

**Calendar No. 270**108TH CONGRESS  
1ST SESSION**S. 1046****[Report No. 108-141]**

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, Mr. WYDEN, Mr. FEINGOLD, Mr. ALLARD, Mrs. LINCOLN, Mr. AKAKA, Mr. JOHNSON, Mrs. DOLE, Mrs. BOXER, Mr. INOUE, Mr. PRYOR, Mr. DODD, Mr. EDWARDS, Mrs. MURRAY, Ms. SNOWE, Mr. CARPER, Mr. KERRY, Mr. JEFFORDS, Mr. NELSON of Florida, Ms. CANTWELL, Mr. BAUCUS, Ms. COLLINS, Mr. LEVIN, Mr. DURBIN, Mr. BYRD, Mr. KENNEDY, Mr. BINGAMAN, Mr. LIEBERMAN, Mr. LEAHY, Mr. LAUTENBERG, Mr. SARBANES, Ms. MURKOWSKI, Mr. DASCHLE, Mrs. CLINTON, Mr. REED, Mr. GRAHAM of Florida, Mr. COLEMAN, Mr. CHAMBLISS, Mr. BIDEN, Mr. ALEXANDER, Mr. ENZI, Mr. CHAFEE, and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 3, 2003

Reported by Mr. MCCAIN, with an amendment

[Insert the part printed in *italic*]

---

**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”.

7 **SEC. 2. FINDINGS; PURPOSES.**

8       (a) FINDINGS.—Congress makes the following find-  
9 ings:

10           (1) The principle of localism is embedded in the  
11 Communications Act in section 307(b) of the Com-  
12 munications Act of 1934 (47 U.S.C. 307(b)). It has  
13 been the pole star for regulation of the broadcast in-  
14 dustry by the Federal Communications Commission  
15 for nearly 70 years.

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

1 (A) further national concentration could  
2 not be undone;

3 (B) other regulatory changes, such as the  
4 repeal by the Commission of its financial and  
5 syndication regulations, would heighten the  
6 power of the national television networks; and

7 (C) the independence of non-network-  
8 owned stations would be threatened if network  
9 ownership exceeded 35 percent.

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

13 (A) further national concentration may  
14 occur whose pernicious effects may be difficult  
15 to eradicate; and

16 (B) the independence of non-network-  
17 owned stations will be threatened, placing local  
18 stations in danger of becoming mere passive  
19 conduits for network transmissions.

20 (4) A cap on national multiple television owner-  
21 ship will help preserve localism by limiting the net-  
22 works' ability to dictate programming aired on local  
23 stations.

24 (5) The landscape of national ownership has  
25 changed dramatically over the past two decades

1 since the time when the networks were limited to  
2 owning just seven television stations nationwide:

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

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

7 (C) the networks have embraced program-  
8 ming ventures from studios to syndication to  
9 foreign sales; and

10 (D) the networks own the most popular  
11 cable and Internet content businesses.

12 Together these changes have strengthened the net-  
13 works' hands and given them strong incentives to  
14 override local interests.

15 (6) Unlike non-network-owned stations which  
16 are only concerned with local viewers, network-owned  
17 stations have multiple interests they must consider:  
18 national advertising interests, syndicated program-  
19 ming interests, foreign sales interests, cable pro-  
20 gramming interests, and, lastly, local station inter-  
21 ests.

22 (7) The possibility of further nationalization  
23 threatens the current give-and-take between non-net-  
24 work-owned affiliates and networks which can result  
25 in programming being edited, scheduled, or pro-

1 moted in ways that are more appropriate for local  
2 audiences.

3 (8) As network power has grown in recent  
4 years, the networks have forced affiliation agree-  
5 ments to tilt the balance of power even more in their  
6 favor. Contract provisions encroach on the ability of  
7 non-network-owned affiliates to reject programming  
8 that local stations determine not to be in the best  
9 interests of their local communities, and local sta-  
10 tions are penalized for unauthorized preemptions (as  
11 determined by the network) and for exceeding pre-  
12 emption baskets.

13 (9) This Act will help to preserve localism in  
14 and to prevent the further nationalization of the tel-  
15 evision broadcast service.

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

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

19 (2) to promote diversity of television program-  
20 ming and viewpoints;

21 (3) to promote competition; and

22 (4) to prevent excessive concentration of owner-  
23 ship by establishing a limit to the national audience  
24 reach of the television stations that any one party  
25 may own or control.

1 **SEC. 3. NATIONAL TELEVISION MULTIPLE OWNERSHIP LIM-**  
2 **ITATIONS.**

3 (a) ESTABLISHMENT OF NATIONAL TELEVISION  
4 MULTIPLE OWNERSHIP LIMITATIONS.—Part I of title III  
5 of the Communications Act of 1934 is amended by insert-  
6 ing after section 339 (47 U.S.C. 339) the following new  
7 section:

8 **“SEC. 340. NATIONAL TELEVISION MULTIPLE OWNERSHIP**  
9 **LIMITATIONS.**

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

21 “(b) NO GRANDFATHERING.—The Commission shall  
22 require any party (including all parties under common  
23 control) that holds licenses for commercial television  
24 broadcast stations in excess of the limitation contained in  
25 subsection (a) to divest itself of such licenses as may be

1 necessary to come into compliance with such limitation  
 2 within one year after the date of enactment of this section.

3 “(c) SECTION NOT SUBJECT TO FORBEARANCE.—  
 4 Section 10 of this Act shall not apply to the requirements  
 5 of this section.

6 “(d) DEFINITIONS.—

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

9 “(A) the total number of television house-  
 10 holds in the Nielsen Designated Market Area  
 11 (DMA) markets in which the relevant stations  
 12 are located, or as determined under a successor  
 13 measure adopted by the Commission to delin-  
 14 eate television markets for purposes of this sec-  
 15 tion; divided by

16 “(B) the total national television house-  
 17 holds as measured by such DMA data (or such  
 18 successor measure) at the time of a grant,  
 19 transfer, or assignment of a license.

20 No market shall be counted more than once in mak-  
 21 ing this calculation.

22 “(2) COGNIZABLE INTEREST.—Except as may  
 23 otherwise be provided by regulation by the Commis-  
 24 sion, the term ‘cognizable interest’ means any part-  
 25 nership or direct ownership interest and any voting

1 stock interest amounting to 5 percent or more of the  
2 outstanding voting stock of a licensee.”.

3 (b) CONFORMING AMENDMENT.—Section 202(c)(1)  
4 of the Telecommunications Act of 1934 (Public Law 104–  
5 104; 110 Stat. 111) is amended—

6 (1) by striking “its regulations” and all that  
7 follows through “by eliminating” and inserting “its  
8 regulations (47 C.F.R. 73.3555) by eliminating”;

9 (2) by striking “; and” at the end of subpara-  
10 graph (A) and inserting a period; and

11 (3) by striking subparagraph (B).

12 **SEC. 4. NO GRANDFATHERING.**

13 (a) *IN GENERAL.*—*Notwithstanding any provision*  
14 *that permits a party to exceed the caps on local radio own-*  
15 *ership established by the Federal Communications Commis-*  
16 *sion in its media ownership proceeding, no party shall ex-*  
17 *ceed those caps 1 year after the date of enactment of this*  
18 *Act.*

19 (b) *DEFINITIONS.*—*In this section:*

20 (1) *IN GENERAL.*—*Any term used in this section*  
21 *that is defined in section 3 of the Communications*  
22 *Act of 1934 (47 U.S.C. 153) has the meaning given*  
23 *that term in that section.*

24 (2) *MEDIA OWNERSHIP PROCEEDING.*—*The term*  
25 *“media ownership proceeding” means the Federal*





1 **SEC. 6. PUBLIC HEARING REQUIREMENT.**

2 *Section 202(h) of the Telecommunications Act of 1996*  
3 *is amended by adding at the end “Before making any deter-*  
4 *mination under this subsection concerning an ownership*  
5 *rule or regulation, the Commission shall hold no less than*  
6 *5 public hearings in different areas of the United States*  
7 *with respect to that rule or regulation.”.*

8 **SEC. 7. RESTORATION OF CROSS-OWNERSHIP RULES.**

9 *(a) IN GENERAL.—The cross-media limits rule adopt-*  
10 *ed by the Federal Communications Commission on June*  
11 *2, 2003 pursuant to its proceeding on broadcast media own-*  
12 *ership rules (MB Docket No. 02–277, MM Docket No. 01–*  
13 *235, MM Docket No. 01–317, and MM Docket No. 00–244)*  
14 *is hereby declared null and void. The rules pertaining to*  
15 *broadcast-newspaper and radio-television cross-ownership*  
16 *in effect on June 1, 2003 are hereby reinstated as they were*  
17 *in effect on June 1, 2003, and shall be applied by the Com-*  
18 *mission retroactively to June 2, 2003.*

19 *(b) RURAL STATE EXEMPTION.—Notwithstanding*  
20 *anything to the contrary under the Commission’s broadcast-*  
21 *newspaper cross-ownership rules, in a small market with*  
22 *a Designated Market Area of 150 or higher, the public util-*  
23 *ity commission of the State or States in which such market*  
24 *is located may recommend, on a case-by-case basis, that the*  
25 *Commission grant a waiver of such cross-ownership rules*  
26 *if the public utility commission finds that the proposed*

1 *transaction for which the waiver is required will enhance*  
2 *local news and information, promote the financial stability*  
3 *of a newspaper, radio station, or television station, or other-*  
4 *wise promote the public interest. The Commission may ap-*  
5 *prove such recommendation within 60 days after the Com-*  
6 *mission receives it unless there is compelling evidence that*  
7 *the transaction to which the recommendation relates would*  
8 *be contrary to the public interest. If the Commission grants*  
9 *the recommended waiver each newspaper, radio station,*  
10 *and television station covered by the waiver shall maintain*  
11 *a separate editorial board and the editorial views of each*  
12 *of those boards shall be broadcast or printed, as the case*  
13 *may be, whenever the editorial views of one of the other*  
14 *boards are broadcast or printed.*

**Calendar No. 270**

108TH CONGRESS  
1ST SESSION

**S. 1046**

**[Report No. 108-141]**

---

---

**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.

---

---

SEPTEMBER 3, 2003

Reported with an amendment