

108TH CONGRESS
1ST SESSION

S. 1046

To amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2003

Mr. STEVENS (for himself, Mr. HOLLINGS, Mr. BURNS, Mr. LOTT, Mr. DORGAN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preservation of Local-
5 ism, Program Diversity, and Competition in Television
6 Broadcast Service Act of 2003”.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) The principle of localism is embedded in the
5 Communications Act in section 307(b) of the Com-
6 munications Act of 1934 (47 U.S.C. 307(b)). It has
7 been the pole star for regulation of the broadcast in-
8 dustry by the Federal Communications Commission
9 for nearly 70 years.

10 (2) In the Telecommunications Act of 1996,
11 Congress directed the Federal Communications
12 Commission to increase the limitations on national
13 multiple television ownership so that one party could
14 not own or control television stations whose aggre-
15 gate national audience reach exceeded 35 percent.
16 Congress did so because it recognized that—

17 (A) further national concentration could
18 not be undone;

19 (B) other regulatory changes, such as the
20 repeal by the Commission of its financial and
21 syndication regulations, would heighten the
22 power of the national television networks; and

23 (C) the independence of non-network-
24 owned stations would be threatened if network
25 ownership exceeded 35 percent.

1 (3) If a limit to the national audience reach of
2 television stations that one party may own or control
3 is not codified at this time—

4 (A) further national concentration may
5 occur whose pernicious effects may be difficult
6 to eradicate; and

7 (B) the independence of non-network-
8 owned stations will be threatened, placing local
9 stations in danger of becoming mere passive
10 conduits for network transmissions.

11 (4) A cap on national multiple television owner-
12 ship will help preserve localism by limiting the net-
13 works' ability to dictate programming aired on local
14 stations.

15 (5) The landscape of national ownership has
16 changed dramatically over the past two decades
17 since the time when the networks were limited to
18 owning just seven television stations nationwide:

19 (A) the Commission's financial and syn-
20 dication regulations have been repealed;

21 (B) the networks can own more than one
22 television station in many local markets;

23 (C) the networks have embraced program-
24 ming ventures from studios to syndication to
25 foreign sales; and

1 (D) the networks own the most popular
2 cable and Internet content businesses.

3 Together these changes have strengthened the net-
4 works' hands and given them strong incentives to
5 override local interests.

6 (6) Unlike non-network-owned stations which
7 are only concerned with local viewers, network-owned
8 stations have multiple interests they must consider:
9 national advertising interests, syndicated program-
10 ming interests, foreign sales interests, cable pro-
11 gramming interests, and, lastly, local station inter-
12 ests.

13 (7) The possibility of further nationalization
14 threatens the current give-and-take between non-net-
15 work-owned affiliates and networks which can result
16 in programming being edited, scheduled, or pro-
17 moted in ways that are more appropriate for local
18 audiences.

19 (8) As network power has grown in recent
20 years, the networks have forced affiliation agree-
21 ments to tilt the balance of power even more in their
22 favor. Contract provisions encroach on the ability of
23 non-network-owned affiliates to reject programming
24 that local stations determine not to be in the best
25 interests of their local communities, and local sta-

1 tions are penalized for unauthorized preemptions (as
2 determined by the network) and for exceeding pre-
3 emption baskets.

4 (9) This Act will help to preserve localism in
5 and to prevent the further nationalization of the tel-
6 evision broadcast service.

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

8 (1) to promote the values of localism in the tel-
9 evision broadcast service;

10 (2) to promote diversity of television program-
11 ming and viewpoints;

12 (3) to promote competition; and

13 (4) to prevent excessive concentration of owner-
14 ship by establishing a limit to the national audience
15 reach of the television stations that any one party
16 may own or control.

17 **SEC. 3. NATIONAL TELEVISION MULTIPLE OWNERSHIP LIM-**
18 **ITATIONS.**

19 (a) ESTABLISHMENT OF NATIONAL TELEVISION
20 MULTIPLE OWNERSHIP LIMITATIONS.—Part I of Title III
21 of the Communications Act of 1934 is amended by insert-
22 ing after section 339 (47 U.S.C. 339) the following new
23 section:

1 **“SEC. 340. NATIONAL TELEVISION MULTIPLE OWNERSHIP**
2 **LIMITATIONS.**

3 “(a) NATIONAL AUDIENCE REACH LIMITATION.—
4 The Commission shall not permit any license for a com-
5 mercial television broadcast station to be granted, trans-
6 ferred, or assigned to any party (including all parties
7 under common control) if the grant, transfer, or assign-
8 ment of such license would result in such party or any
9 of its stockholders, partners, or members, officers, or di-
10 rectors, directly or indirectly, owning, operating or control-
11 ling, or having a cognizable interest in television stations
12 which have an aggregate national audience reach exceed-
13 ing 35 percent.

14 “(b) NO GRANDFATHERING.—The Commission shall
15 require any party (including all parties under common
16 control) that holds licenses for commercial television
17 broadcast stations in excess of the limitation contained in
18 subsection (a) to divest itself of such licenses as may be
19 necessary to come into compliance with such limitation
20 within one year after the date of enactment of this section.

21 “(c) SECTION NOT SUBJECT TO FORBEARANCE.—
22 Section 10 of this Act shall not apply to the requirements
23 of this section.

24 “(d) DEFINITIONS.—

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

1 “(A) the total number of television house-
2 holds in the Nielsen Designated Market Area
3 (DMA) markets in which the relevant stations
4 are located, or as determined under a successor
5 measure adopted by the Commission to delin-
6 eate television markets for purposes of this sec-
7 tion; divided by

8 “(B) the total national television house-
9 holds as measured by such DMA data (or such
10 successor measure) at the time of a grant,
11 transfer, or assignment of a license.

12 No market shall be counted more than once in mak-
13 ing this calculation.

14 “(2) COGNIZABLE INTEREST.—Except as may
15 otherwise be provided by regulation by the Commis-
16 sion, the term ‘cognizable interest’ means any part-
17 nership or direct ownership interest and any voting
18 stock interest amounting to 5 percent or more of the
19 outstanding voting stock of a licensee.”.

20 (b) CONFORMING AMENDMENT.—Section 202(e)(1)
21 of the Telecommunications Act of 1934 (P.L. 104-104;
22 110 Stat. 111) is amended—

23 (1) by striking “its regulations” and all that
24 follows through “by eliminating” and inserting “its
25 regulations (47 CFR 73.3555) by eliminating”;

- 1 (2) by striking “; and” at the end of subpara-
- 2 graph (A) and inserting a period; and
- 3 (3) by striking subparagraph (B).

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