

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20544**

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 FOX CORPORATION

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TABLE OF CONTENTS

SUMMARY iii

I. THE DUAL NETWORK RULE IS NOT NECESSARY TO PROMOTE
COMPETITION IN PROGRAMMING OR ADVERTISING. 4

 A. Programming..... 5

 B. Advertising..... 9

II. THE DUAL NETWORK RULE IS NOT NECESSARY TO PROMOTE
LOCALISM. 11

III. ELIMINATION OF THE DUAL NETWORK RULE WOULD BENEFIT
COMPETITION AND LOCALISM. 13

IV. ANTITRUST AUTHORITIES WOULD CAREFULLY REVIEW A
TRANSACTION TO BRING ANY RESTRICTED NETWORKS UNDER
COMMON OWNERSHIP..... 15

V. BECAUSE IT IS NOT SUPPORTED BY EVIDENCE, RETENTION OF THE
DUAL NETWORK RULE WOULD BE INVALID UNDER THE
ADMINISTRATIVE PROCEDURE ACT..... 16

VI. THE LOGIC FOR ELIMINATING THE DUAL NETWORK RULE APPLIES
COEQUALLY TO THE LOCAL TELEVISION OWNERSHIP RULE. 18

CONCLUSION..... 20

SUMMARY

Congress has directed the Commission to review and reevaluate its media ownership regulations with an eye towards eliminating regulations that are no longer necessary. In its 2023 Order addressing the 2018 Quadrennial Regulatory Review, the Commission chose to take what Chairman Carr aptly called an “ostrich-like approach”¹ to this statutory mandate, ignoring fundamental changes in the media marketplace to retain rules that actively hamper competition. The Commission now has an opportunity to correct those errors by eliminating the Dual Network Rule, an obsolete regulatory constraint of exactly the sort the Quadrennial Regulatory Review process was designed to address.

The Dual Network rule is no longer necessary to promote competition in national programming or advertising. Common sense and an overwhelming volume of data support the conclusion that broadcast networks compete not only with cable networks but also with online streamers and other digital video providers. Ratings and advertising revenue metrics confirm that digital video providers have seized the upper hand: digital video providers now account for a lion’s share of TV/video ad spending, and produce many of the most-viewed television programs. Meanwhile, streamers are building on these gains by successfully competing for exclusive rights to live sports programming—at one time a competitive strength of the broadcast networks—and deploying ad-supported services that are further boosting their share of viewership.

The Dual Network Rule also fails to support localism in the media industry. In the past, the Commission has premised its arguments that the Dual Network Rule helps ensure localism

¹ *In re 2018 Quadrennial Regulatory Review*, Report and Order, 38 FCC Rcd 12782, Dissenting Statement of Commissioner Brendan Carr (2023) (hereinafter the “*2018 Quadrennial Review Order*”).

on the unfounded claim that it gives affiliate stations the “bargaining power” to preempt large networks’ content in favor of locally tailored programming. That is simply not true. Preemption rights are guaranteed by the Commission’s rules, and do not depend in any way on the size or ownership profile of the network with which a station is affiliated. There is no evidence to suggest that elimination of the Dual Network Rule would undermine stations’ bargaining power—indeed, retaining the rule ultimately could subject affiliates to greater uncertainty by making it difficult or impossible for the four broadcast networks targeted by the Rule to remain in the broadcasting industry.

Elimination of the Dual Network Rule would strengthen both competition and localism by giving the owners of the targeted broadcast networks greater flexibility to strengthen themselves and compete with digital video providers through strategic transactions—or, at the very least, to consider such transactions when exploring their future. Importantly, transactions contemplated by these networks would still be subject to fulsome review by antitrust regulators and (assuming any transfer of licenses along with a network) the Commission itself. However, this review would be fact-specific and grounded in a holistic view of the public interest, rather than determined by a decades-old *ex ante* prohibition that short-circuits meaningful analysis.

Finally, for the same reasons that it must eliminate the Dual Network Rule, the Commission must eliminate the Local Television Ownership Rule. That Rule is similarly a relic of a completely different media marketplace, and artificially hamstringing the broadcasting industry as compared to digital media providers. In keeping with the Eighth Circuit’s recent decision vacating the Rule’s restrictions on common ownership of any “Top Four” stations in a market, the Commission should implement its statutory mandate by taking these outdated restrictions off of the books.

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COMMENTS OF FOX CORPORATION

Fox Corporation files these comments on the Commission’s Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding, which seeks comment on the issues encompassed within the Commission’s 2022 Quadrennial Regulatory Review.² Specifically, FOX urges the Commission to abandon two outdated and unnecessary restrictions on competition in the broadcasting industry: the Dual Network Rule and the Local Television Ownership Rule.

The Dual Network Rule provides that a television broadcast station “may affiliate with a person or entity that maintains two or more networks of television broadcast stations unless such dual or multiple networks are composed of” two or more of ABC, CBS, FOX, and NBC (each, a “Restricted Network”).³ The effect is to prevent common ownership of any of the Restricted

² *In re 2022 Quadrennial Regulatory Review*, Notice of Proposed Rulemaking, FCC 25-64 (rel. Sept. 30, 2025) (hereinafter the “NPRM”).

³ 47 C.F.R. § 73.658(g).

Networks *under any circumstances*. It is a rule of uncompromising rigidity, and it has lingered on the books in various forms for nearly a century.⁴

Fortunately, Congress had the foresight to recognize that ownership restrictions need not—and often should not—last in perpetuity. Section 202(h) of the Telecommunications Act of 1996 directs the Commission to “determine whether [the Dual Network rule is] necessary in the public interest as the result of competition” and to “repeal or modify it” if not.⁵ As the Eighth Circuit recognized in its decision striking down another arbitrary “Top Four” prohibition, Section 202(h) is a *deregulatory* mandate.⁶

The Commission ignored that mandate in 2023, when it closed its eyes to the immense competitive impact of national streaming services like Netflix, HBO, Amazon Prime, and Apple TV+ (among others) and found that the 1940s-era Dual Network Rule remained “necessary” to protect competition, localism, and viewpoint diversity.⁷ At that time and in the years since, streaming and social media platforms like YouTube, Facebook, Instagram, and TikTok—offering a combination of user-generated and studio-produced content—also have captured an increasing share of the nationwide viewership, particularly among younger audiences. But the

⁴ See *In re Amendment of Section 73.658(G) of the Commission’s Rules*, Report and Order, 16 FCC Rcd 11114 ¶ 2 (2001) (“The Commission first adopted a dual network rule in 1941, following its investigation of ‘chain’ broadcasting.”).

⁵ Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12 (1996).

⁶ *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828, 860-61 (8th Cir. 2025) (“The deregulatory nature of the 1996 Act also supports this view . . . increasing regulation [] is contrary to the Act's stated purpose.”).

⁷ See *2018 Quadrennial Review Order* ¶ 117.

Commission turned a blind eye to those changes, focusing instead on cherry-picked viewership metrics that fail to reflect the changing media landscape.⁸

The same can be said of the Commission's handling of the Local Television Ownership Rule. That rule limits the number of full power television stations that an entity may own within a local market.⁹ Despite clear evidence of the shifting media landscape, the Commission determined in 2023 that the Local Television Ownership Rule remained necessary for the same reasons (competition, localism, and viewpoint diversity) it cited in retaining the Dual Network Rule. Indeed, the Commission actually *extended* restrictions on local television ownership to expand the reach of the Local Television Ownership Rule.¹⁰

We welcome the “fresh approach” that the Commission is taking with the 2022 Quadrennial Review.¹¹ As Chairman Carr explained in his statement approving the 2022 Quadrennial Review NPRM, “[i]n recent years, numerous online audio and video streaming services have emerged, fundamentally changing how broadcast radio and television compete in the media marketplace.”¹² The Chairman's words succinctly and accurately describe the vast marketplace in which the Restricted Networks compete for viewers and revenues. In these comments, FOX documents the many reasons that the Dual Network Rule decidedly is no longer

⁸ For example, the Commission's analysis waved a hand at the fact that “cable networks, as well as some online services, have produced some high-quality television series that can draw high ratings comparable to the Big Four broadcast networks or reach sizeable audiences,” but then relied on ratings data that completely excluded and ignored streamers' content. *See Id.* ¶¶ 121-129.

⁹ 47 C.F.R. § 73.3555(b).

¹⁰ *See 2018 Quadrennial Review Order* ¶ 68.

¹¹ *NPRM*, Statement of Chairman Brendan Carr.

¹² *Id.*

“necessary in the public interest as the result of competition,”¹³ and indeed frustrates its own stated purposes. We also explain that this reasoning extends coequally to the Local Television Ownership Rule, which should similarly be eliminated.

I. THE DUAL NETWORK RULE IS NOT NECESSARY TO PROMOTE COMPETITION IN PROGRAMMING OR ADVERTISING.

In justifying the Dual Network Rule, the Commission previously has relied on the Restricted Networks’ supposed dominance in two areas—national programming and advertising.¹⁴ An uninformed reader might come away from the Commission’s 2018 Quadrennial Review Order with the impression that the Restricted Networks hold uncontested domain over programming for national audiences and associated advertising dollars. But that was not true in 2023, and it is even less true today. The Restricted Networks are engaged in intense competition for viewership and advertising revenue with rapidly growing digital video providers, some of which have market capitalizations an order of magnitude greater than all of the Restricted Networks combined. Far from dominating the markets for programming and advertising, the Restricted Networks are fighting to hold their ground in the face of a transforming media market. As Chairman Carr stated in his dissent to the *2018 Quadrennial Review Order*, the Commission cannot take an “ostrich-like approach” to “the realities of the modern media marketplace” by “continu[ing] to advance the fiction that broadcast radio and broadcast television stations exist in markets unto themselves.”¹⁵

¹³ Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12 (1996).

¹⁴ See *2018 Quadrennial Review Order* ¶ 120 (“[W]e find that the Dual Network Rule remains necessary in the public interest to promote competition in the provision of programming suitable for large, national audiences and the sale of national advertising time.”).

¹⁵ *Id.*, Dissenting Statement of Commissioner Brendan Carr.

Recent antitrust precedents have confirmed that markets driven by content and advertising should not be narrowly drawn. For example, in *FTC v. Meta Platforms*, the U.S. District Court for the District of Columbia concluded that Meta could not be treated as competing only in a narrowly drawn market for “personal social networking,” finding instead that it is part of a broader social media market that also includes services like TikTok and YouTube.¹⁶ The court focused on the fact that users substituted time on those other apps for time on Meta’s apps, accessing TikTok and YouTube as substitutes for Meta’s offerings.¹⁷ As described below, viewers and advertisers similarly have substituted digital video offerings for linear broadcast television, shifting their attention and advertising dollars towards streaming and other offerings. That well-documented shift thoroughly belies the argument that the Restricted Networks exist in a “walled garden,” competing only with one another.

A. Programming

The Restricted Networks operate in a highly competitive marketplace for “programming suitable for large, national audiences.” The age in which households looked solely or even primarily to the Restricted Networks for national programming has long since passed.

In defining the market in which the Restricted Networks operate, the Commission must take account of national programming available on popular streaming services, social and online video platforms, and other digital content modalities. All of the Restricted Networks face fierce competition for viewers from those services. While this observation should be self-evident, it bears emphasis here because the 2023 Order closing out the 2018 Quadrennial Review reached the opposite result. Specifically, the Commission concluded that the Restricted Networks “have

¹⁶ See *FTC v. Meta Platforms, Inc.*, No. CV 20-3590 (JEB), 2025 WL 3458822 (D.D.C. Dec. 2, 2025) (revising and superseding original November 18 opinion).

¹⁷ *Id.* at 17-25.

a unique ability to regularly attract large, national audiences” and that subscription streaming services like Netflix “do not compete” with the Restricted Networks.¹⁸ Empirical data and common sense do not support this myopic and antiquated understanding of the video marketplace.

Original and other programming on streaming services compete for viewers with broadcast and cable networks, including the Restricted Networks. Nielson metrics for October 2025 suggest that 45.7% of TV viewing was through streaming platforms—more than cable and broadcast TV *combined* (45.1%)—despite a significant spike in broadcast viewing relative to the summer owing to the NFL season.¹⁹ Nielson reported earlier in the year that streaming saw a viewership increase of 71% between May 2021 and May 2025, while broadcast saw a 21% decline.²⁰ Nielson’s 2024-2025 cross-platform rankings of entertainment programming offer further evidence of intense competition at the top end of program viewership. Between September 2024 and April 2025, 14 of the top 20 shows were on streaming, including runaway winner *Squid Game*.²¹ Netflix alone had more shows in Nielson’s top 20 than all of the

¹⁸ *2018 Quadrennial Review Order* ¶¶ 117, 130. Notably, as discussed below, entirely ad-supported streaming services have surged in popularity in the years since the *2018 Quadrennial Review Order*. The Commission’s reliance on the fact that streaming services are “subscription-based” to distinguish them from broadcast television therefore rings false.

¹⁹ See Nielsen, *Nielsen’s The Gauge: NFL Viewership Underscores How Sports Are Redefining Audience Behavior*, Nielsen News Center (Nov. 2025), <https://www.nielsen.com/news-center/2025/niensens-the-gauge-nfl-viewership-underscores-how-sports-are-redefining-audience-behavior/>.

²⁰ See Nielsen, *Streaming Reaches Historic TV Milestone, Eclipses Combined Broadcast and Cable Viewing For First Time*, Nielsen News Center (June 2025) <https://www.nielsen.com/news-center/2025/streaming-reaches-historic-tv-milestone-eclipses-combined-broadcast-and-cable-viewing-for-first-time/>.

²¹ Michael Schneider, *100 Most-Watched TV Series of 2024-25 Across Streaming, Broadcast and Cable: ‘Squid Game’ Leads This Season’s Rankers*, Variety (May 29, 2025), <https://variety.com/2025/tv/news/most-popular-tv-shows-2024-25-squid-game-adolescence-1236412566/>.

Restricted Networks combined.²² Among users aged 18-49, the core demographic targeted by most advertisers, just *one* of the top 20 shows was on a broadcast network.²³

This competition extends to live sporting events, which the Commission has repeatedly held out as a prime factor distinguishing the Restricted Networks from other providers.²⁴ There was an era in which major sporting events were available only or overwhelmingly on the Restricted Networks. That era has come to an end: today, many outlets compete to air popular sports programming. To name just a few examples, Prime Video has acquired the rights to certain NBA games, including the NBA Cup and play-in tournament. It also has obtained exclusive rights to key NASCAR races and Thursday Night Football—one of two primetime weeknight NFL games in most weeks of the season.²⁵ Netflix has acquired exclusive rights to stream the NFL’s Christmas Day games, a tradition in many American households boasting substantial ratings.²⁶ Looking beyond basketball and football, Apple TV+ has acquired the rights (along with Netflix) to broadcast MLB games, and more recently the exclusive rights to Formula

²² *Id.*

²³ *Id.*

²⁴ *2018 Quadrennial Review Order* ¶ 123 (“Further indicating the unique status of the Big Four broadcast networks, sports leagues seeking to reach the largest audiences generally seek to enter into rights agreements with those networks in part because of their proven ability to reach a mass audience.”).

²⁵ See NASCAR, *NASCAR Announces Historic Media Rights Agreements with FOX, NBC, Amazon, and Warner Bros. Discovery*, NASCAR.com (Nov. 29, 2023), <https://www.nascar.com/news-media/2023/11/29/nascar-announces-historic-media-rights-agreements-with-fox-nbc-amazon-and-warner-bros-discovery/>; Alex Sherman & Jabari Young, *NFL Finalizes New 11-Year Media Rights Deal, Amazon Gets Exclusive Thursday Night Rights*, CNBC Sport (Mar. 18, 2021), <https://www.cnbc.com/2021/03/18/nfl-media-rights-deal-2023-2033-amazon-gets-exclusive-thursday-night.html>.

²⁶ Jayna Bardahl & Richard Deitsch, *NFL to Air 3 Games on Christmas Day 2025, Netflix Partnership Continues*, The Athletic (Apr. 1, 2025), <https://www.nytimes.com/athletic/6247055/2025/04/01/nfl-christmas-day-netflix-streaming-amazon/>.

One racing, one of the fastest growing sports among American audiences.²⁷ It also will stream all U.S. Major League Soccer games (without the need for a separate subscription) starting in 2026.²⁸

Each of the Restricted Networks are commonly owned with one or more streaming services. This is not surprising and, in fact, is evidence of the diminished centrality of the Restricted Networks to the video marketplace. As viewers have migrated online, so too have content owners and distributors, including the owners of the Restricted Networks. The Restricted Networks are having to compete with new streaming services on their own terrain to meet viewers' evolving needs and expectations. That the owners of the Restricted Networks have had to pivot to keep pace with the streaming revolution undermines the Commission's 2023 supposition that they retain hegemonic influence over nationwide programming.

Even if one were to ignore the dramatic impact of streaming on the media marketplace, the Dual Network Rule still would not be necessary. The Restricted Networks are not "in a class of their own" (to quote the 2023 Order) even among linear television networks. They compete for viewer share with cable networks that are able to attract talent, produce content, and pursue transactions without arbitrary *ex ante* restrictions. Moreover, the Commission has never justified why "four" is the magic number for its prohibition on common ownership of certain national

²⁷ Anthony Castrovince, *MLB Announces New 3-Year Rights Deals with ESPN, NBC, Netflix*, MLB (Nov. 19, 2025) ("Apple TV will continue to stream 'Friday Night Baseball' doubleheaders throughout the regular season.") <https://www.mlb.com/news/mlb-announces-media-rights-deals-with-espn-nbc-netflix>; Apple, *Apple Is the Exclusive New Broadcast Partner for Formula 1 in the U.S.*, Apple Newsroom (Oct. 17, 2025), <https://www.apple.com/newsroom/2025/10/apple-is-the-exclusive-new-broadcast-partner-for-formula-1-in-the-us/>.

²⁸ Lillian Rizzo, *MLS Games Head to Apple TV in 2026 as Season Pass Subscription Ends*, CNBC (Nov. 13, 2025), <https://www.cnbc.com/2025/11/13/mls-games-apple-tv-2026-season-pass-ends.html>.

broadcast networks.²⁹ This is not surprising, as no such evidence exists. Reliance on a regulatory “tradition” in the face of rapidly evolving markets that render that tradition *not just obsolete but actively harmful* is unjustifiable under the 1996 Telecommunications Act and the Administrative Procedure Act, as discussed in greater depth below.

B. Advertising

The 2023 Order also maintained that the Restricted Networks hold a unique position in the national advertising market, and “largely compete amongst themselves for such advertising revenue” from advertisers seeking to reach large national audiences.³⁰ In fact, the Restricted Networks are engaged in intense competition for advertising revenues with myriad other sources of content and programming—many of which have *global* reach, and may also boast advanced ad targeting capabilities that further increase their attractiveness to advertisers.

For example, the Restricted Networks compete with connected television set providers, like Roku, Samsung, and Sony, which include ad-supported linear channels and other content natively within their products. These providers benefit from low barriers to entry: in many cases, content streams and advertising surfaces are baked into a device’s interface. Streaming platforms like Netflix, Hulu, Disney+, HBO Max, and others include free or lower-priced ad-supported tiers, which now make up nearly half of all U.S. subscriptions for providers that offer them.³¹ Free Ad-supported Streaming TV (FAST) channels are entirely ad-supported, and nearly

²⁹ *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828, 855 (8th Cir. 2025) (observing with respect to another requirement involving a “top four” restriction that the FCC had failed to substantiate that cutoff, such that its rule was arbitrary and capricious).

³⁰ 2018 *Quadrennial Review Order* ¶ 120.

³¹ Jill Goldsmith, *Streaming Ad Tiers Catch Fire, Make Up Nearly Half Of U.S. Subscriptions For SVODs That Offer Them, Study Says*, Deadline (May 20, 2025), <https://deadline.com/2025/05/booming-advertising-tiers-drive-streaming-subscriber-growth-1236405344/>.

47% of U.S. households watch FAST channels weekly (with a 29% increase in total viewing time in 2025 as compared to 2024).³² The Restricted Networks also compete for advertising revenue with social video and other platforms, which offer fine-grained targeting options and have obtained particular traction with younger users.

Contrary to the Commission’s 2023 findings, broadcast networks like the Restricted Networks are not even the most popular outlets for large advertisers. In 2024, for the first time, digital video (including connected TV, social video, and online video) captured a majority of all TV/video ad spending. Digital video achieved this milestone despite the fact that the U.S. presidential election and Olympics were held that year, two traditional drivers of linear TV ad spending.³³ This reflects a remarkable and ongoing acceleration—in 2020, only about 29% of ad dollars went to digital video. In a survey of larger ad buyers conducted by the Interactive Advertising Bureau (“IAB”), 68% of buyers considered connected TV ads a “must buy” for their media plans, and 62% considered social video a must buy. By contrast, only 39% recognized national broadcast and cable TV ads to be a must buy.³⁴ IAB’s survey also revealed that advertising buyers are increasingly focused on the additional features—fine-grained targeting, interaction, and real-time data—available from streaming and digital video platforms.³⁵ As the share of advertising revenue collected by digital video providers continues to grow, it cannot be said (as the Commission asserted in 2023) that programming broadcast by the Restricted

³² Erik Gruenwedel, *Nearly 50% of U.S. Households Watch FAST Channels Weekly*, Media Play News (Oct. 1, 2025), <https://www.mediaplaynews.com/report-nearly-50-percent-of-us-households-watch-fast-channels-weekly/>.

³³ 2025 Digital Video Ad Spend & Strategy Report, IAB at 7 (July 2025).

³⁴ *Id.* at 9.

³⁵ *Id.* at 34.

Networks is “a distinct non-substitutable advertising product for those attempting to meet mass audiences.”³⁶

The Restricted Networks also compete with technology companies that collectively dominate the advertising market more broadly. In 2015, Alphabet, Meta, Amazon, and Microsoft represented about 20% of the U.S. ad market—in 2025, they make up approximately 68% of that market.³⁷ Alongside digital video, these large technology companies have increasingly captured advertising dollars that previously flowed to the Restricted Networks and other broadcast networks. To suggest that the Restricted Networks do not meaningfully compete with streamers and other technology companies—digital video providers or otherwise—is absurd. The data is clear: those tech companies receive the lion’s share of *all* nationwide advertising spending, to the Restricted Networks’ detriment.

II. THE DUAL NETWORK RULE IS NOT NECESSARY TO PROMOTE LOCALISM.

The Dual Network Rule does not serve goals of localism. The Commission’s past conclusions to the contrary were based on false assumptions, namely that a network’s ownership structure correlates to an affiliate’s ability to preempt network programming. The Commission suggested in 2023 that absent the Dual Network Rule, “affiliates would be less able, if at all, to use the availability of other top, independently owned networks as a bargaining tool to exert

³⁶ *2018 Quadrennial Review Order* ¶ 129.

³⁷ *U.S. Advertising: Winners Win And The Open Internet Loses!*, MoffettNathanson Research (Nov. 25, 2025).

influence on the programming decisions of its network, including with regard to program content and scheduling.”³⁸ This is false.³⁹

First, all local stations have the legal right under the Commission’s rules to reject network programming “which the station reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest” and to “substitut[e] a program which, in the station’s opinion, is of greater local or national importance.”⁴⁰ This right, and the Commission’s ability to enforce it, does not change based on the ownership profile of the network, nor does it depend in any way on the “bargaining power” of affiliates relative to networks. It is ensured by rule, and networks and affiliates cannot contract around it.

With respect to the Commission’s “bargaining power” claims, there is no evidence that the Dual Network Rule gives “leverage to affiliates who may be in a disagreement with their affiliated Big Four network.”⁴¹ In virtually all instances in which a network/affiliate relationship has ended, the affiliate has elected to become an independent station without any primary network affiliation.⁴² It thus has not been the case that “having alternative Big Four networks with whom [an affiliate] can seek affiliation give[s the affiliate] more bargaining power if they came to a negotiating impasse regarding the terms of their affiliation.”⁴³

³⁸ *2018 Quadrennial Review Order* ¶ 134.

³⁹ *See* Comments of Fox Corporation, MB Docket No. 25-322 at 3-5 (filed Dec. 10, 2025) (explaining why network affiliation agreements do not interfere with affiliates’ control of local stations’ programming).

⁴⁰ 47 CFR § 73.658(e).

⁴¹ *NPRM* ¶ 42.

⁴² In 2025, for example, WANF-TV in Atlanta disaffiliated from CBS and WPLG-TV in Miami disaffiliated from ABC. Both have operated as independent stations since disaffiliating.

⁴³ *NPRM* ¶ 42.

In actuality, retaining the Dual Network Rule ultimately could destabilize affiliates in the longer term by limiting the Restricted Networks' ability to adapt to changing market conditions while continuing to operate as national broadcast networks. Consider a Restricted Network that has been financially weakened as a result of increased competition for viewership and advertising dollars described above. Such a network could be forced to shut down as a broadcast network and migrate to a streaming-only model to facilitate a merger or other transaction with another Restricted Network.⁴⁴ This could leave stations in the position of having to quickly reaffiliate with other networks or recast themselves as independent stations. In contrast, eliminating the Dual Network Rule would give Restricted Networks the flexibility to adjust to changing market conditions through strategic transactions, ultimately enabling them to provide affiliates with greater security. We discuss these benefits in greater detail below.

III. ELIMINATION OF THE DUAL NETWORK RULE WOULD BENEFIT COMPETITION AND LOCALISM.

The Dual Network Rule operates as a strict, *ex ante* ban on any transaction that would bring two or more of the Restricted Networks under common ownership. Elimination of that obsolete regulatory burden could provide greater flexibility amidst a rapidly changing broadcast marketplace. Considering retaining the rule without fully accounting for those benefits would be akin to the Commission breezily concluding that a hypothetical transaction is “unthinkable”

⁴⁴ Failure to provide regulated parties with additional flexibility quickly following market shifts can result in significant public interest harms. For example, when the Commission eliminated the Newspaper/Broadcast cross-ownership rule in 2017, largely in response to the decline of the newspaper business, it lamented its “failure to account properly for the multiplicity of news and information sources available in the current media marketplace” in prior orders, which it stated “factored heavily in its unjustified retention of the NBCO Rule.” *In re 2014 Quadrennial Regulatory Review*, Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802 ¶ 22 (Nov. 20, 2017).

without bothering to conduct a fact-specific analysis of a particular transaction to assess (among other things) the ways it could serve the public interest.⁴⁵

It is no secret that virtually all ‘traditional’ media companies are exploring strategies to survive and thrive in a difficult environment in which they are losing viewers and advertising revenue to unregulated competitors, as discussed above. For owners of the Restricted Networks, the Dual Network Rule eliminates one possible strategy—a transaction bringing two of the Restricted Networks under common ownership to make both networks stronger—which would benefit the networks’ affiliates, viewers and advertisers. In fact, if the evolving media marketplace is someday no longer able to support the four Restricted Networks as independent entities producing nationwide programming, strategic transactions between Restricted Networks may offer an alternative to going dark.

Importantly, none of the cable networks, streamers, or other technology companies with which the Restricted Networks compete are subject to these same constraints. They can—and routinely do—pursue strategic mergers and acquisitions to strengthen their competitive position, stabilize their finances, and adapt to changing market conditions. As such, the Dual Network Rule discourages investment in broadcasting and risks artificially favoring investment in unregulated outlets which are not subject to regulatory constraints adopted the better part of a century ago. Rather than strengthening competition, stacking the deck against the Restricted Networks actively *corrodes* it.

⁴⁵ See Speech by Chairman Reed E. Hundt to the Brookings Institution, Washington, D.C. (June 19, 1997) (suggesting that “a combination of AT&T and an RBOC is unthinkable.”), <https://transition.fcc.gov/Speeches/Hundt/spreh735.html>.

IV. ANTITRUST AUTHORITIES WOULD CAREFULLY REVIEW A TRANSACTION TO BRING ANY RESTRICTED NETWORKS UNDER COMMON OWNERSHIP.

As discussed above, an outdated one-size-fits-all rule could prevent pro-competitive, pro-consumer transactions. In the dynamic media marketplace of today, an *ex ante* prohibition that singles out just four actors in one segment of a much larger marketplace is badly overdrawn. A more surgical, fact-specific approach is warranted, which transaction review processes routinely administered by the Commission and antitrust regulators would satisfy.

Following elimination of the Dual Network Rule, regulators would retain the authority to review individual transactions involving the Restricted Networks and make appropriate decisions on a case-by-case basis. Competition law, together with the Commission’s own review in the context of any license transfer, is a more appropriate method to determine whether and under what circumstances a particular combination of any of the four Restricted Networks should be allowed to take place. A fact-specific transaction review would provide competition regulators the ability to consider a market definition that is more reflective of the ways individuals consume media and marketers spend advertising dollars. Reliance on antitrust reviews will enable better, nuanced competition analysis, as compared to the decades-old, inflexible assumptions built into the Dual Network Rule. This case-by-case approach is much more in line with Chairman Carr’s stated goal of “mov[ing] forward with a keen understanding of today’s converged markets” than a broad prohibition that denies the Commission and other regulators flexibility to entertain the public interests for and against specific transactions.⁴⁶

Contrary to the assumptions articulated in the 2023 Order, antitrust enforcement is fully capable of considering impacts of common ownership of any Restricted Networks on

⁴⁶ See *NPRM*, Statement of Chairman Brendan Carr.

“availability, price, and quality of primetime entertainment programming” and the “bargaining power” of network affiliates.⁴⁷ Antitrust enforcers have broad experience examining the public interest equities of a proposed transaction and working with parties to develop mitigations that address competition concerns.

Indeed, the Dual Network Rule is a rare aberration. Across most other markets, including those within the FCC’s jurisdiction, antitrust enforcers are empowered to evaluate more dramatic structural changes in markets for consumer products and services. For example, the Department of Justice and Federal Communications Commission reviewed the merger between Sprint and T-Mobile—a transaction which led to the common ownership of two of the four major facilities-based mobile network operators—and ultimately concluded that it would serve the public interest.⁴⁸

A complex and integrated programming and advertising market requires nuanced regulatory review and enforcement capabilities. Merger review and FCC transaction review processes leave room for such nuance. The Dual Network Rule does not.

V. BECAUSE IT IS NOT SUPPORTED BY EVIDENCE, RETENTION OF THE DUAL NETWORK RULE WOULD BE INVALID UNDER THE ADMINISTRATIVE PROCEDURE ACT.

The Administrative Procedure Act (“APA”) requires courts presented with challenges to Commission actions to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”⁴⁹ To meet this “arbitrary-and-capricious” standard, the Commission must ensure that its

⁴⁷ *See id.* ¶ 137.

⁴⁸ *See In re T-Mobile US, Inc and Sprint Corporation*, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578 (2019).

⁴⁹ 47 USC § 706(2)(A).

actions “be reasonable and reasonably explained.”⁵⁰ Commission action is only valid under the APA where the Commission has “reasonably considered the relevant issues and reasonably explained the decision.”⁵¹ For the reasons described above—and as the Eighth Circuit recently observed with respect to the Local Television Ownership Rule, discussed below⁵²—retaining the Dual Network Rule would be arbitrary and capricious in light of the volume of evidence reflecting monumental structural changes to the market in which the Restricted Networks operate.

As noted above, the Commission’s justification for retaining the Dual Network Rule in 2023 focused on supposed benefits to competition, localism, and national programming quality. But as described in the preceding sections, those arguments were grounded in outdated and poorly chosen evidence that ignored ongoing sea-changes in the media industry. As those shifts have intensified in the years since the Commission assembled the record for the 2018 Quadrennial Regulatory Review, concerns around the Dual Network Rule have only grown more pronounced. As such, retention of the Rule would violate the key factors enumerated in the Supreme Court’s descriptions of the arbitrary and capricious standard, including that its justification for the Rule “runs counter to the evidence before the agency,” and that the agency has “failed to consider an important aspect of the problem.”⁵³ Moreover, the 1996 Act expressly commands that the Commission “repeal or modify” the Dual Network Rule if it is not “necessary in the public interest as the result of competition.”⁵⁴ That language doubly eliminates the

⁵⁰ *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021).

⁵¹ *Id.*

⁵² *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828, 854-56 (8th Cir. 2025).

⁵³ *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

⁵⁴ Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12 (1996).

Commission’s discretion to retain the Rule long after its public interest benefits have disappeared.

VI. THE LOGIC FOR ELIMINATING THE DUAL NETWORK RULE APPLIES COEQUALLY TO THE LOCAL TELEVISION OWNERSHIP RULE.

The Local Television Ownership Rule prohibits an entity from owning two television stations in the same Nielsen Designated Market Area (“DMA”) unless their service contours do not overlap or at least one of the stations is not ranked among the top-four stations in the DMA.⁵⁵ Like the Dual Network Rule, the Local Television Ownership Rule fails to account for the changing dynamics of the media marketplace, and unduly constrains networks’ efforts to adapt to changes including the shift towards streaming. Moreover, the Eighth Circuit recently found the Rule to be legally defective under the APA, observing that the “Top Four” prohibition lacked evidentiary support and cut against the deregulatory mandate of the 1996 Telecommunications Act.⁵⁶

The Commission must eliminate the Dual Network Rule and the Local Television Ownership Rule in the same stroke, and for the same reasons. Both rules unjustifiably treat the television broadcast industry as an island unto itself, refusing to take account of how new forms of competition are reshaping the public interest considerations attendant to media ownership. For example, just as they have become the dominant force in nationwide advertising, digital video providers also have rapidly grown their share of local advertising markets, competing with television stations across the United States. In 2025, digital media captured more than half of all local advertising dollars for the first time.⁵⁷ The Dual Network Rule and Local Television

⁵⁵ 47 CFR § 73.3555(b).

⁵⁶ *Zimmer*, 145 F.4th at 854-56.

⁵⁷ *Traditional and Digital Media in BIA’s US Advertising Forecast*, BIA Advisory Services (accessed December 5, 2025), <https://www.bia.com/forecasts/traditional-digital-media/>.

Advertising Rule also unduly constrain broadcasters as compared to less regulated—and, in many cases, less locally rooted—participants in the media ecosystem, including the largest tech companies. These artificial competitive restraints ultimately harm local affiliates and their communities.

To retain either rule would be to neglect the 1996 Telecommunications Act’s deregulatory mandate, which insists that the Commission unleash competition. Preserving burdensome regulations that hamstring broadcasters in their efforts to modernize and compete would do the very opposite.

CONCLUSION

For the reasons stated above, the Commission should implement the deregulatory mandate established by the Telecommunications Act of 1996 by eliminating the obsolete Dual Network Rule and Local Television Ownership Rule. Elimination of these rules will serve the public interest by providing broadcasters the flexibility to compete more effectively in a rapidly changing media marketplace.

Respectfully submitted,

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