAST services will generate $9 billion in revenue in 2029, up from nearly $4.9 billion in 2024.[253]

- Prime Video is now rolling out location-based interactive video ads that allow tailoring of national TV ads with location specific content, enabling advertisers to transform a single TV commercial into thousands of variants based on ZIP codes or states. This rollout "will further heighten the competition between streaming services and local broadcasters."[254]

- A Horowitz Research study has reported that 61 percent of weekly TV content viewing in 2025 occurs on streaming, up from only 45 percent *just last year* and 38 percent in 2020.[255] While NAB reported earlier this year that 35 percent of weekly TV content viewing takes place via traditional MVPDs or live OTA broadcasts,[256] a more recent survey found that viewers spend *only about one-quarter* of their

---

[250] E. Gruenwedel, *Deloitte: More Than 40% of Consumers Eye Social Media Video, Streaming as 'Watching TV,'* MediaPlayNews (Oct. 29, 2025).

[251] *Report: Continued Growth for AVOD, FAST in U.S.,* Advanced Television (Oct. 30, 2025), https://www.advanced-television.com/2025/10/30/report-continued-growth-for-avod-and-fast-channels-in-us/.

[252] M. Keys, *Parks: Most streamers use ad-supported products*, thedesk.net (May 17, 2025); T. Butts, *Parks: U.S. Ad-Supported SVOD Subscriptions to Top 278M by 2029*, tvtechnology.com (May 14, 2025) (both citing white paper by Parks Associates).

[253] T. Spangler, *U.S. Streaming Video Market to Surge 33% by 2029 to Over $112 Billion, PwC Forecasts*, variety.com (July 23, 2025).

[254] G. Winslow, *Prime Video Launches Location-Based Interactive Video Ads*, tvtechnology.com (Nov. 10, 2025).

[255] NAB 2025 National TV Cap Comments at 8, *citing* G. Winslow, *Study: 61% of Weekly TV Viewing Takes Place on Streaming Services*, tvtechnology.com (June 4, 2025) (citing Horowitz Research study).

[256] *Id.*

screen time on live TV.[257] According to Parks Associates, social video now accounts for 20 percent of all video consumed on TV weekly.[258]

- Twenty-eight percent of U.S. consumers do not watch live TV at all in an average day, up from 20 percent in 2023, and 41 percent of those under age 30 do not watch live TV on a typical day.[259] Reconfirming that younger generations engage less with traditional video content (e.g., broadcast or cable TV), as NAB previously noted, a 2025 report found that high percentages of Gen Zers regularly use social media (94 percent); watch videos in a vertical/portrait format online (81 percent); watch paid-for on-demand video streaming (81 percent); watch YouTube free with ads (78 percent); and play video games (77 percent).[260] Gen Zers spend 5.1 hours a day on social media as of Q3 2025.[261]

These continuing or even accelerating shifts in device usage and viewing patterns are reflected in Nielsen data on the declining reach and usage of linear television. Citing Nielsen's The Gauge, NAB earlier showed that in May 2025, streaming reached an "historic TV milestone," eclipsing combined broadcast and cable viewing for the first time and garnering a record 44.8 percent of total TV usage (a 71 percent rise since May 2021, when The Gauge was launched), compared to broadcast's share of only 20.1 percent.[262] Just one month later, more video market history was made when streaming garnered 46 percent of total TV usage,

---

[257] Hub Entertainment Research, *Decoding the Default*, September 2025.

[258] P. Kurz, *Social Video Now Accounts for 20% of TV Viewing*, tvtechnology.com (Aug. 19, 2025).

[259] G. Winslow, *Survey: 28% of Americans Don't Watch Live TV on an Average Day*, tvtechnology.com (June 17, 2025) (citing Attest's recent U.S. Media Consumption Report).

[260] Toluna, *Gen Z Culture Decoded: The New Rules of Engagement* (Mar. 27, 2025); *see* NAB 2025 National TV Cap Update at 8-9 (discussing video consumption habits of Gen Z and Millennials).

[261] G. Winslow, *Survey: Younger Gen Z Consumers Spend 5.1 Hours a Day on Social Media*, tvtechnology.com (Dec. 1, 2025) (reporting on new survey from S&P Global Market Intelligence Kagan).

[262] NAB 2025 National TV Cap Comments at 9, *citing* Nielsen, The Gauge, May 2025 (rel. June 17, 2025).

easily exceeding broadcast and cable combined (41.9 percent).[263] Broadcast's share of all TV usage fell below the 20 percent threshold for the first time, to 18.5 percent, while the share garnered by just YouTube and Netflix combined reached 21.1 percent.[264]

These trends continued in the months that followed. Even with the viewership increase that broadcasting generally sees from the start of the NFL season, as illustrated in the graphic below, October data from The Gauge show that streaming's share of the market has remained steady at 45.7 percent, still exceeding the combined audience shares of broadcasting and cable.[265] And although broadcast TV's share of total TV viewing rebounded to a degree from its summer nadir, broadcast's 22.9 percent share for this October compares poorly to broadcast's October 2021 share of 28.4 percent.[266]

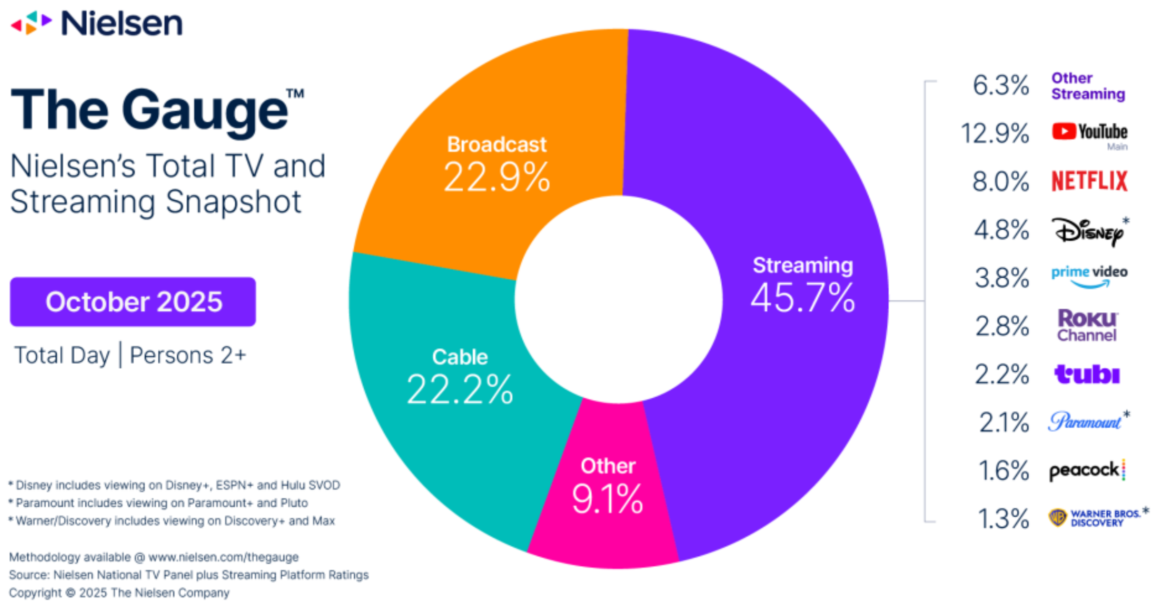
---

[263] NAB 2025 National TV Cap Comments at 9-10, *citing* Nielsen, The Gauge, June 2025 (rel. July 15, 2025).

[264] Nielsen, The Gauge, June 2025 (rel. July 15, 2025). *See also* J. Koblin, *The Streaming Wars Come Down to 2: YouTube vs. Netflix*, nytimes.com (July 12, 2025).

[265] Nielsen, The Gauge, October 2025 (rel. Nov. 18, 2025).

[266] Nielsen, *Broadcast dramas drive October viewing bump while streaming and sports stay strong* (Nov. 2022). Broadcast TV's share has declined every October since 2021, falling from 28.4% to 26.0% (2022) to 24.6% (2023) to 24.0% (2024) to 22.9% (2025).



Streaming continued its dominance in October in part because of NFL games available either as simulcasts or exclusively on streaming platforms.[267] Amazon Prime Video, home of NFL Thursday Night Football, nearly doubled its monthly average on game days, reaching 6.4 percent of television viewing on Thursdays in October.[268] These data confirm the importance to broadcasters of retaining extraordinarily expensive sports rights, despite competition from vastly deeper-pocketed rivals such as Amazon.

This most recent edition of The Gauge also reconfirms that YouTube has become the 800-pound gorilla of the video marketplace, consistently garnering about 13 percent of total

---

[267] *See* Nielsen, *Nielsen's The Gauge™: NFL Viewership Underscores How Sports Are Redefining Audience Behavior* (Nov. 2025) (reporting, for example, that Peacock and Paramount+ had notable upticks in October due to their streaming of games aired by NBC and CBS).

[268] *See* Nielsen, *Nielsen's The Gauge™: NFL Viewership Underscores How Sports Are Redefining Audience Behavior* (Nov. 2025).

TV usage.[269] And because The Gauge does not account for viewing of video content on mobile devices, it substantially undercounts the viewing garnered by YouTube and Netflix, as well as TikTok and Instagram, with which broadcasters increasingly compete.[270] Across all its platforms, YouTube is "almost universal," with 87 percent of consumers reporting they use or subscribe to YouTube (free), YouTube Premium, and/or YouTubeTV.[271] In light of YouTube's success "in the living room," TikTok and Instagram both are working on apps designed for television viewing.[272]

Given this ever-growing competition for viewers, NAB earlier demonstrated the steep decline in the ratings of even the top-rated broadcast TV programs over time, with the top-rated scripted program on broadcast TV for the 2023-2024 season (*Tracker*) earning **less than one-seventh** of the ratings earned by the top broadcast show in the 1985-1986 season, while the top-rated broadcast program overall in 2023-2024 (*Sunday Night Football*) garnered **less**

---

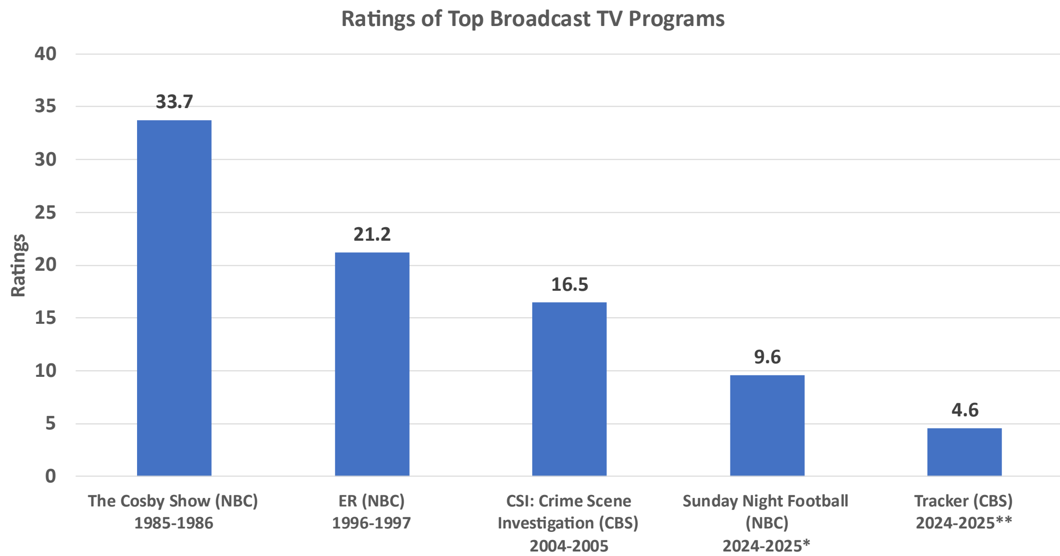
[269] Nielsen, The Gauge, June 2025 (rel. Jul. 15, 2025) (12.8%); Nielsen, The Gauge, July 2025 (rel. Aug. 19, 2025) (13.4%); Nielsen, The Gauge, August 2025 (rel. Sept. 16, 2025) (13.1%); Nielsen, The Gauge, Sept. 2025 (rel. Oct. 21, 2025) (12.6%); Nielsen, The Gauge, October 2025 (rel. Nov. 18, 2025) (12.9%).

[270] *See, e.g.,* G. Winslow, *Study: Consumers See 'Strong Value' in Streaming But Are 'Very Concerned' About Economy*, tvtechnology.com (July 14, 2025) (more viewers use YouTube on a smartphone or tablet than on a TV); J. Koblin, *The Streaming Wars Come Down to 2: YouTube vs. Netflix*, nytimes.com (July 12, 2025) (Netflix estimating that 30% of its audience watches via devices other than TVs). Viewing of YouTubeTV, the linear vMVPD service, also is not included in YouTube's October 12.9% share of total TV usage reported by The Gauge. (If a consumer watches ABC or FX via YouTubeTV, that usage is counted as broadcast or cable, respectively.)

[271] G. Winslow, *Study: Consumers See 'Strong Value' in Streaming But Are 'Very Concerned' About Economy*, tvtechnology.com (July 14, 2025).

[272] P. Clark, *Social platforms and streamers battle for the living room*, emarketer.com (July 28, 2025). *See also* T. Spangler, *Instagram for TV: Social Network Launches App to Watch Reels Videos on Big Screen*, Variety (Dec. 16, 2025) (Meta launched a pilot of its Instagram for TV app, which initially is available only Amazon Fire TV and allows users to watch Reels organized into personalized channels based on their interests on TV screens).

than one-third of the top program's mid-1980s ratings.[273] NAB also submitted data showing that the top-rated broadcast TV programs garnered still lower ratings during the 2024-2025 season.[274] Due to competition from non-broadcast video providers, the ratings of the top-rated scripted program on broadcast TV have fallen **72.1 percent** since 2004; by **78.3 percent** since passage of the 1996 Act; and by **86.4 percent** since the mid-1980s.



Sources and Notes:
1985-1986, 1996-1997, 2004-2005 Seasons*: Complete Directory to Prime Time Network and Cable TV Shows, 1946-Present.* Household ratings based on Live-Only viewing*;*
*2024-2025: *Nielsen,* Live +Same Day viewing, September 1, 2024-May 25, 2025. Regularly scheduled program; excludes pre-and post-shows.
***Nielsen*, Live + Same Day viewing.

All this evidence on viewership demonstrates that TV stations' formerly mass audiences have shrunk due to competing video options, both free and subscription, which consumers have substituted for broadcast TV. Consumers first substituted cable and satellite for broadcast viewing and more recently – and increasingly – substitute streaming in lieu of broadcast viewing. Data revealing the single-digit reach of broadcast TV makes a mockery of

[273] NAB 2025 National TV Cap Comments at 12-13.

[274] NAB 2025 National Cap TV Comments at 10-11. From the 2023-2024 season to the 2024-2025 season, *Sunday Night Football*'s ratings fell from 10.3 to 9.6 and *Tracker*'s ratings declined slightly, from 4.7 to 4.6.

any contention that broadcast-only ownership limits remain necessary in the public interest as the result of competition.[275]

The ever-increasing (and even overwhelming) array of video options for consumers and advertisers has completely upended the video marketplace. Given that the average viewer spends 110 hours, or nearly *five full days*, each year scrolling through streaming platforms searching for programming to watch,[276] the Commission can no longer pretend that broadcast TV stations exist in a hermetically sealed bubble shielded from streaming and other competitors. Retaining analog-era restrictions on TV stations alone among all video content providers, including the increasingly dominant streaming platforms, is irrational under the APA and violates Section 202(h)'s deregulatory mandate.

Advertising. NAB previously provided extensive evidence in other FCC proceedings showing digital platforms' domination of the advertising marketplace.[277] Due to ad market gains by broadcasters' unregulated Big Tech competitors, the annual U.S. ad revenues of Alphabet (Google/YouTube), Meta (Facebook/Instagram), and Amazon *each* exceed the total amount of OTA and digital ad revenues earned annually by *all* TV and radio stations in the

---

[275] Among the average 11,184,113 people ages 18-49 using TV (counting broadcast, cable, and DBS, but not streaming or SVOD) during any given minute of prime time in 2024, an estimated 3,514,036 people were viewing broadcast stations – and those 3,514,036 people represent just **2.6 percent** of the estimated total 134,063,191 people ages 18-49 in U.S. TV households. Similarly, the average 19,172,924 people ages two and older who viewed broadcast TV during any given minute of prime time in 2024 represent only **six percent** of the estimated total 317,024,656 people ages two and older in U.S. TV households. *See* Nielsen, U.S. Live + Same Day 2024.

[276] Fortune, *You're wasting nearly 5 whole days a year just scrolling for something to watch on Netflix and YouTube, study finds*, fortune.com (Dec. 24, 2024).

[277] *See, e.g.,* Comments of NAB, MB Docket No. 18-349, at 64-65, 95-97 and Attachment J (Sept. 2, 2021); Comments of NAB, GN Docket No. 24-119, at 13-17 (June 6, 2024); NAB 2025 National TV Cap Update at 14-18; NAB 2025 National TV Cap Comments at 13-18.

country.[278] The 2025 Borrell Report, discussed in detail in Section V.A.2., documented the exodus of local advertising dollars from local broadcast and print outlets to pureplay tech behemoths, and projected that digital advertising overall will continue to rise, with Big Tech taking the "lion's share" of digital advertising.[279]

The Borrell Report also demonstrated the wide variety of advertising and marketing options vying for local ad dollars and identified 20 different types of advertising purchased by local advertisers. While 16 percent of local advertisers bought broadcast TV in 2024, 54 percent bought social media and 56 percent bought events/sponsorships, the only two types of marketing purchased by more than half of local advertisers.[280] Revealingly, Borrell reports on the other types of advertising that broadcast TV advertisers specifically also purchase. In 2024, over half of local TV advertisers reported buying social media (77 percent), events/sponsorships (77 percent), website ads (68 percent), AM/FM radio (67 percent), SEM (58 percent), newspapers (55 percent), magazines (52 percent), and direct mail (51 percent).[281] Forty-two percent of broadcast TV advertisers reported purchasing streaming video/OTT/CTV advertising last year, showing growing competition with online video for ad dollars in local markets.[282] Notably, among advertisers planning to increase their spending on

[278] *See* NAB 2025 National TV Cap Update at 15 (based on BIA and eMarketer data).

[279] *See* Section V.A.2., *citing* 2025 Borrell Report at 5-9. Borrell documented the decline of broadcast and print ad revenues, the rise of digital to dominance, and projections of further digital ad growth from 2000-2028.

[280] 2025 Borrell Report at 24, Figure 2.9 (listing types of advertising ranging from banner ads and search engine marketing (SEM), to streaming video/audio and cable TV, to out-of-home/outdoor, magazines, and newspapers).

[281] 2025 Borrell Report at 29, Figure 3.6. Given that *two-thirds* of TV advertisers in local markets bought AM/FM radio advertising and 25% bought streaming audio in 2024, the contention that broadcast TV and radio, or video and audio more generally, exist in separate silos appears incorrect.

[282] *Id*.

some form of marketing in 2025, broadcast TV advertisers were about 50 percent more likely to be increasing spending on SEM and banner ads in 2025 than those advertisers who did not buy TV station advertising – and broadcast TV advertisers were over *three times* more likely to be increasing budgets on streaming video/OTT/CTV than advertisers not buying broadcast TV.[283] Local TV stations clearly face competition from both digital and traditional platforms for vital ad revenues.

The flow of these revenues away from traditional media and into Big Tech's coffers also represents the loss of the principal source of revenue supporting local journalism and broadcasting's investment in other high-quality programming, such as sports.[284] Significantly, TV broadcasters compete with pay TV providers, streaming platforms, and Big Tech for programming as well as advertising, and pressures on TV stations' ad revenues directly impacts their ability to compete for quality programming. Netflix, for example, plans to invest $18 billion in content in 2025, which is more than the projected OTA and digital ad revenues ($16.68 billion) that *all* commercial TV stations are projected to earn this year.[285]

Unsurprisingly in this market, the TV station industry's advertising revenues continue to fall. According to BIA, as shown in the graphic below, TV stations' total ad revenue (OTA+digital) fell 42.9 percent from 2000-2024 on a real (i.e., inflation-adjusted) basis. From 2000 to 2025 (estimated), the inflation-adjusted ad revenue decline was a much greater 57.1 percent, but comparing a Presidential election year to a non-election year can give a non-

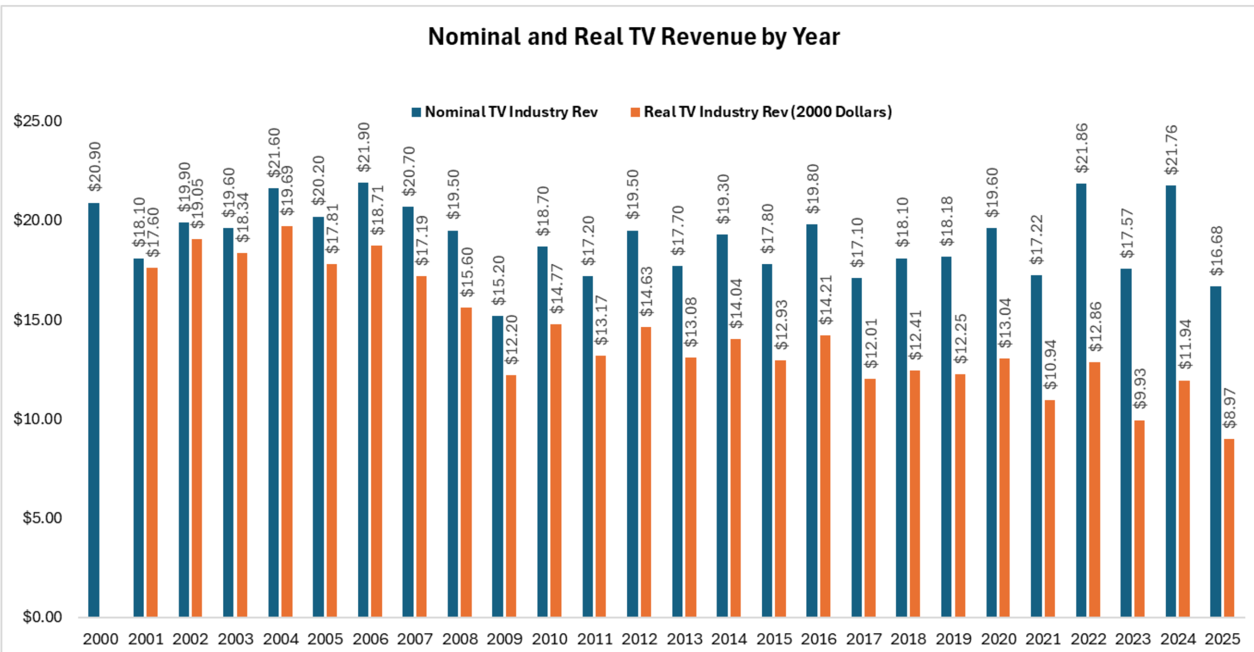
---

[283] 2025 Borrell Report at 30, Figure 3.7.

[284] *See* NAB 2025 National TV Cap Update at 14-15 (discussing how the reshaping of the ad market adversely affected newspapers and broadcasters).

[285] T. Spangler, *Netflix Content Spending, Set to Hit $18 Billion in 2025, Is 'Not Anywhere Near a Ceiling,' CFO Says*, Variety (Mar. 12, 2025); NAB Staff Analysis of BIA Advisory Services, LLC Database (see chart on following page).

representative result. Comparing 2007 (broadcast TV's non-election year, pre-Great Recession advertising level) to 2025 estimates, TV station revenues have declined 19.4 percent even on a *nominal* basis, without accounting for inflation. But as the Federal Reserve has observed, "$1 doesn't buy what it used to," and "[c]onverting nominal values to real values provides a consistent measure across time."[286] Adjusting for inflation therefore provides a consistent measure, and the real amount, of the decline in TV stations' advertising revenues over time. And that decline is undisputably substantial.



Source: BIA Advisory Services, LLC

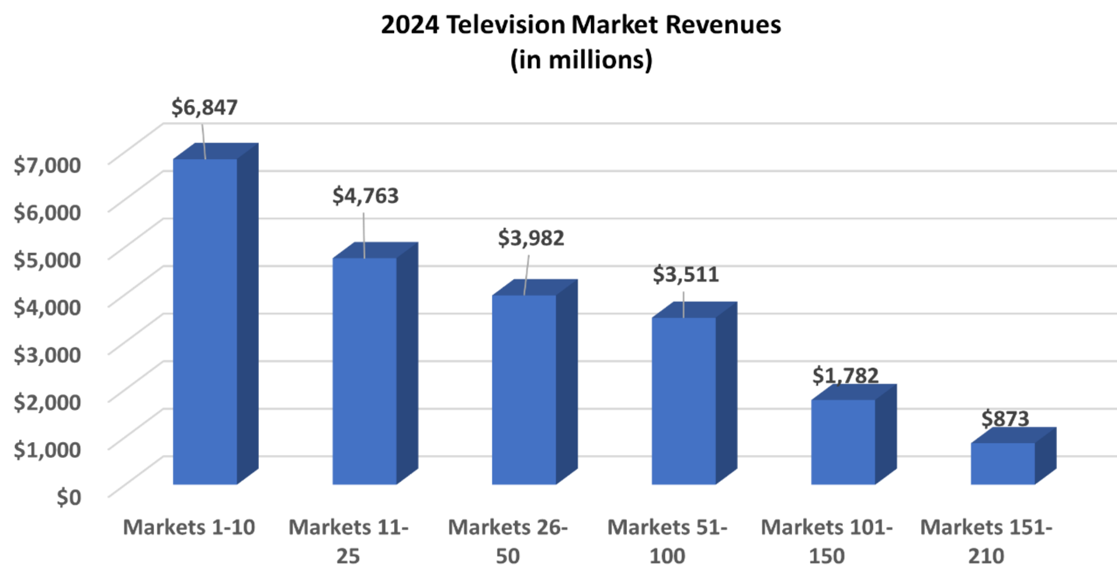
These declines in revenue necessarily harm the ability of local TV stations to acquire/produce programming, maintain local news operations, hire and retain talented staff, and invest in improved technologies including Next Gen TV, especially in mid-sized and small

---

[286] Federal Reserve Bank of Dallas, *DataBasics*, *Deflating nominal values to real values* (accessed Dec. 10, 2025), https://www.dallasfed.org/research/basics/nominal (describing, *inter alia*, why real, i.e. inflation-adjusted, Gross Domestic Product (GDP) or retail sales figures are a better overall indication of the change in output or sales over time than nominal GDP or retail sales figures).

markets where, as NAB earlier showed, stations earn only a small fraction of the ad revenues garnered by stations in the largest markets.[287] As shown below, more recent data reconfirm the limited ad dollars available to and earned by stations in the majority of local markets.[288]

The Relationship Between Market Size and Advertising Revenue Per TV Station



	Markets 1-10	Markets 11-25	Markets 26-50	Markets 51-100	Markets 101-150	Markets 151-210
Number of Commercial Stations	152	160	209	331	225	160
Avg. Revenue per Station (000)	$45,046	$29,770	$19,050	$10,606	$7,919	$5,453

[287] In 2023, the average TV station in DMAs 151-210, 101-150, and 51-100 earned merely 10.8%, 15.3%, and 21.7%, respectively, of the revenues earned by the average station in the ten largest DMAs. Even in DMAs 26-50, the average TV station garnered only 37.6% of the ad dollars earned by the average station in the top-10 DMAs. *See* NAB 2025 National TV Cap Update at 17-18 (graphic with BIA data).

[288] In 2024, the average TV stations in DMAs 151-210, 101-150, 51-100, and 26-50 garnered 12.1%, 17.6%, 23.5%, and 42.2% of the ad revenues earned by the average station in the top-10 DMAs. NAB Staff Analysis of BIA Media Access Pro data, as of July 23, 2025.

Source: Analysis of BIA Media Access Pro data as of July 23, 2025. Analysis based on full power stations. Includes OTA and digital estimates.

Local TV station ad revenues will only likely continue to fall as digital advertising options – especially digital video – attract more advertisers. NAB earlier reported that digital video ad revenues were more than **three times greater** than broadcast TV stations' OTA/digital ad revenues in 2023, and that one type of digital video advertising (connected TV (CTV)) was the fastest-growing major ad channel, including for political advertisers.[289] More recent data confirm these trends.[290] Digital video advertising is projected to be more than **four times greater** than broadcast TV station ad revenues this year;[291] CTV advertising alone is projected to surpass broadcast and cable TV ad spending before the end of the decade;[292] and digital media platforms will take increasing shares of political ad dollars at the expense of local TV stations.[293] While streaming and CTV rapidly "transform[] advertising" – with streaming now

---

[289] NAB 2025 National TV Cap Update at 16-17 (citing S&P Global Market Intelligence Kagan and eMarketer).

[290] According to the Interactive Advertising Bureau's report for 2024, "[d]igital video is the fastest growing format," with revenues increasing 19.2% YoY between 2023 to 2024. After a period of slower growth in 2023, social media ad revenue rebounded in 2024. IAB and PwC, *Internet Advertising Revenue Report: Full-year 2024 results*, at 6-7 (Apr. 2025).

[291] The Interactive Advertising Bureau projects digital video advertising to reach $72.4 billion in 2025, while BIA projects only $16.68 billion for total TV station ad revenues. *Digital Video Is Set to Capture Nearly 60% of All TV/Video Ad Spend in 2025, CTV Rebounds to Double-Digit Growth in 2024, According to IAB,* iab.com (Apr. 28, 2025).

[292] T. Butts, *Roku, Amazon Team Up to Dominate CTV Ad Market*, tvtechnology.com (June 16, 2025) (citing eMarketer estimates). *See also* G. Sevilla, *CTV becomes TV's growth engine as linear collapses*, eMarketer (Sept. 5, 2025) ("CTV will add nearly $20 billion in US ad dollars over the next five years"); J. Lafayette, *The Home Screen is Where the Heart Is*, The Measure (Nov. 18, 2025) (LG reporting 60% year-over-year growth in home screen advertising placements).

[293] *See* W. Friedman, *Local TV's 'Muted' Political Growth – What Comes Next?,* mediapost.com (Mar. 14, 2025) (reporting that digital platforms' share of political ad revenue rose from 32% in Q4 2020 to 43% in Q4 2024, while local TV stations' share declined from 50% to 40%); *2026 Report: Political Video Ad Spend Projection*, AdImpact, Cross-Screen Media (Sept. 2025) ("Political spend on Linear TV [i.e., broadcast and cable] has been stagnant since 2020 while streaming has grown from essentially $0 to $2.9B in 4 cycles.").

garnering the largest share of time U.S. viewers spend even with *advertising*-supported TV[294] – broadcasters struggle to earn ad revenues sufficient to maintain, let alone improve, their programming services offered at no cost to the public.

NAB also has previously documented how the giant tech platforms' dominance of both content discovery and digital advertising is placing local broadcast stations and their news operations under increasing duress. Decisions made unilaterally by a few tech platforms impede local stations' ability to connect with their audiences online, and the platforms' technological control and lack of transparency also permit them to impose advertising limits and policies that impede local stations' ability to effectively monetize their own content online, including news.[295] A 2021 study quantified the economic losses to broadcasters from certain practices of the Big Tech platforms, estimating close to $2 billion in annual loss of value to broadcasters.[296] This continuing challenge for local TV news is exacerbated by the rise of artificial intelligence in online search, which responds directly to user questions without the need to access information sources directly.[297] Artificial restrictions on TV broadcasters' scale

---

[294] While completely dominating SVOD viewing, streaming also now gains 46.4% of ad-supported TV viewing, compared to 26.4% for broadcast. Nielsen, *Connected TV is transforming advertising*, nielsen.com (May 2025); Nielsen News Center, *Football Shifts TV Viewing Towards Ad Supported, Nielsen's Q3 2025 Ad Supported Gauge Finds*, nielsen.com (Dec, 9, 2025) (reporting that 74.7% of overall TV viewing in Q3 2025 was of content that included advertising).

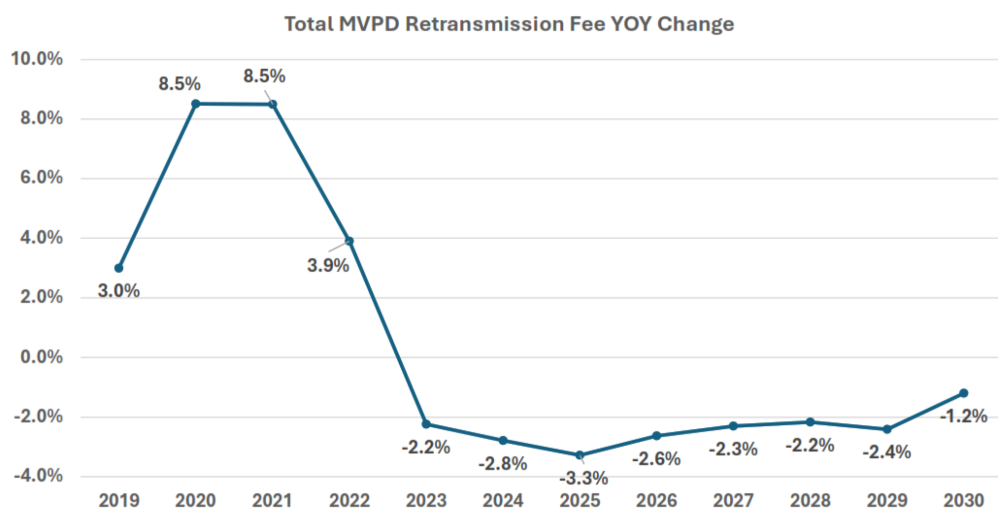
[295] *See, e.g.,* Comments of NAB, MB Docket No. 18-349, at 23-28 and Attachment A (Sept. 2, 2021) (detailing specific practices of the tech platforms that disadvantage local stations).

[296] Comments of NAB, MB Docket No. 18-349, at 27-28 (Sept. 2, 2021), Attachment B, BIA Advisory Services, *Economic Impact of Big Tech Platforms on the Viability of Local Broadcast News* (May 2021).

[297] *See* R. Edmonds*, Inescapable technology changes and a migrating audience have local broadcast news in trouble*, Poynter (Sept. 2, 2025) (reporting a local broadcast TV group executive's observation that "[i]ndustrywide drops in search traffic caused by AI-powered 'answer engines' are further eroding digital reach" and contributing to the "sustained pressure" faced by local TV news).

unduly and unfairly inhibit their ability to compete with entities that not only dwarf them in size and resources but also are able to anticompetitively redirect consumers away from broadcast news sources online.

Other Competitive Headwinds and Regulatory Matters. Local TV stations, moreover, cannot count on growing retransmission consent revenues to compensate for falling ad revenues, including as a source of support for maintaining local news operations. Kagan data show that retransmission consent revenues are no longer on the rise, with consistent drops in total MVPD retransmission fees paid since 2023, and further declines predicted through at least 2030, as shown in the graphic below.



Source: Kagan, the media research group of S&P Global Market Intelligence. U.S. TV Station Retransmission Projections, 2025.

Analysts have warned that local TV news is becoming a "casualty of the streaming wars," as cord cutters not only cut their cable channels but also the local TV stations included in their cable/satellite bundles.[298] Cord cutting saw a major milestone just a few weeks ago when traditional pay TV subscribership dropped below 50 percent of U.S. households for the first time in over 35 years.[299] These shifts result in local stations losing viewers who accessed their signals via legacy pay TV subscriptions and the retransmission consent fees associated with those subscriptions. Millions of households "for which local stations used to be compensated as part of the cable bundle . . . now provide no local station revenue."[300] This is yet another threat to the viability of local TV stations and local journalism that the FCC's antiquated TV ownership rules only exacerbate.

As NAB has urged, the Commission can help address this problem by refreshing the record in its virtual MVPD proceeding.[301] The current inability of local TV stations to negotiate

---

[298] T. Rogers, *Local News Is Being Pushed Up a Creek as a Casualty of the Streaming Wars,* Newsweek (Apr. 4, 2024). As cord-cutting continued this year, it increased downward pressure on broadcast stations' retransmission consent fees. *See* G. Winslow, *Study: Total U.S. TV Station Revenue to Decline in 2025*, tvtechnology.com (Jan. 6, 2025).

[299] M. Keys, *U.S. pay TV penetration falls below 50 percent during Q4*, TheDesk.Net (Nov. 13, 2025) (reporting that pay TV subscribership fell to 66.7 million households, less than half of total U.S. households). *See also* FCC, J. Levy and M. Ford-Livene, *Broadcast Television: Survivor in a Sea of Competition*, at Table 24 (2002) (MVPD subscribership crossed the 50% mark on the upswing sometime between 1985, when it was 42.7%, and 1990, when it reached 56.4%).

[300] Rogers, *Local News Is Being Pushed Up a Creek*. *See also* G. Winslow, *BIA Sees Retrans Revenue Flattening*, tvtechnology.com (July 31, 2024) ("with growing segments of homes that are cord-cutters and cord nevers [and] with a transition to CTV/OTT streaming video services, the economics of retransmission consent are changing as MVPDs see video subscriber losses along with the associate revenues from which distribution fees can be paid"); R. Edmonds, *Inescapable technology changes and a migrating audience have local broadcast news in trouble*, Poynter (Sept. 2, 2025) ("Local news is facing significant structural headwinds as both of its core revenue streams — TV advertising and retransmission fees — are flat or in decline due to cord-cutting, audience fragmentation and reduced negotiating power with (cable and satellite carriers).").

[301] *Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services*, Notice of Proposed Rulemaking, 29 FCC Rcd 15995 (2014); *see, e.g.*, NAB Notice of Ex Parte Communication, MB Docket No. 14-261 (Feb. 25,

with vMVPDs for compensation for those vMVPDs' re-use of stations' signals to attract paying subscribers – just as TV stations negotiate for retransmission consent with traditional cable and satellite MVPDs – causes clear economic harm to local broadcasters and their continuing ability to pay for valued programming, including local news. Due to the unresolved nature of vMVPDs' status as "MVPDs" for purposes of retransmission consent, individual TV stations and station groups cannot negotiate for or earn retransmission-type fees from vMVPDs with millions of subscribers, the largest of which, YouTube TV, recently passed the ten million subscriber mark[302] and is projected to become the most widely used pay-TV service in the U.S. by next year, surpassing Comcast and Charter.[303] The status quo only further enhances the already-dominant position of Google/YouTube, at the expense of smaller and poorer local broadcast stations and groups that lack the scale to negotiate with YouTube TV.[304]

Another important step the FCC can take to promote broadcasters' ability to continue serving the public interest while facing robust cross-platform competition[305] is to expedite the transition to Next Gen TV.[306] Broadcasters are eager to complete the transition and begin

---

2025). *See also* Notice at ¶ 29 (inquiring whether there are "other measures outside of this rulemaking" that the FCC could take to "allow broadcast licensees to continue serving the public interest").

[302] L. Bouma, *YouTube TV Surpasses 10 Million Subscribers, Solidifying Dominance in Live TV Streaming*, cordcuttersnews.com (Nov. 7, 2025).

[303] T. Denning, *YouTube TV Poised to Overtake Comcast as Largest Pay-TV Provider by 2026,* That Park Place (Oct. 11, 2025); B. Schoon, *YouTube TV estimated to have more subscribers than Comcast and Spectrum by 2026*, 9to5google.com (Apr. 2, 2024) (citing MoffettNathanson).

[304] Chairman Carr previously has questioned how Alphabet/Google/YouTube uses its power to determine which video content providers have access to YouTube TV's millions of subscribers. *See* Letter from FCC Chairman Brendan Carr to Sundar Pichai, CEO, Alphabet, Inc. and Neal Mohan, CEO, Google LLC, d/b/a YouTube (Mar. 7, 2025).

[305] Notice at ¶ 29.

[306] *See* NAB Petition for Rulemaking, GN Docket No. 16-142 (Feb. 26, 2025) (urging FCC to initiate a rulemaking that would take several steps to foster the Next Gen TV transition).

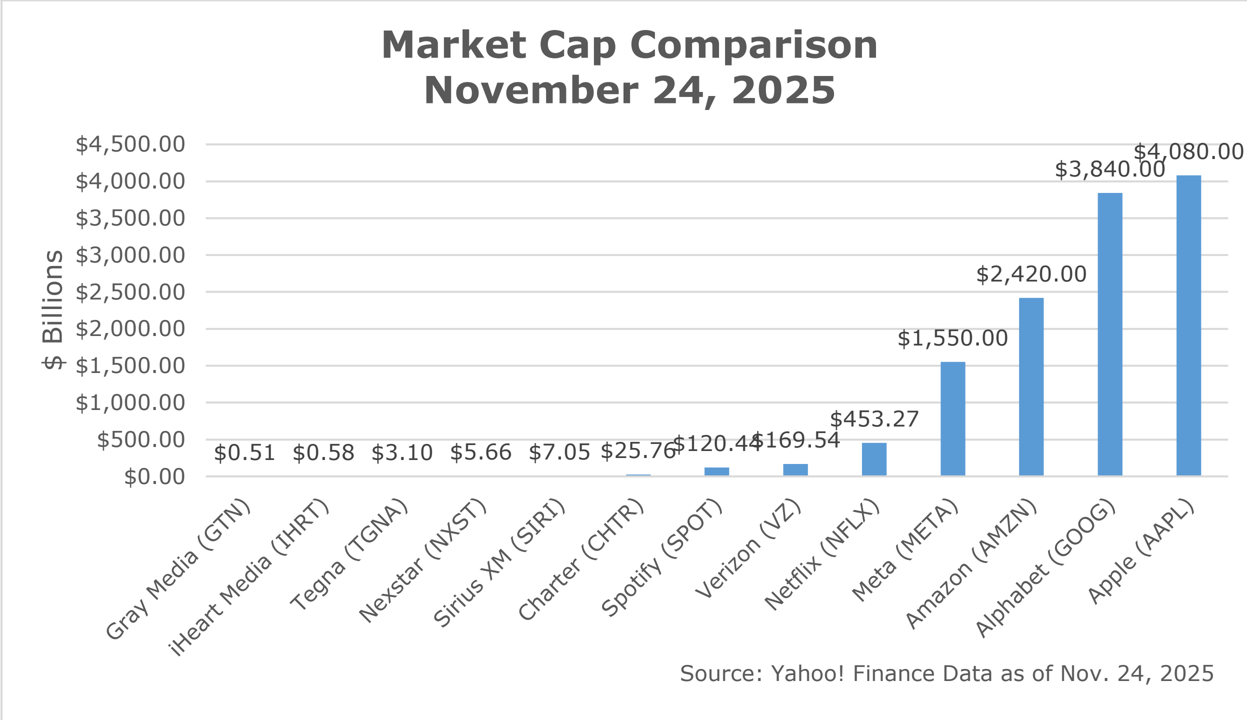
delivering the full benefits of Next Gen TV to viewers nationwide – including vast improvements in video and audio quality, interactive features, enhanced emergency information, and much more efficient use of spectrum. NAB appreciates the FCC's adoption of a further rulemaking notice in October,[307] and urges the Commission to quickly complete that proceeding and place the Next Gen TV transition on the soundest possible footing. After eliminating the broadcast-only structural ownership rules, the FCC should continue to "Delete, Delete, Delete" other asymmetric regulations that unjustifiably burden broadcasters and fail to serve any public interest objectives, as NAB outlined earlier this year.[308]

The disparate regulatory regime that keeps broadcasters artificially small and weak has contributed to incredibly stark differences in the sizes of media and advertising market participants, as shown in the chart below. Broadcast TV stations are punching way above their weight class to compete with entities like Charter, with a market capitalization nearly five times that of Nexstar, which is among the largest broadcast TV groups. Or consider Gray, which must compete for audiences with the massively larger Netflix and for advertising revenue with Meta, which is *more than 3000 times* its size.

---

[307] *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, Fifth Further Notice of Proposed Rulemaking, GN Docket No. 16-142, FCC No. 25-72 (Oct. 29, 2025).

[308] Comments of NAB, GN Docket No. 25-133 (Apr. 11, 2025); Reply Comments of NAB, GN Docket No. 25-133 (Apr. 28, 2025).



The sheer disconnect in the scope of broadcast groups and their pay-TV, tech, and other competitors underscores the need to eliminate the *ex ante* local TV rule (and the national TV cap) to allow stations to achieve greater scale and attract more investment. Retaining these restrictions only exacerbates TV stations' serious competitive struggles. As Chairman Carr recognized when criticizing the FCC's retention of the newspaper/broadcast cross-ownership ban, that outdated rule had impeded investment in local newspapers and prevented them from gaining greater competitive scale, which – while not the only reason for the newspaper industry's competitive challenges – contributed to their problems and to the ultimate demise of thousands of newspapers.[309] The FCC must learn from its past mistakes and not keep local TV (and radio) rules until it's too late for the broadcast industry.

---

[309] *See* Dissenting Statement of Comm'r Brendan Carr, 2024 LPTV Notice, 39 FCC Rcd at 6396; Dissenting Statement of Comm'r Brendan Carr, 2018 Quadrennial Review Order, 38 FCC Rcd at 12873.

B. Increased Scale Will Better Enable TV Broadcasters to Attract Audiences, Advertisers, and Investment and Serve Local Communities with Valued Programming, Including News and Sports

The Notice seeks comment on broadcasters' position that achieving greater economies of scale is necessary for broadcast TV stations "to maintain their role in providing news and programming to local communities," and asks whether past consolidation has resulted in verifiable public interest benefits, such as more and/or better local news.[310] In Section V.B., NAB explained that the broadcast industry is subject to strong economies of scale and would be better able to attract audiences, advertisers, and investment capital absent asymmetric *ex ante* ownership restrictions.[311]

Multiple economists have concluded that TV broadcasting generally, and local news production specifically, are "subject to strong economies of both scale and scope," which are, by definition, "associated with falling unit costs of production" and "hence are *prima facie* welfare enhancing."[312] As a result, placing undue limits on broadcasters' ability to achieve scale economies through ownership restrictions "result[s] in higher costs, lower revenues,

---

[310] Notice at ¶ 30.

[311] In Section V.B.1., *supra,* NAB again detailed, as it had in earlier FCC submissions, how asymmetric ownership restrictions make broadcasters less attractive to investors than their communications industry competitors and surveyed the economic literature on asymmetric regulation suppressing investment and causing multiple other harms. That section also discussed the vital need to achieve economies of scale, including in the radio industry, and explained that investors are reluctant to provide capital to broadcasters unable to take advantage of scale economies as can their competitors. In Section V.B.2., NAB described how owning more stations in the same local market enables broadcasters to expand the size and demographic variety of their audiences – given that no rational broadcaster would air the same or similar programming on multiple stations – and thus better attract advertisers and increase their ad revenues, both OTA and digital.

[312] Economies of Scale Study at 1-2; *accord* Declaration 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.

reduced returns on invested capital [and] lower output," including "significantly reduc[ed]" local news output.[313] The Commission itself has concluded that the "efficiencies of common ownership" may enable TV stations to "provide more high-quality local programming, especially in revenue-scarce small and mid-sized markets."[314]

Beyond preventing achievement of vital scale economies, the FCC's "legacy regulations" on broadcasters, according to Chairman Carr (and consistent with the economic literature), prevent capital from flowing to the TV (and radio) industries.[315] Indeed, he declared that the FCC's "primary goal" in this proceeding "is to promote investment in local broadcasters" that provide trusted news and information important to local communities.[316] To accomplish that goal, the FCC needs to end the negative feedback loop ensnaring broadcasters. Its asymmetric ownership rules prevent broadcasters' realization of greater scale economies and retard investment in broadcast stations that then can't produce/acquire more attractive programming to grow their audiences and thus their advertising revenues, which only further discourages capital investment in broadcasting. Repealing the local TV (and radio) rules is the best way forward to improve broadcasters' competitiveness, foster their ability to adopt new technologies and innovate, and enhance their local services.

The Commission need not fear that removal of harmful local ownership restrictions will undermine its localism goal. TV stations differentiate themselves in the marketplace by

---

[313] Economies of Scale Study at 2-3.

[314] 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9834, 9836 (relaxing the local TV rule by repealing the "eight voices" test). *See also Review of the Commission's Regulations Governing Television Broadcasting*, Report and Order, 14 FCC Rcd 12903, 12911 (1999) (acknowledging that economies of scale "can result in stronger stations and improved service to the public" and modifying the local TV rule to allow duopolies for the first time).

[315] Dissenting Statement of Comm'r Brendan Carr, 2024 LPTV Notice, 39 FCC Rcd at 6396. *See* Section V.B.1, *supra.*

[316] Notice, Statement of Chairman Carr.

offering content focused on the needs and interests of their local markets, including local news, emergency information, sports, and weather. Competitive considerations – not ownership rules that impose no community service requirements on broadcast licensees – provide local stations with strong incentives to provide their communities with locally-oriented content to distinguish themselves from the unprecedented number of competing outlets readily available to consumers, thereby attracting audiences and advertising revenues.[317] Indeed, the Commission elsewhere has recognized that "[l]ocal news programming, and the advertising presented alongside it, are vital to broadcast stations."[318]

As NAB and other broadcasters previously explained and as NAB discusses again here, extensive evidence shows that common ownership increases the amount of local news and other programming relevant to stations' local communities. While station groups continue to serve local audiences with news and other locally-oriented programming, stations' ability to continue investing in and providing innovative, high-quality locally responsive programming depends upon their ability to achieve additional scale and attract needed capital.[319]

NAB has documented the link between common ownership of local TV broadcast stations and the number of news telecasts and hours of local news provided to viewers. As

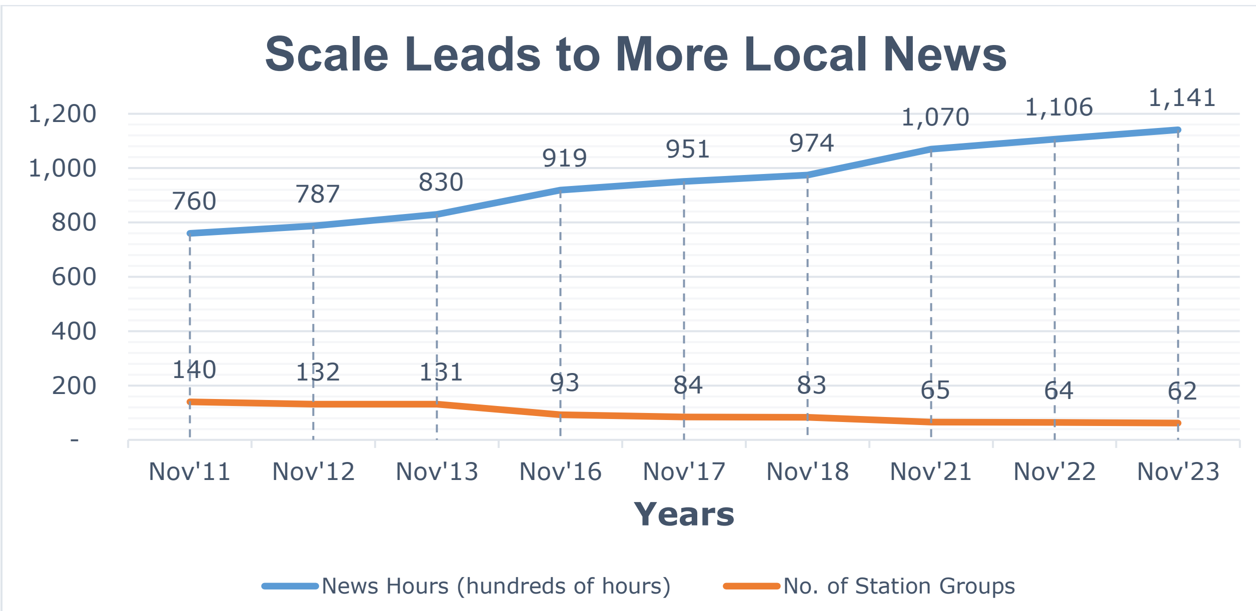
---

[317] *See* Section V.C., *supra* (discussing radio stations' similar incentives to provide locally-oriented content). NAB and broadcasters have previously explained that broadcast stations have strong market incentives to offer locally-oriented content, which helps them stand out in a crowded media landscape and maximize their audiences and advertising revenues. *See, e.g.*, NAB 2025 National TV Cap Update at 31-32; Comments of NAB, MB Docket No. 18-349, at 59-60 (Apr. 29, 2019); Comments of NAB, MB Docket No. 18-349, at 92-93 (Sept. 2, 2021); Reply Comments of Entravision Commc'n Corp., MB Docket No. 17-318, at 7 (Apr. 18, 2018); Comments of Nexstar, MB Docket No. 17-318, at 23-24 (Mar. 19, 2018).

[318] *2024 Communications Marketplace Report*, 39 FCC Rcd 14116, 14283 ¶ 261 (2024).

[319] *See* Notice at ¶ 28 (seeking comment on whether there is a correlation between consolidation and broadcaster investment in their stations' operations and whether viewers continue to be served by TV stations at the local community level).

shown in the graphic below, in November 2011, 939 stations controlled by 140 different TV station groups aired 113,772 individual local news telecasts totaling 76,328 hours. In November 2023, 1,139 stations controlled by 62 different groups aired 161,238 local news telecasts totaling 114,089 hours. While the number of separate TV station groups producing/airing news decreased by 55.7 percent over this time period due to consolidation, the number of local news telecasts and hours of local news increased by 41.7 percent and 49.7 percent, respectively.[320]



These data are consistent with years of RTDNA newsroom surveys NAB has highlighted in the past, which have repeatedly found that larger market stations (which earn greater ad revenues) and those with the resources to hire more staff produce more hours of local news than small market stations and those with smaller staffs.[321] RTDNA's 2025 newsroom survey

---

[320] NAB Staff Analysis of Nielsen and BIA MAPro data.

[321] *See* Comments of NAB, MB Docket No. 18-349, at 32, 34 and notes 86, 87, and 91 (Sept. 2, 2021) (citing RTDNA surveys from 2018, 2019 and 2021).

strongly reconfirmed these findings.[322] Multiple empirical studies conducted over the course of decades also consistently found a "positive and statistically significant relationship between [station] revenue and local news production."[323] If the FCC wants to promote production of local news, then clearly it must remove rules that artificially raise broadcasters' costs (e.g., rules preventing scale efficiencies); that discourage capital investment (e.g., asymmetric regulations); and that limit the audiences stations can "sell" to earn ad revenues (e.g., rules capping the number of outlets controlled). The local (and national) TV ownership rules check all these negative boxes.

Individual broadcasters provided additional evidence that scale leads to enhancements in local news and other locally-oriented content earlier this year. For example, the E. W. Scripps Company (Scripps) previously detailed how certain acquisitions allowed it to increase local news and other locally-oriented programming, including in markets where the transactions resulted in new same-market station combinations:

- When Scripps acquired Station KUPX in the Salt Lake City, UT DMA (where Scripps also owns Station KSTU) and Station KMCC in the Las Vegas, NV DMA (where Scripps also owns Station KTNV) in 2021, neither station aired any local news. Scripps has since added significant local news to those stations, with KUPX airing 25 hours of news per week and KMCC airing 21.5 hours per week.

- Following its acquisition of Station KCDO in 2020, combining it with Station KMGH in the Denver, CO DMA, Scripps added 15.5 hours per week of local news to KCDO-TV's schedule.

---

[322] *See* B. Papper, K. Henderson, and T. Mirabito, RTDNA/Syracuse University, *Amount of local news stays steady – for a change* (July 21, 2025). This survey found that the larger the market, the more hours of local TV news produced, with TV stations in markets 1-25 producing nearly *four times* the hours of local news each weekday than stations in markets 151+. Similarly, the larger the staff, the more hours of local TV news produced; stations with the largest staff size (51+) produced *four times* the amount of news per weekday than stations with the smallest staff size (1-10).

[323] *See* Economies of Scale Study at 45-46 (identifying studies); *see also* Comments of NAB, MB Docket No. 18-349, at 32, n.86 (Sept. 2, 2021); Comments of NAB, MB Docket No. 18-349, at 61 (Apr. 29, 2019).

- Scripps' acquisition of Station WHDT in West Palm Beach, FL (where Scripps also owns Station WPTV) in 2019 led to an additional 7 hours per week of local news on WHDT.
- Since acquiring WMYD in the Detroit, MI DMA (where Scripps also owns WXYZ-TV) in 2014, Scripps has added 17 hours of local news per week.

In all these cases, Scripps launched or expanded local news by using "the combined resources of its local stations, as well as the resources it has gained through its increased national scale," thereby furthering localism in each market.[324] Additional scale also facilitated Scripps' dramatic increase in local sports programming, with their stations now airing nearly 1,700 additional hours of local sports per year, including increasingly popular women's sports, across the same five markets.[325]

Significant public interest benefits in the form of local news and other locally-oriented content also followed Nexstar's acquisition of Tribune's television stations. Between 2019 and 2024, Nexstar's stations increased local news coverage by 28,000 hours. During the same period, local lifestyle programming on Nexstar's stations rose by more than 9,000 hours and local political programming rose by almost 800 hours.[326] Nexstar further discussed how owning multiple stations enables it to deliver uninterrupted viewer access to critical news and emergency information during natural disasters such as hurricanes and wildfires; air locally-produced debates and other fora leading up to elections; and establish news bureaus at 24

---

[324] Letter to Marlene H. Dortch, FCC Secretary, from Daniel Kirkpatrick, Counsel to Scripps, MB Docket Nos. 22-459 and 17-318, Attachment at 1-2 (Sept. 9, 2025) (Scripps Ex Parte).

[325] Scripps Ex Parte Attachment at 2. Scripps has added 30 hours per year of local sports in Detroit; 90 hours in Denver; 377 hours in West Palm Beach; 570 hours in Salt Lake City; and 630 hours in Las Vegas. *Id*.

[326] Comments of Nexstar, MB Docket No. 17-18, at 13-15 (Aug. 4, 2025).

state capitals and in Washington, D.C.[327] The news bureaus facilitate coverage of state and federal government actions on issues affecting local communities, and individual stations make decisions about whether and how to use the bureaus' content.[328] Although the Tribune transaction primarily (but not only) affected Nexstar's scale at the national level,[329] the thousands of hours of new content and other evidence submitted by Nexstar demonstrate that "large television ownership groups" are unquestionably using their scale to "invest in locally focused programming."[330]

In this last quadrennial review, NAB explained why achieving greater local scale was more vital than ever for broadcasters, and that need is far greater now, given unceasing and still increasing competitive pressures on local TV stations. Beyond the evidence discussed above, studies and data addressed in the previous review remain relevant today, including:

- A 2021 study by the FCC's Office of Economics and Analytics (OEA) found a strong relationship between the number of independent local TV news operations in a market and market size, with only a limited number of larger markets able to support four independent news operations. Given the inability of most TV markets to sustain four news operations, the OEA Study concluded that mergers eliminating a source of local news programming may be "optimal," if the "merged entity improves the quality or increases the quantity of local news programming."[331] Given clear limits on the

---

[327] *Id.* This October Nexstar's stations across Virginia aired an exclusive live multi-market telecast of the only debate between the Democratic and Republican party candidates for governor. M. Miller, *Nexstar TV Stations Across Virginia To Air Exclusive Coverage Of Gubernatorial Debate On Oct. 9*, tvnewscheck.com (Sept. 10, 2025). *See also* TVN Staff, *Nexstar Hosts Nearly 50 Candidate Debates, Forums Ahead of Midterm Election,* tvnewscheck.com (Oct. 13, 2022).

[328] Comments of Nexstar, MB Docket No. 17-18, at 13-15 (Aug. 4, 2025).

[329] The Nexstar-Tribune transaction created two new same-market local TV combinations (and allowed a grandfathered combination to continue under Nexstar's ownership). *See Applications of Tribune Media Company (Transferor) and Nexstar Media Group, Inc. (Transferee)*, Memorandum Opinion and Order, 34 FCC Rcd 8436 (2019).

[330] Notice at ¶ 28.

[331] K. Makuch and J. Levy, *Market Size and Local Television News*, OEA Working Paper 52, at 4, 21 (Jan. 15, 2021) (OEA Study).

number of sustainable independent news operations in local markets, the rule keeping local TV stations in less competitive ownership structures should be repealed.

- Broadcasters could expand or improve their local news operations if permitted to achieve greater scale by acquiring another outlet in local markets, thereby more widely spreading the documented high costs of local news production.[332] In its 2017 reconsideration order, the FCC agreed that reforming the local TV rule would help broadcasters "achieve economies of scale," "improve their ability to serve their local markets," and enable the provision of "more high-quality local programming."[333] Studies in the record in earlier quadrennial reviews are consistent with the FCC's 2017 conclusions.[334] The Third Circuit Court of Appeals, when confirming the FCC's finding in an earlier review that "[c]onsolidation can improve local programming," cited studies showing that commonly owned TV stations were more likely to carry local news than other stations and that TV stations improved their ratings after becoming commonly

---

[332] *See, e.g.,* Comments of NAB, MB Docket No. 18-349, at 29-30 (Sept. 2, 2021) (documenting news costs and the much greater amounts that stations in larger markets with more resources can spend on local news); 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9836 (finding that local news programming is one of the largest operational costs for TV broadcasters); BIA Advisory Services, *The Impact on the Amount of News Programming From Consolidation in the Local Television Station Industry* (Sept. 23, 2020) (BIA TV News Study), attached to *Ex Parte* Communication, Gray Television, Inc., MB Docket No. 18-349 (Oct. 13, 2020) (reporting that news operations accounted for 33.5 percent and 33.1 percent of the total expenses of ABC/CBS/NBC affiliates nationwide in 2014 and 2018, respectively, and, based upon an examination of Gray's TV stations in 93 markets, finding that the additional local scale achieved after an acquisition allowed Gray to increase its local news production significantly more than in those markets without any acquisitions, and that the expansion of local news following an acquisition was most pronounced in smaller markets).

[333] 2017 Reconsideration Order, 32 FCC Rcd at 9834, 9836. Broadcast commenters provided additional real-world examples of local scale enabling greater investment in high-quality local content. *See* Comments of Nexstar Media Inc., MB Docket No. 18-349, at 18-19 (Sept. 2, 2021) (illustrating how commonly owning two stations in a market resulted in more news programming, other local public affairs programming, town halls on important issues, and local sports specials); Comments of Tegna Inc., MB Docket No. 18-349, at 9 (Sept. 2, 2021) (explaining that commonly owning two stations enabled expanded news and other local programming including sports in multiple markets and, in 2020, enabled the airing of a school district's virtual lessons for elementary school students).

[334] For example, previous studies found that common ownership of TV stations in the same local market "has a large, positive, statistically significant impact on the quantity of news programming," FCC, Ownership Study No. 4, Section 1, D. Shiman, *The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming*, at 21 (2007), and increases the likelihood of stations offering local news or public affairs programming. M.G. Baumann and K.W. Mikkelsen, Economists Incorporated, *Effect of Common Ownership or Operation on Television News Carriage*: *An Update*, at 6-7, Attachment A, NAB Reply Comments, MB Docket No. 06-121 (Nov. 1, 2007).

owned.[335] The FCC's reasoning in 2017 logically supports repeal of the *ex ante* local TV ownership restriction on the grounds that it harms, rather than fosters, localism (as well as competition).

- Beyond leading to improved local news programming, previous studies also found that local TV station combinations led to increased viewership, showing that local scale improves the quality of stations' programming more broadly.[336] These studies remain relevant, as they show that "prior actions by the Commission to loosen or eliminate ownership restrictions resulted in more or better local news" and other improved programming, which should "help inform" the FCC's considerations here.[337]

- Many smaller markets cannot generate sufficient advertising revenues to sustain four separate news operations, as the FCC found in 2021 and a decade earlier.[338] Thus, TV stations in these markets even more urgently need local scale economies gained through common ownership of multiple outlets. When modestly reforming the local TV rule in 2017 by eliminating the "eight voices" test, the FCC expressly recognized that the markets most affected by this restriction – "small and mid-sized markets that have less advertising revenue to fund local programming – are the places where the efficiencies of common ownership can often yield the greatest benefits."[339] And due to the large operational costs of local news production, the FCC found that common ownership enables the provision of high-quality local programming, particularly in "revenue-scarce small and mid-sized markets."[340]

- The FCC's 2017 decision supports eliminating the *ex ante* local TV rule, especially in mid-sized and small markets. Heritage Broadcasting, a small TV broadcaster with a significant presence in DMAs 100+, earlier provided a report on the value of common

---

[335] *Prometheus Radio Project v. FCC*, 373 F.3d 372, 415 (3d Cir. 2004).

[336] *See, e.g.*, Jessica Calfee Stahl, *Effects of Deregulation and Consolidation of the Broadcast Television Industry*, 106 Amer. Econ. Rev. 2185, 2186-87 (2016) (study analyzing data on over 1,200 TV stations from 1996-2007 found that common ownership of stations led to increases in profitability, primarily due to merger-generated cost savings (i.e., efficiencies) from same-market combinations, and also concluded that these cost savings did not come at the expense of viewers but, if anything, within-market mergers "boosted viewership"); BIA Financial Network, *Economic Viability of Local Television Stations in Duopolies*, at i (Oct. 23, 2006), Attachment H to Comments of NAB, MB Docket No. 06-121 (Oct. 23, 2006) (finding that the acquired station in local market combinations experienced an 11.0% increase in audience share and a 15.4% increase in revenue share).

[337] Notice at ¶ 30.

[338] OEA Study at 4; *2010 Quadrennial Regulatory Review*, Notice of Proposed Rulemaking, 26 FCC Rcd 17489 at ¶ 53 and n.117 (2011) (citing staff analysis that found only 22.5 percent of smaller markets (those with six or fewer TV stations) were served by four local news operations).

[339] 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9836.

[340] *Id*. Mid-sized and small TV markets remain revenue-scarce today. *See* Section VI.A., *supra*.

ownership for improving local news in small markets.[341] This report and Heritage's comments explained how news coverage in small markets has suffered from the shift of local ad dollars from local media outlets to national digital platforms; how this pressure on revenue prevents local broadcasters from improving their news content and will result in stations continuing to lose strength (as newspapers already have done); and how local TV stations' inability to combine compounds their problems.[342]

Given the reams of evidence and studies spanning decades showing that local common ownership of TV stations has promoted local news production and led to improved programming overall, the Commission now should take the final step and remove the limit on owning more than two stations in any local TV market.

The importance of achieving greater scale is particularly important in light of the rising costs of local news and other locally-oriented content.[343] While broadcasters who *can* invest in locally-oriented programming do so, producing and acquiring such content comes at a high price. NAB previously submitted data on the high costs (running into the tens of billions) of acquiring or producing entertainment programming, including live sports, and the millions stations expend on local news programming,[344] made all the more challenging for broadcasters by ownership rules limiting their audiences and thus their revenue base. According to RTDNA, only half (49.7 percent) of TV stations now report that their local news operations show a profit, following a steady decline over RTDNA's last three annual surveys[345] and a significant drop since 1996, when 72 percent of stations reported profitable news

---

[341] Comments of Heritage Broad. of Michigan, MB Docket No. 18-349 (Sept. 2, 2021) (Heritage Comments), attaching *The Value of Cross Ownership to Improving Local News in Small Markets*, K.S. Collins, Professor Emeritus, Missouri Sch. of Journalism (Collins Report).

[342] Heritage Comments at 3-8; Collins Report at 1-3.

[343] Notice at ¶ 29 (seeking comment on current challenges faced by broadcasters in serving the public interest).

[344] NAB 2025 National TV Cap Update at 22-25.

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

operations.[346] Some broadcasters are simply unable to continue maintaining their own separate local news operations, even though they want to offer news to their local communities.[347] Financial pressures also have led many local stations to decrease their TV news budgets recently, leading RTDNA to describe 2024's news budget numbers, released this past summer, as "depressing," with "[n]o group escap[ing] the carnage."[348] The financial pressures on local TV news operations also can be seen in RTNDA's most recent employment data. In 2024, total local TV news employment was down 2.9 percent from the previous year to 27,066, and down 3.3 percent from an all-time-high of 28,000 in 2021.[349]

While facing continuing challenges to local news profitability, stations also must invest in technological upgrades to better deliver stories to audiences in today's multiplatform environment. Many local TV operations are undergoing significant changes to improve how news coverage is packaged for consumption by audiences across platforms, including the station's newscast, website, mobile app, and on over-the-top video.[350] Stations have worked

---

[346] B. Papper and K. Henderson, RTDNA/Syracuse University, *TV news faces profit drop*, at 2 (Sept. 10, 2024) (2024 Profitability Report).

[347] RTDNA's TV news report released last summer found that 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. As a result, the total number of stations airing local news rose from 1,109 two years ago to 1,111 last year, and to 1,117 this year. B. Papper, K. Henderson, and T. Mirabito, RTDNA/Syracuse University, *Amount of local news stays steady – for a change*, at 3 (July 21, 2025). These developments reflect the financial stresses facing local stations and their news operations, given high news production costs and declining ad revenues. *See, e.g.,* NAB 2025 National TV Cap Update at 33-34 & n.126.

[348] 2025 Profitability Report at 3. This report found that, across all TV stations, 38.3% reported a decrease in their news budgets for 2024. *Id*. For 2023, 10.3% of TV stations had reported a decline in their news budgets. 2024 Profitability Report at 5.

[349] B. Papper, K. Henderson and T. Mirabito, RTDNA/Syracuse University, *Local TV news employment moves down . . . along with hiring* (Sept. 3, 2025).

[350] G. Dickson, *An Overhaul Moment For Multiplatform News Production,* tvnewscheck.com (June 5, 2025).

for years to ensure that the linear and digital staff within their news operations collaborate, and they are currently focused on integrating the technology: combining the newsroom computer systems relied on by traditional linear newscasts with the content management systems relied on by stations' digital teams.[351] Local TV newsrooms are moving away from the era of the "physical building stacked with coaxial cables, linear feeds and teams tied to one geographic location" to become an increasingly "hybrid and digitised ecosystem of cloud-based platforms, high-speed data transfer protocols, IP workflows and collaborative software" that can efficiently develop, update, and distribute stories on TV screens and everywhere else audiences consume them.[352] But given financial constraints, stations are "carefully weigh[ing] technology investments against a declining market for traditional broadcast advertising."[353] And many local TV stations won't be able to afford such investments, however necessary.

Technological upgrades and innovations in news delivery are necessary due to changes in how audiences look for and consume news content. Like their consumption of other content, viewer consumption of news and information is rapidly evolving, with traditional media outlets increasingly taking a back seat to sources available exclusively on social media, including via YouTube, X, and Facebook. According to the most recent Digital News Report from the Reuters Institute for Journalism, the percentage of Americans that used television as

---

[351] G. Dickson, *An Overhaul Moment For Multiplatform News Production,* tvnewscheck.com (June 5, 2025) (discussing several broadcasters' plans for further technology upgrades to better serve local viewers, with a Graham Media Group executive anticipating that replacing newsroom software and digital software with a single system will enable reporters to spend less time in "distribution mode" and more time shooting and editing stories, making the stories more substantive and getting them to consumers more quickly).

[352] V. Butler, *Navigating a 21st-century newsroom,* feedmagazine.tv (Apr. 9, 2025). Griffin Media, for example, also develops podcasts from its news content. *Id.*

[353] G. Dickson, *For TV Tech Leaders, Total Cost Of Ownership Rises To Top Concern*, tvnewscheck.com (Oct. 5, 2025).

a source of news in the past week declined from 72 percent in 2013 to 50 percent in 2025.[354] For the first time, the proportion of Americans accessing news via social media has overtaken television, with those reporting usage of social media (including YouTube, X, and Facebook) as a source of news over the past week having doubled from 27 percent in 2013 to 54 percent in 2025.[355] Reliance on social media sources is more pronounced among younger audiences, with more than half of those under 35 identifying social media as their "main source" of news (54 percent of those aged 18-24, and 50 percent of those aged 25-34), and TV news as a very distant second (19 percent of those 18-24 and 25 percent of those 25-34).[356] Television remains the main source of news for less than half those aged 55+ (48 percent and declining), with nearly one-fifth of those 55+ (18 percent and rising) now identifying social media as their main source of news.[357] Consuming news video via social media has risen significantly, with 61 percent of those surveyed accessing news videos on platforms such as YouTube, Facebook, X, Instagram, and/or TikTok in the past week, up from 40 percent in 2021.[358]

Additional research shows that over half of U.S. adults say they get news from social media at least some of the time, with Facebook and YouTube cited as the two most common sources.[359] One in five Americans now regularly report getting news from TikTok, up from just

---

[354] N. Newman, A. R. Arguedas, C.T. Robertson, R.K. Nielsen, and R. Fletcher, *Digital News Report 2025,* Reuters Institute for the Study of Journalism (2025) (Digital News Report 2025) at 11. This survey question did not specify a limitation to local TV news so it presumably includes all TV news, local and national, broadcast and cable.

[355] Digital News Report 2025 at 11.

[356] *Id.* at 12.

[357] *Id.*

[358] *Id.* at 20.

[359] *Social Media and News Fact Sheet,* Pew Research Center (Sept. 25, 2025).

three percent in 2020, with the numbers higher for younger news consumers (43 percent of those under 30; 25 percent of those ages 30-49).[360] Increased reliance on social media news sources dovetails with continuing changes in the devices Americans use to access news. The percentage of Americans who wake up to news on television declined from 36 percent in 2015 to 28 percent in 2025, while the percentage who turn first to their smartphones for news skyrocketed from 17 percent to 39 percent.[361] Consumers clearly are substituting other news sources, especially social media, for traditional television news. And resource-challenged TV stations struggle to invest in the technology and staff needed for a digital reinvention of local news.[362]

Despite usage declines and rising interest in other sources of news, local TV stations continue to be the most trusted source of news. A survey published earlier this year, for example, reported that 74 percent of respondents said they trusted local TV news, making it the most trusted source of news among 17 different outlets.[363] A survey of registered voters in nine competitive states immediately following the 2024 election found that local broadcast TV news had the highest level of trust of all media, with 72 percent responding that they trusted

---

[360] E. Tomasik and K.E. Matsa, *1 in 5 Americans now regularly get news on TikTok, up sharply from 2020*, Pew Research Center (Sept. 25, 2025).

[361] Digital News Report 2025 at 31.

[362] For instance, station newsrooms with 60 or more staff have been found three times more likely to produce original digital news content than stations with 30 or fewer staff. *See* S. Culpepper, "*Your TV station is on fire": A local TV news "survival guide" calls for stations to prioritize digital…yesterday,* niemanlab.org (Dec. 2, 2025) (reporting on urgent need for TV news outlets to connect with audiences that have already moved to digital platforms).

[363] *See* Synopsis of GfK/NIQ TVB Media Comparisons Study 2025, at 7 (2025) (reporting that only 39% of respondents trust social media).

the news on local TV stations.[364] But higher trust does not automatically convert into larger (or even stable) audiences or adequate advertising revenues in a marketplace with myriad other sources of news and information and competing ad platforms. The Commission should not keep antiquated local TV ownership restrictions if it wants to promote the economic viability of trusted sources of local news in markets across the country.[365]

In addition to helping address rising local news costs, greater scale also will assist broadcasters in remaining viable competitors for rights to air sports content. Sports programming is essential to attracting viewers and advertisers, and keeping more sports on broadcast platforms ensures that fans have access without subscribing to a costly and confusing patchwork of pay TV and/or streaming services.[366] After losing significant sports programming to cable, broadcasters are now losing that vital programming to streaming

---

[364] TVB, *The 2024 Voter Funnel Study* (2024). *See also* The Cook Political Report, 2024 Swing State Project (May 23, 2024), www.cookpolitical.com/survey-research/2024-swing-state-project/23May2024-toplines (a majority of likely voters across seven swing states trusted local broadcasting more than any other medium to provide election information).

[365] *See, e.g.*, T. Hanlon, *Why Some TV Stations May Start Ditching Local News,* tvrev.com (Mar. 20, 2025) (in an "era of shifting media consumption habits" and "declining advertising revenues," the "question is no longer whether some stations will drop local news – it's when and how many will").

[366] *See, e.g.,* M. Sweedler, *Many Sports fans are unhappy with how much it costs to watch their games, an AP-NORC poll finds*, apnews.com (Sept. 16, 2025) (describing the "juggling act" involved in accessing sports across a patchwork of subscription services and consumer dissatisfaction with the cost of the streaming and pay TV services they use, with even some professional leagues acknowledging that fans too often find themselves wondering where they can watch); G. Winslow, *Sports is Streaming's Content MVP, But Fan Frustration is Growing,* tvtechnology.com (Oct. 15, 2025) (study finds that 65% of viewers consider it a "hassle" to have to use more than one service to watch games during a season; 53% say finding the sports they want to watch has "gotten more confusing"; 63% say having games on separate apps makes it hard to check on other games that are on at the same time), *citing 2025 Evolution of Sports: What's the Score?* Hub Entertainment (Oct. 2025); G. Dickson, *Sports Bets Pay Off For Local Stations*, tvnewscheck.com (Oct. 27, 2025) ("With the divvying up of rights across various platforms, it is becoming increasingly harder for fans to simply find their team's games.").

services, including those owned by the giant tech platforms.[367] Sports media rights payments in the U.S. skyrocketed to $30.5 billion in 2025, up 122 percent from $13.8 billion in 2015, far outpacing increases in revenues earned by their media partners across all platforms, and raising questions about the ability of broadcasters to continue to afford sports rights.[368]

While larger broadcast TV station groups recently have acquired rights, especially local rights, to air at least some live sports programming, including some MLB, NHL, NBA, and WNBA games,[369] broadcasters desperately need greater scale to have even a chance to

---

[367] *See, e.g.,* D. Patten, *NFL Tackles Linear TV With Every Game Online This Season for First Time Ever*, Deadline (Sept. 5, 2025) (YouTube aired its first exclusive NFL game in September; a total of 20 games can *only* be seen on streaming services this season); D. Shanoff and A. Marchand, *Roger Goodell signals NFL's interest in re-doing TV deals in 2026,* New York Times (Sept. 24, 2025) (although existing agreements expire in 2030, the NFL wants to open discussions with its media partners sooner, leading analysts to wonder whether it will "transform how it presents games with the streamers more heavily involved" and whether a streaming service could "pick up a Super Bowl"). Amazon has moved strongly into sports programming, holding exclusive rights to Thursday night NFL games and successfully bidding to become the NBA's third national partner. *See* https://advertising.amazon.com/blog/prime-video-nba-2025-deal. Netflix has rights to air NFL games on Christmas Day, as well as rights to WWE's "Raw" and exclusive U.S. rights to the FIFA Women's World Cup in 2027 and 2031 and just obtained rights to live MLB coverage for the first time. Apple TV streams all U.S. Major League Soccer games. *See, e.g.*, A. Islam, *Streaming platforms spent US$10bn on sports rights in 2024*, SportsPro.com (Jan. 8, 2025); A. Kumar, *Tech Giants Disrupting the Sports Broadcasting Landscape*, iSportConnect.com (Feb. 5, 2025); P. Kurz, *MLB Strikes Rights Deals With ESPN, NBCUniversal, Netflix,* tvtechnology.com (Nov. 19, 2025).

[368] W. Friedman, *Sports Rights Costs Grow Faster Than Revenue Gains*, Television News Daily (Aug. 29, 2025) (reporting that while sports rights fees increased 122% from 2015-2025, total TV industry revenue from advertising, subscription, licensing, and other business climbed only 24% during that time).

[369] The decline of regional sports networks on cable, primarily due to cord cutting, has allowed some TV groups to obtain rights to limited sports programming. *See* G. Dickson, *Sports Bets Pay Off For Local* Stations, tvnewscheck.com (Oct. 27, 2025) (Tegna has agreements with 14 teams including the NBA's Denver Nuggets, the NHL's Colorado Avalanche and Seattle Kraken; in its first full season, it was able to increase viewership of games by at least 250 percent in 13 of 14 markets; Scripps has agreements with multiple teams including the NHL's Vegas Golden Knights, Florida Panthers, and Tampa Bay Lightning and the WNBA's Las Vegas Aces). *See also* G. Winslow, *Scripps Sports to Air Five University of Hawai'i Football Games*

continue competing for popular sports programming.[370] Although national scale is important to broadcasters' ability to air sports programming, local scale is also relevant. Station groups that have been successful in their simulcasting or exclusive sports programming arrangements generally have launched local sports in markets where they own more than one station, allowing them to use one of their stations "to carry live games and shoulder programming" and leverage existing sales teams.[371] Stations with local scale are more competitive in local ad markets generally,[372] and the same applies with respect to successfully promoting -- and selling advertising during -- sports programming. Given the value that many consumers place on live sports programming, the FCC should consider stations'

This Fall, tvtechnology.com (Sept. 12, 2025) (announcing deal to air UH games in Scripps' western markets such as San Diego, Denver, Las Vegas, and Phoenix, facilitating viewing by "family and hometown fans" of many of the players); M. Miller, *Phoenix Suns, Mercury and Gray Media Extend Rights Partnership Through 2028*, tvnewscheck.com (Sept. 21, 2025) (announcing the extension of Gray's exclusive rights to air the Phoenix Suns and Mercury games; Gray's original 2023 deal was the first time the NBA and WNBA switched from a regional sports network model to an exclusively over-the-air model, a move that doubled viewership of Suns games and increased Mercury viewership by 425%). Gray also has either exclusive or simulcasting arrangements with other teams, including the NHL's Dallas Stars, the NBA's Atlanta Hawks and WNBA's Atlanta Dream, the MLB's Atlanta Braves, and the NBA's New Orleans Pelicans. *See* G. Winslow, *Gray Media to Simulcast 17 Dallas Stars NHL Games*, tvtechnology.com (Aug. 28, 2025); M. Reynolds, *Gray boosts local sports presence via MLB, NHL simulcast deals*, spglobal.com (Dec. 20, 2024); G. Winslow, *Gray Media To Simulcast 15 Regular-Season Atlanta Braves Games*, tvtechnology.com (Dec. 18, 2024).

[370] *See* T. Hanlon, *Sports Broadcasting's Shifting Landscape Is No Slam Dunk For Local TV Stations*, tvrev.com (Apr. 24, 2024) ("broadcast stations are likely to face significant challenges in becoming a long-term economic media replacement strategy for increasingly revenue-hungry sports franchises and leagues").

[371] G. Dickson, *Sports Bets Pay Off For Local* Stations, tvnewscheck.com (Oct. 27, 2025); *see also* Scripps Ex Parte Attachment at 2 (detailing very large increases in local sports programming aired in five markets where Scripps owns two stations).

[372] *See* Section V.B.2., *supra* (explaining that stations need sufficient revenues, healthy cash flows, and investment, all of which are facilitated by scale, to afford to "pay and train digital sales staff, create strong digital ad products, and offer multimedia marketing campaigns and personalized services to attract additional advertisers in their local markets and better compete for digital advertising share").

capability to acquire sports rights and offer sports programming free OTA to local audiences as yet another reason to remove the last vestige of the irrational local (and national) TV rules.

C. The *Per Se* Two-Station Limit Is Harmful and Arbitrary

NAB urges the Commission to remove the *ex ante* across-the-board prohibition on owning more than two broadcast TV stations in any local market. As NAB has pointed out repeatedly, eliminating this prohibition will not hinder in any way the FCC's ability to review station transactions on a case-by-case basis. And despite being a competition-based rule,[373] the *per se* two-station cap is divorced from competitive reality in multiple important ways and prevents pro-competitive station combinations.

First, the *ex ante* two-station limit fails to take account of actual competitive conditions or any facts on the ground in any local market. This restriction applies across all 210 DMAs, regardless of the number of TV stations in a market; the size of the market's advertising base and its ability to support multiple separate station owners; the competitive strengths or weaknesses or other characteristics of any stations; and the market penetration of competing nonbroadcast video outlets and digital ad platforms. A rule ignoring all these highly relevant

---

[373] Responding to the court's decision in *Sinclair v. FCC*, 284 F.3d 148 (D.C. Cir. 2022), the FCC in the 2006 quadrennial concluded that the local TV rule was intended to promote competition in local markets, and specifically found, in a marketplace less diverse than the current one, that the rule was *not* needed to promote diversity. 2006 Quadrennial Review Order, 23 FCC Rcd at 2064-66 (also stating that the local TV rule was "no longer necessary to foster diversity because there are other outlets for diversity of viewpoints in local markets"). In its order concluding the 2010 and 2014 reviews, the FCC repeated that the "primary purpose" of the local TV rule is to promote competition and not to foster viewpoint diversity. 2010/2014 Quadrennial Review Order, 31 FCC Rcd at 9887. The 2017 Ownership Reconsideration Order, 32 FCC Rcd at 9835, reiterated that the FCC had in its 2006 Quadrennial Review Order "determined that the [local TV] rule was no longer necessary to promote viewpoint diversity and instead relied on competition" to justify its rule. Even in the 2018 Quadrennial Review Order, the FCC stated that the local TV rule "remains first and foremost competition-focused." 38 FCC Rcd at 12827 (also finding that the rule remains important to help ensure viewpoint diversity in local markets, despite contrary FCC precedent since the 2006 review).

factors -- and treating New York City the same as Glendive, Montana – is irrational on its face.[374] In contrast, FCC review of proposed TV station transactions case-by-case under Section 310(d) the Act easily could encompass relevant competitive factors.

Second, the current *ex ante* restriction is based on the premise that broadcast TV stations only compete for audiences and advertisers against other TV stations in the same market. As shown in detail above, that premise is false, and the Commission cannot base its local TV rule on an economically false premise.[375]

Third, the rule assumes that combinations of more than two stations in a market would cause competitive harm. That assumption is erroneous, especially given the small advertising revenue shares that even TV broadcasters with multiple stations would often earn. In fact, eliminating the across-the-board rule would permit station combinations that would improve local competition by allowing multiple lower-earning and much less competitive stations to combine. Assume, for example, that in a large market with a dozen full-power commercial stations, a single entity proposed owning the three stations lowest ranked in advertising revenues (and/or audience share). Even if the FCC erroneously considered only competition from other in-market broadcast TV stations, this proposed combination would not present competitive harms. Rather than a dominant competitor, the result of this combination would be a more viable one. The current *per se* two-station limit is thus not only unnecessary but

[374] Among other things, and as demonstrated in Section VI.A., TV stations in mid-sized and small markets earn only a fraction of the ad revenues garnered by TV stations in the largest markets.

[375] *See, e.g., Fresno Mobile Radio, Inc. v. FCC*, 165 F.3d 965, 969 (D.C. Cir. 1999) (overturning FCC rule treating an incumbent licensee and a new auction-winning licensee differently because it was based on an erroneous premise "that should not be entertained by anyone who has had even a single undergraduate course in economics").

harmful, and should be eliminated in favor of reviewing proposed TV station transactions under the FCC's authority to review all license transfers/assignments.[376]

Using 2024 data from BIA Media Access Pro, an examination of the advertising revenues earned by TV stations in all 210 DMAs demonstrates that the lower-earning half of those stations overall garner marginal ad revenues, thus confirming that the current *per se* local ownership cap arbitrarily prevents competition-enhancing combinations of stations. NAB divided the full-power commercial stations in every DMA[377] between the top-earning half and the bottom-earning half and then totaled the advertising revenues (OTA plus digital, including revenues from those stations' multicast streams) of the top half and the bottom half for all markets.[378] The results show a stark divide. The top-earning half of all full-power TV stations in the 210 local markets garnered 85.1 percent of the total ad revenues earned by all TV stations (full power, low power and Class A) across all DMAs as a whole, while the lower half of full-power stations garnered only 12.9 percent of those total TV station ad revenues.[379] This analysis conservatively figured the share of total TV ad revenues obtained by the top-earning "half" of all full-power local TV stations. In markets with odd numbers of full-power stations, the "extra" stations were included in the lower-earning half. For example, in a DMA with 13

---

[376] The ability of a broadcaster to request a waiver of the *ex ante* two-station cap does not save it. As the Eighth Circuit reaffirmed, the "very essence of waiver is the assumed validity of the general rule," and the "FCC cannot save an irrational rule by tacking on a waiver provision." *Zimmer Radio*, 145 F.4th at 856, quoting *ALLTEL Corp. v. FCC*, 838 F.2d 551, 561 (D.C. Cir. 1988).

[377] Satellite stations were excluded because they are not subject to the FCC's multiple ownership rules.

[378] For example, the New York City DMA has 16 full-power commercial TV stations, which were separated into the eight higher-earning and the eight lower-earning stations. This process was repeated for all 210 DMAs.

[379] Low power and Class A TV stations earned the remaining 2.1% of total TV ad revenues across all local markets.

full-power commercial stations, six stations were counted as being in the top "half" and seven in the lower "half."[380] Despite this inflation of the numbers of stations in the lower-earning "half," the smaller top "half" earned over 85 percent of the ad revenues garnered by all TV stations in the country.[381]

Although individual DMAs differ from one another, the same lop-sided revenue pattern holds in markets of varying sizes. In the Philadelphia, PA DMA (rank #5), for instance, the top half of the full-power TV stations earned 95 percent of the total TV station advertising revenues in the market in 2024, leaving only five percent of those revenues for the lower-earning stations.[382] In the Philadelphia market, the *eight* stations in the lower-earning half obtained only 16.3 percent of the amount of ad revenues earned by the *single* highest-earning station last year. Yet the *ex ante* local TV rule forbids common ownership of even three stations. Obviously, in markets such as Philadelphia, New York, and Cleveland, the two-station cap arbitrarily prevents combinations of competitively hobbled stations for no public interest purpose.

Although the revenue divide in other large TV markets is not quite as dramatic, the lower-earning half of stations remain competitive also-rans. In Miami-Ft. Lauderdale, FL (DMA

---

[380] There are 87 DMAs with odd numbers of full-power stations, not counting those 11 markets with only a single station. The 11 full-power stations in those single-station DMAs were counted as being in the top "half" of their markets.

[381] If instead the "extra" station in those 87 markets with odd numbers of stations were included in the top-earning rather than the bottom-earning half of stations, then 88.7% of total TV station ad revenues were earned by the top half of full-power stations. Under that analysis, the lower half of stations earned only 9.3% of total TV station ad revenues.

[382] As in the majority of markets, low power and Class A stations in Philadelphia earn a negligible share of TV station ad revenues. Other top-20 market revenue divides are even more extreme. In the New York, NY DMA (rank #1) and the Cleveland-Akron, OH DMA (rank #19), the lower-earning half of stations are left with revenue crumbs, garnering only about 3.2% and 3.7% of total TV ad revenues in the markets, respectively, with the top half of stations obtaining 96.8% and 96.2% of those revenues, respectively.

rank #18), for example, the stations in the top half earn "only" 89.4 percent of the total TV station ad revenues in that market, with the lower half garnering 10.3 percent. In this market, the bottom-earning half (seven stations in total) garnered less in advertising revenues than did either the Univision or Telemundo affiliated stations last year. Again, such data leave one to wonder why the FCC retains a *per se* two-station cap.

A number of mid-sized and smaller DMAs exhibit less extreme top vs. bottom half revenue chasms, but clear divisions nonetheless remain. In Tucson, AZ (DMA rank #65), the stations in the top half earned nearly 81 percent of total TV ad revenues in 2024, with the lower half garnering about 18.5 percent of those revenues. Even in a market in which the lower-earning half of stations performed better than average, those bottom five Tucson stations combined garnered less in ad revenues than either the highest earning or second-highest earning station did last year. Interestingly, even in the smaller Davenport, IA/Rock Island-Moline, IL DMA (rank #104), Eugene OR DMA (rank #120), and Corpus Christi, TX DMA (rank #130) – each with only five full-power TV stations – the lower-earning "half" (i.e., three stations) obtained only 24.7, 26.3 percent, and 30.4 percent of their respective markets' total TV ad revenues, while the top "half" (i.e., two stations) garnered 75.3, 72.5, and 67.3 percent, respectively, of their markets' TV ad revenues. Clearly, common ownership of three stations, even in small markets like these, would not automatically lead to a single owner with a dominant share of the markets' local TV ad revenues, let alone a problematic share of those markets' total ad revenues.[383]

---

[383] These data demonstrating the revenue gaps between the "top 2" and the "bottom 3" reconfirm the irrationality of the now-defunct top-four restriction of the local TV rule. As NAB previously demonstrated, many TV markets, especially mid-sized and small ones, often have only one or two leading stations, while the third and fourth-ranked stations are competitive

Notably, NAB's analysis examined advertising revenue shares on the FCC's unduly narrow and outmoded terms – and still showed the irrationality of an *ex ante* rule preventing combinations of more than two TV stations in all 210 DMAs. But broadcast TV station advertising revenues are, of course, only a fraction of the total ad revenues in any DMA.[384] According to BIA, all TV station ad revenues in 2024 (OTA+digital) represented only 12.6 percent of total ad revenues on average across all 210 DMAs.[385] And BIA estimates that for 2025, all TV station ad revenues will account for only *9.8 percent* of total market ad revenues on average across all 210 DMAs.[386] Thus, even a broadcaster owning multiple stations in a DMA that together represented a substantial share of that market's TV ad revenues, the broadcaster's share of the local ad market as a whole would be extremely modest – and that

---

stragglers (whether considering ad revenues or ratings). *See* NAB Comments, MB Docket No. 18-349, at 71-75 and Attachment B, at 19-33 (Apr. 19, 2019); *see also Zimmer Radio*, 145 F.4th at 856 (pointing to "ample evidence that the largest audience gaps are now *among* the top four stations, not *between* the fourth- and fifth-ranked stations," citing NAB's comments) (emphasis added). In markets such as Davenport, Eugene, and Corpus Christi, the third, fourth, and fifth stations are also-rans. There are some DMAs in which the lower "half" of stations earn a greater share of their markets' total TV ad revenues than the top "half," especially very small markets in which the bottom "half" has more stations (e.g., several markets with only three stations, such as Elmira, NY (DMA rank #178), Dothan, AL (DMA rank #170), and Columbus-Tupelo-West Point, MS (DMA rank #134)).

[384] BIA identifies and estimates 16 categories of local advertising to determine the total local estimated ad revenues in each DMA: Cable TV; CTV/OTT; Direct Mail; Directories; Email; Magazines Digital; Magazines Print; Mobile; Newspaper Digital; Newspaper Print; Out-of-Home (OOH); PC or Laptop; Radio Digital; Radio OTA; TV Digital; TV OTA.

[385] *See* BIA Advantage, *2024 Media Ad Spending: $172.1 Billion (All TV Markets)* (accessed Nov. 24, 2025). Unsurprisingly, individual local markets vary. In the Seattle-Tacoma DMA (rank #13), all broadcast TV station ad revenues combined represented only 6.7% of total local advertising in 2024, while in the Detroit, MI DMA (rank #14), TV station ad revenues constituted 17.0% of total local market ad revenues. Again, the inflexible *per se* station cap fails to account for such differences between markets, even those of similar size.

[386] *See* BIA Advantage, *2025 Media Ad Spending: $168.7 Billion (All TV Markets)* (accessed Nov. 25, 2025). BIA generously estimates the shares of ad revenues earned by traditional local media, including broadcasting, compared to other analysts, which estimate higher local ad revenue shares for digital outlets than BIA.

broadcaster would be competing for ad revenues and audiences against Big Tech's ad platforms and ad-supported and subscription streaming behemoths. In light of relevant data, retention of the existing local TV rule would be inconsistent with Section 202(h), arbitrary and capricious, and harmful to the public interest by preventing pro-competitive station combinations among TV broadcasters.

Beyond competitive concerns, the Commission furthermore cannot base the current across-the-board restriction on claims about "protecting" local news when in fact the opposite is true. First, the FCC has acknowledged the importance of economies of scale for local TV stations to provide high-quality local programming; unrefuted empirical studies have concluded that scale economies in TV broadcasting benefit audiences by increasing investment in local news; and empirical data show that past increases in common ownership of TV stations led to growth in the quantity of local news telecasts and news hours.[387] Second, the data discussed above clearly show that hundreds of TV stations in the U.S. earn marginal at best levels of advertising revenue and cannot support their own local news operations. Combinations of multiple lower-earning and/or lower-rated stations in local markets generally would involve stations with no news operations or only one station with such an operation (which then could be able to use its increased resources to provide news for a newly commonly owned station). And given the inability of most TV markets to economically sustain four independent local news operations, mergers among multiple TV stations (even if two of them currently provide local news) may well be necessary to enable those stations to continue

[387] *See* Section VI.B., *supra*.

offering local news or to improve the quality or increase the quantity of local news programming.[388]

Even in the absence of the *ex ante* two-station limit, the FCC of course would retain authority to review all proposed TV station transactions to determine if any would cause competitive or other public interest harm -- which would be inherently unlikely given the remarkably competitive and diverse video marketplace today. Commission review of proposed transactions on a case-by-case basis under Section 310(d) of the Act also would be strongly preferable because this approach could take account of any real competitive concerns, rather than blindly and incorrectly assuming that any combination of three or more TV stations would harm the public interest.

Finally, NAB observes that determining whether proposed TV station transactions serve the public interest via the FCCs license transfer reviews – rather than via application of a *per se* rule that ignores vast competitive differences between markets and between stations within markets – also can address any possible retransmission consent-related claims. NAB is confident that the pay-TV industry will complain here about the horrors of potentially negotiating retransmission consent with a broadcaster who might own three stations in a market. After all, the pay-TV industry has consistently opposed relaxation, and even supported tightening, of the asymmetric local and national TV ownership restrictions, due to their preference to negotiate retransmission agreements with smaller and weaker broadcasters.[389]

---

[388] OEA Study at 4, 21; *see* Section VI.B., *supra*.

[389] For example, the pay-TV industry opposed loosening the local TV rule in the 2018 quadrennial review and also called for tightening the top-four restriction, even intervening in court appeals to (unsuccessfully) push their anti-competitive agenda. *See Zimmer Radio*, 145 F.4th at 854-57, 859-62 (vacating the top-four restriction and concluding that the FCC lacked authority to adopt a stricter local TV rule via the quadrennial review).

But pay-TV providers' self-interest does not justify prohibiting broadcast TV station combinations with competitive and other public interest benefits. To the extent that a proposed combination of local stations even could raise retransmission consent concerns, those would be best addressed during case-by-case license transfer/assignment reviews. No retransmission consent-related grounds exist for retaining an outdated *ex ante* rule preventing combinations of more than two stations in all 210 DMAs, regardless of the actual competitive position of the stations proposed to be commonly owned.

VII. CONCLUSION

In our earlier submissions in this and other proceedings, NAB presented a compelling case for reforming the local radio and TV rules due to the competitive transformation of the media and advertising markets. Marketplace changes since the last quadrennial review have made the need for eliminating the *ex ante* local broadcast ownership rules clear and urgent. Because the FCC has unquestioned authority under the Act to review all broadcast license assignments and transfers to ensure they serve the public interest, *ex ante* rules preventing proposed transactions – including those with substantial public interest benefits – at the outset serve no purpose.

The Commission here must fulfill Congress's deregulatory mandate in Section 202(h) and its even longer-standing goal of promoting a competitively viable broadcast service capable of effectively serving local communities in all-sized markets. As NAB has demonstrated yet again, the retention of analog-era restrictions on broadcast stations alone will disserve the FCC's goals and impair local broadcasters' ability to improve or even continue offering their most important public service by far – offering over-the-air news, weather, emergency information, sports, and entertainment programming in communities across the nation at no cost to the public.

Respectfully submitted,

NATIONAL ASSOCIATION OF
BROADCASTERS
1 M Street, SE
Washington, DC 20003
(202) 429-5430

____

Rick Kaplan
Jerianne Timmerman
Erin Dozier
Nandu Machiraju
Emily Gomes

December 17, 2025

ATTACHMENT A

Thirty Years After Radio Deregulation: Has the Variety of Programming Expanded?

Mark R. Fratrik, Ph.D.

BIA Advisory Services, LLC

April 2025

Table of Contents

List of Figures

List of Tables

Executive Summary

Almost 30 years ago, Congress passed the Telecommunications Act of 1996 (1996 Act). Some interested parties predicted at the time that the radio ownership deregulation included in the 1996 Act would increase the variety of programming offered by radio stations in local markets. Studies conducted immediately after passage of that legislation and in the following decade demonstrated that prediction to be correct. The present study updates those earlier studies, as well as conducting a statistical analysis examining the impact of local radio ownership concentration on the provision of diverse programming.

Some of the most notable findings of the present study include:

- While the number of general programming formats offered in local radio markets has remained higher than pre-1996 deregulation levels, the numbers of general formats have not continued to increase appreciably in recent years and some markets have even seen a slight decrease in the general formats available to consumers.

Comparison of the Number of General Formats Offered in Local Radio Markets

Market Size Grouping	% Change 1996 - 2006	% Change 2016 – 2024
1-10	3.7%	0.0%
11-25	11.0%	1.2%
26-50	21.0%	-0.7%
51-100	24.8%	-1.5%
101+	28.0%	1.0%

- The provision of a greater variety of programming, as shown with specific formats, was most pronounced in mid-sized and small markets in the immediate years after deregulation of local ownership, but has slowed down considerably in recent years:

Comparison of the Number of Specific Formats Offered in Local Radio Markets

Market Size Grouping	% Change 1996 – 2006	% Change 2016 – 2024
1-10	46.0%	-1.0%
11-25	44.8%	1.5%
26-50	52.6%	0.3%
51-100	48.1%	2.7%
101+	47.1%	3.3%

- Regression analyses of the provision of general and specific formats in 2024 clearly indicate that a greater concentration of radio station ownership leads to greater variety of programming, thereby confirming previous studies.

Earlier empirical studies showed that passage of the 1996 Act, and subsequent increase in common ownership of radio stations, led to an increase in the variety of programming provided by local radio stations. With no changes in the Federal Communications Commission's (FCC) local radio ownership regulations since 1996, that increase has slowed to a crawl and even reversed in some markets, despite new competition from other audio services providing incentives to radio groups to offer improved and expanded programming options. Given current competitive conditions in the audio marketplace, further relaxation of the local radio ownership rules could easily once again spur further growth in the variety of programming on local radio stations, to the benefit of local consumers.

Introduction

Almost thirty years have passed since passage of the 1996 Telecommunications Act, which led to significant deregulation of radio station ownership. The 1996 Act directed the FCC to eliminate its rules imposing national limits on AM and FM station ownership and to loosen its rules imposing local limits on station ownership.[1] Specifically, radio groups were allowed to own more radio stations in individual local markets, with the specific ownership caps for different markets determined by the number of all radio stations in those markets.[2] Soon after the new rules were put into place, radio groups quickly increased the number of radio stations they owned both locally and nationally.

Proponents of radio ownership deregulation had argued that by allowing increased common ownership of radio stations in local markets, those radio groups would offer more and varied programming. The FCC, when it initially modestly reformed the national and local radio ownership caps in 1992, recognized that "group ownership" led to "demonstratable benefits," including the "promotion of program service diversity."[3] Economists, moreover, have recognized since the 1950s that concentrated ownership in radio broadcasting would increase program diversity because an owner of multiple stations would not duplicate programming but offer varied programming to capture more listeners.[4] For example, two separately owned stations in the same market might each program the most popular format to target the largest audience

[1] See Sections 202(a) & (b) of the 1996 Act.
[2] See 47 C.F.R. Sec. 73.3555(a). The local radio ownership caps established in 1996 remain the same today.
[3] "Revision of Radio Rules and Policies," Report and Order, 7 FCC Rcd 2755, 2757 (1992) (explaining that relaxing radio ownership restrictions may "play a significant part in improving diversity of programming available to the public"). Id. at 2761.
[4] See Peter Steiner, "Program Patterns and Preferences, and the Workability of Competition in Radio Broadcasting," 66 Quarterly Journal of Economics 194 (1952).

segment. But instead of programming the same format, a broadcaster owning both stations would find it advantageous to change one of the stations' formats to serve broader interests in the market by targeting other audience segments not served by the most popular format to win a larger overall percentage of the available radio audience and, thus, better attract advertisers.

This predicted response by newly-expanded local radio groups to increase the variety of programming offered to their local markets was quickly proven to be correct. In its annual report in 1997 on the radio industry, the FCC noted that response by radio broadcasters very soon after the loosening of the local ownership rules in 1996.[5] Subsequent studies conducted in the decade following the 1996 Act similarly demonstrated that the deregulation of local radio ownership resulted in the offering of more varied programming to consumers.[6] A detailed 2007 study of radio station ownership and programming commissioned by the FCC indicated that "more concentrated markets have fewer stations with the same format categories, and therefore more format diversity," and that "common ownership results in more diversity in actual programs aired."[7]

---

[5] See Review of the Radio Industry, 1997, Mass Media Bureau, FCC, MM Docket No. 98-35, March 13, 1998. "Rather than concentrating on particular formats, these owners [owning more stations locally] are choosing to operate stations with a variety of formats. A variety of formats may allow the owner to appeal to more advertisers and in particular to the advertiser who wants to reach a variety of different audiences."

[6] See Mark R. Fratrik, "Format Availability After Consolidation," August 1999, Appendix B, Comments of the National Association of Broadcasters (NAB), MM Docket No. 99-25, August 1999; Steven T. Berry and Joel Waldfogel, "Mergers, Station Entry and Programming Variety in Radio Broadcasting," Working Paper 7080, National Bureau of Economic Research, Cambridge, MA, April 1999; Steven Berry and Joel Waldfogel, "Do Mergers Increase Product Variety? Evidence from Radio Broadcasting," 116 Quarterly Journal of Economics 1009, August 2001; "Review of the Radio Industry, 2001," FCC, Mass Media Bureau, Policy and Rules Division, September 2001; Mark R. Fratrik, "Has Format Diversity Continued to Increase?," March 26, 2002, submitted as Attachment A, NAB Comments in MB Docket No. 01-317 (Filed March 27, 2002), hereafter referred to as the "2002 Format Study"; Mark R. Fratrik, "Local Radio Service to Diverse Audiences," October 23, 2006, submitted as Attachment G, NAB Comments in MB Docket No. 06-121 (Filed October 23, 2006); and "FCC Media Ownership Study #5: Station Ownership and Programming in Radio," Tasneem Chipty, CRA International, Inc., June 25, 2007.

[7] "2006 Quadrennial Regulatory Review," Report and Order and Order on Reconsideration, 23 FCC Rcd 2010, 2077 n.404 (2008), describing the findings of FCC Media Ownership Study #5.

In the years since those studies were conducted, competition in the local audio market has exploded. Audio streaming services and podcasting have proliferated, providing entertainment and news and information to audiences throughout the country and the world. These new audio competitors, as well as new and stronger video competitors (e.g., YouTube, Hulu, etc.), have also expanded the number of outlets advertisers can use to reach their desired audiences. Local radio stations have never before faced this level of competition for audiences and advertisers.

Even while facing this new and stronger competition, local radio stations continue to attract local audiences by providing locally desired programming. In recent years, however, the increases previously seen in radio stations' programming variety has slowed down noticeably and even reversed in some markets. Although incentivized by the onslaught of new competition for both audiences and advertisers to provide programming appealing to the widest possible range of listeners, local radio station groups constrained by local ownership rules that have not changed in nearly 30 years cannot acquire the additional stations needed to offer improved and more varied programming services to local audiences.

Using the same data source and methodology, this present study updates through 2024 the results of those previous studies finding that radio ownership deregulation in the 1996 Act led to greater radio programming variety. Because several years have passed since those studies, data on radio formats in local markets from an interim year will be provided. A statistical analysis will also be presented to determine whether consolidation in local radio ownership has a meaningful positive impact on the variety of programming provided in local markets, as earlier studies had found.

This update of previous studies provides unmistakable evidence that radio stations continue to provide varied programming for their local communities. The prediction that radio ownership deregulation would lead to greater programming diversity is undeniably correct even after thirty years. But this new study also shows that increases in the variety of programming have slowed down noticeably, flattened or even in some cases reversed, as the 1996 local radio ownership rules have not kept pace with profound changes in the marketplace.

General Formats

Grouping the programming provided by local radio stations into standardized categories is a challenging task. Faced with competition, radio stations try to differentiate their programming in small and large ways. For example, an Adult Contemporary station may significantly change its programming by adopting a Hot AC or Urban AC format, both of which would have substantially different musical programming. While these differences exist, the BIA Media Access Pro database has long provided a classification scheme of nineteen different general formats.[8] BIA further classifies these general format categories into more specific format subcategories, as will be examined below.

The first analysis examines the number of general formats aired by local radio stations in various market size ranges, updating earlier studies. Figure 1 shows the average number of formats for 1996, the year the Telecommunications Act allowed increased common ownership, and for several subsequent years ending with 2024.[9]

---

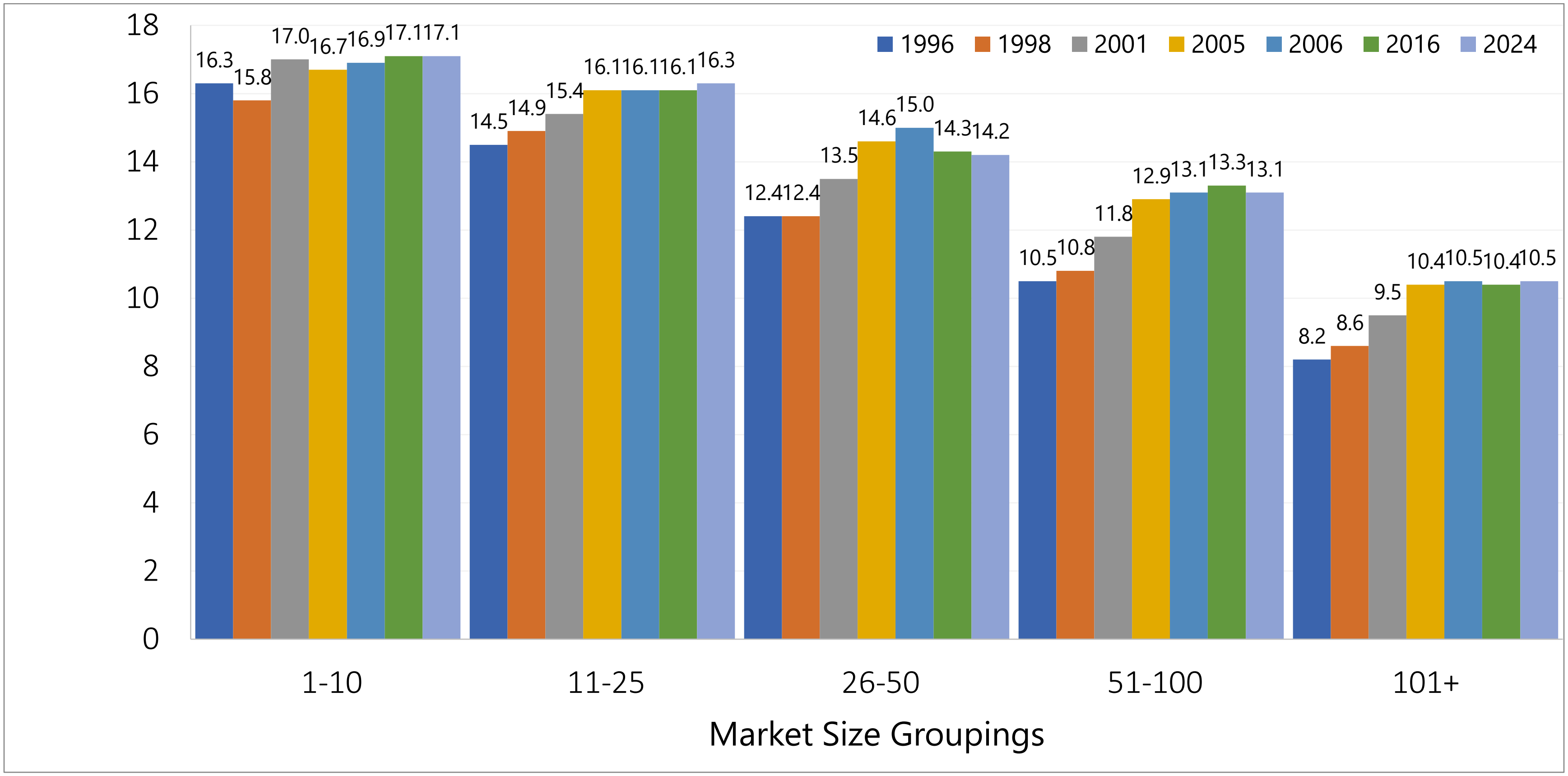
[8] These general format categories are Adult Contemporary, Album Oriented Rock/Classic Rock, Classical, Contemporary Hit Radio/Top 40, Country, Easy Listening/Beautiful Music, Ethnic, Jazz/New Age, Middle of the Road, Miscellaneous, News/Sports, Nostalgia/Big Band, Oldies, Religion, Rock, Spanish, Talk, Urban, and No Reported Format.

[9] Note that, as in previous studies, the results displayed do *not* include Puerto Rico, as that radio market was not surveyed by an audience research company in 1996 and is a distorting outlier for this yearly comparison. The analysis here includes only stations' main signals and not any multicast channels because it compares format variety starting in 1996, and includes other years, when multicasting was not an option for local radio stations.

Following a decade of significant growth in the number of different formats available to consumers, especially in mid-sized and small markets, the number of general formats remained relatively flat in the years since the earlier studies. This stagnation in the number and variety of radio formats after 2006, even in the face of increased competition from other platforms providing many varied choices, may reflect the stagnant nature of the local radio ownership rules. Hundreds of local radio clusters are constrained by the ownership caps enacted in 1996 from further increasing their scale by acquiring additional stations.[10] If allowed to grow further, however, local radio groups would have clear economic incentives and the additional outlets to expand into new and varied programming, just as broadcasters did soon after passage of the 1996 Act.

[10] A 2019 BIA report found that 404 different local combinations of radio stations are constrained under the existing radio ownership limits, either by the total number of stations locally owned and/or the number of AM or FM stations owned. Mark R. Fratrik, "Local Radio Station Viability in the New Media Marketplace," at 19-20, April 19, 2019, submitted as Attachment A, NAB Comments in MB Docket No. 18-349 (Filed April 29, 2019).

Figure 1 Average Number of General Format Categories by Market Size: 1996-2024



(BIA Advisory Services, LLC)

The slowdown in the increase of varied programming options offered across all market sizes is most clearly seen by examining different time periods since passage of the 1996 Act. Table 1 below shows those percentage changes for three time periods covering nearly thirty years.

Table 1 Comparison of the Number of General Formats Offered: 1996 – 2024

Market Size Grouping	% Change 1996 – 2006	% Change 2006 – 2016	% Change 2016 – 2024
1-10	3.7%	1.2%	0.0%
11-25	11.0%	0.0%	1.2%
26-50	21.0%	-4.7%	-0.7%
51-100	24.8%	1.5%	-1.5%
101+	28.0%	-1.0%	1.0%

(BIA Advisory Services, LLC)

As described earlier, the decade immediately after passage of the 1996 Act saw dramatic increases in the variety of general formats offered by local radio stations in their local markets. Since that time, however, appreciable growth in general formats has not occurred, with some years showing minimal increases and some showing slight decreases. These clear differences in growth in local programming diversity across different decades are not coincidental. An examination of the history of radio station transactions since the 1996 Act shows that most of the consolidation permitted under the loosened ownership caps had occurred by 2006.[11] The steep decline in any further increase in local common ownership after 2006 thus coincides with stagnation in the growth of radio program formats available in local markets.

Given their inability to grow locally due to existing ownership restrictions, radio groups have been constrained from expanding their programming options. This result impedes the

[11] Data on annual broadcast deal volume from 1992-2023 show that 2006 was the last year with a high volume of radio transactions, with 1999 being the peak year for deal volume by a large margin. Source: BIA Media Access Pro, BIA Advisory Services, LLC.

ability of local radio broadcasters to compete for audiences and advertisers and the ability of consumers to access more varied programming via local radio stations.

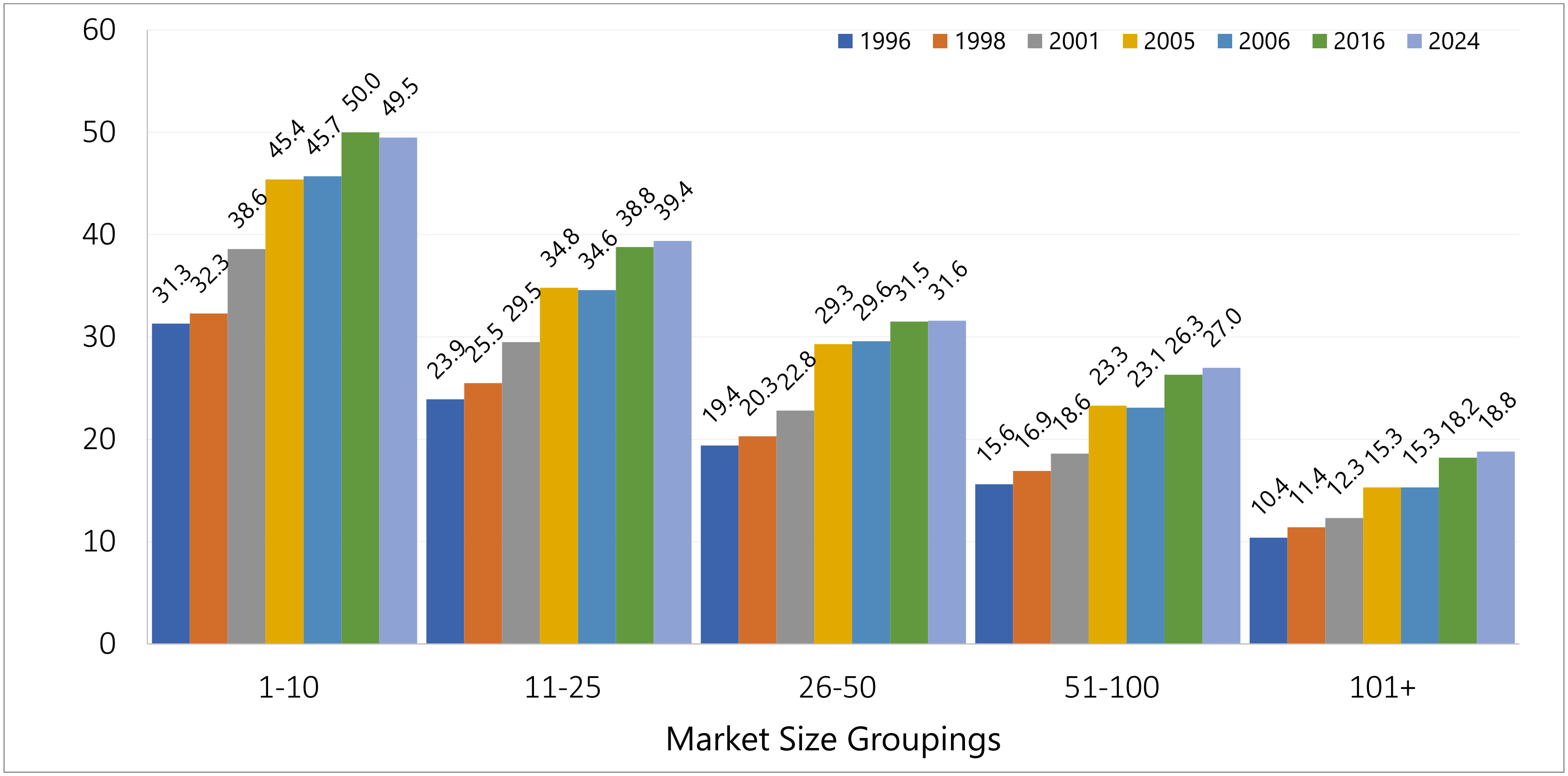
Specific Formats

BIA further classifies its 19 general format categories into station-stated specific formats, each falling under one of the general format classifications. Specific format categories are those actually used by station personnel in characterizing their stations' formats. A radio station's adoption of a different specific format may represent only a modest tweak to its programming or may entirely alter its programming. Regardless, stations' adoption of new specific formats increases programming variety in local markets and may make available formats different than any other programming being provided to audiences in their local markets.

The next analysis examines the number of specific formats aired by local radio stations in various market size ranges, and updates earlier studies analyzing specific formats. Figure 2 shows the average number of specific formats for 1996 and for several subsequent years ending with 2024.[12]

[12] Note that, once again, the results displayed do *not* include Puerto Rico, as that radio market was not surveyed by an audience research company in 1996. Nor do they include stations' multicast streams, as explained above.

Figure 2 Average Number of Specific Format Categories by Market Size: 1996-2024



(BIA Advisory Services, LLC)

Figure 2 clearly shows that the number of specific formats being offered by local radio stations significantly increased across all market sizes after the 1996 Act allowed greater common ownership of radio stations. While the increase was dramatic in the decade following passage of the 1996 Act, recent years (2016 and 2024) have shown a noticeable slowdown in the growth of programming variety. Table 2 shows the percentage changes in the number of specific formats offered during three different time periods since passage of the 1996 Act.

Table 2 Comparison of the Number of Specific Formats Offered: 1996 – 2024

Market Size Grouping	% Change 1996 - 2006	% Change 2006 – 2016	% Change 2016 – 2024
1-10	46.0%	9.4%	-1.0%
11-25	44.8%	12.1%	1.5%
26-50	52.6%	6.4%	0.3%
51-100	48.1%	13.9%	2.7%
101+	47.1%	19.0%	3.3%

(BIA Advisory Services, LLC)

Looking at specific formats, the years immediately following the loosening of the local radio station ownership rules showed a substantially increasing variety of programming across all market sizes. Since that time, however, increases in programming diversity have been more muted, and in recent years, the variety of programming offered by local radio stations has been flat or actually declined in some markets. Once again, this result clearly shows that broadcasters faced with continuing constraints on local radio ownership and on their acquisition of additional stations remain limited in their ability to expand into new and varied programming, despite their competitive incentives to do so in light of intense competition from other platforms.

Regression Analysis

The updated analysis of format availability in local radio markets reaffirms the fact that the variety of programming has increased since passage of the 1996 Act, especially in the decade immediately following that passage. In order to more thoroughly examine the impact of the 1996 Act, BIA conducted simple regressions using both the general and specific formats offered in 2024 to see the impact that increased concentration in local radio ownership has on the variety of programming offered to audiences in local markets. An earlier similar regression analysis conducted by BIA had found a "statistically significant positive relationship between the level of local ownership concentration and the level of local format diversity."[13] As discussed below, this 2024 analysis also shows that greater local levels of ownership concentration leads to greater programming diversity.

In the regression analysis here, format variety is measured as the number of formats (either under the general or specific categorization) divided by the number of commercial stations in the market[14] — a larger percentage would mean greater format variety given the number of commercial stations in the market. Local market concentration levels are measured using the Herfindahl-Hirschmann Index (HHI) of the shares of listening to local commercial stations in each market. That share considers the local ownership shares of all in-market commercial stations. That concentration index (HHI), used in antitrust analyses of all industries, is the sum of the squares of all local owners' local commercial audience share.[15] If ownership deregulation continues to lead to increased variety of programming, then higher levels of concentration would lead to local stations offering larger numbers of formats.

---

[13] 2002 Format Study at 17.
[14] Only commercial stations are used in this regression analysis since the impact of local commercial concentration is being examined.
[15] Put simply, the greater the local radio station ownership concentration is in a radio market, the larger the HHI.

Table 3 shows the results for the regressions using stations' main signals for the general and specific formats.

Table 3 Regression Results for General and Specific Formats

	General Formats		Specific Formats	
Variable	Coefficient	T Statistic	Coefficient	T Statistic
Intercept	21.888	9.105*	58.2176	29.7190*
Market LCS Herfindahl Index	.00774	12.967*	.003867	7.95190*
	Adjusted R-Square: 0.4085		Adjusted R-Square: 0.2046	
*Significant at 5.0% Confidence Level				

As strongly shown in the two categories of regression analyses (general and specific formats), the concentration coefficient is positive and statistically significant, meaning that an increase in local market concentration would lead to a greater variety of programming being offered by local radio stations. The Adjusted R-Squares for these two equations, measuring how much the variation of programming variety is being explained, are at solid levels.

Conclusions

After examining all the most recent results and comparing them to the results of previous studies the conclusion remains the same as before – radio stations continue to provide more variety of programming to their local audiences than prior to reform of the radio ownership rules in 1996. Passage of the Telecommunications Act of 1996 was the impetus that led local radio stations to provide more formats to consumers. While programming variety grew impressively for a decade, after 2006 that growth slowed or actually receded in some markets. Faced with intense new competition for both audiences and advertisers in recent years, and impeded by their inability to increase scale by acquiring more stations under unchanged ownership regulations, local radio groups have extremely limited ability and resources to expand their offerings.

As shown by earlier studies and the present one, the growth in the provision of different programming formats following the 1996 Act's passage was most pronounced in small to medium-sized markets. Those results are not surprising, given that mid-sized and small markets with limited available advertising revenues had relatively fewer local radio stations, and those stations often lacked the financial ability to improve and expand their local programming portfolio prior to ownership deregulation.

Nearly thirty years after the prediction that radio ownership deregulation would lead to more diverse programming, it still rings true. The present study reinforces the strong findings from previous studies demonstrating that increased common ownership of radio stations results in increased programming options for consumers. The current and earlier studies also indicate that with a further relaxation of these local ownership rules, further expansion of programming variety could easily occur.