

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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

**JOINT REPLY COMMENTS**

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## **EXECUTIVE SUMMARY**

The decades-old Local Radio Ownership Rule constrains local radio broadcasters' ability to compete for both audiences and advertising revenue, which directly impacts achievement of the Commission's goals of preserving localism and diversity in communities across America. In today's media marketplace, radio broadcasters face fierce competition from digital audio platforms for both audience and advertising revenues. The empirical data submitted by the Joint Commenters with their Joint Comments and with these Joint Reply Comments demonstrates that today's media landscape is entirely different than that which existed when the Local Radio Ownership Rule was adopted in 1996.

Section 202(h) of the Telecommunications Act of 1996 mandates that the Commission take a deregulatory perspective in determining whether the Local Radio Ownership Rule remains necessary as a result of competition. Contrary to some commenters' assertions, Section 202(h) does not allow the Commission to strengthen its ownership rules. Rather, Section 202(h)'s text and legislative history, in addition to recent court decisions, make it clear that Congress intended that the Commission review the necessity of its ownership rules every four years to ensure that the broadcast service remains competitively viable in the media marketplace. To do so effectively, Congress intended that the Commission consider competition across the entire media industry—not just competition among over-the-air radio stations.

Commenters supporting the retention of the current ownership restrictions do not provide any new studies or data supporting their conclusion that over-the-air radio is somehow a unique and separate audio service that only faces competition from other radio stations. These commenters do not—and cannot—dispute the detailed statistical data and marketplace analysis submitted by the Joint Commenters and others demonstrating the permanent, structural changes in the marketplace that have occurred since the local radio ownership caps were established almost 30 years ago. This

data makes clear that the proper market is much broader as radio competes *directly* against digital media for both advertising revenue and audience since both advertisers and listeners consider digital audio services to be direct substitutes for broadcast radio.

While some commenters argue that localism and diversity could be negatively affected if greater local ownership is allowed, the stark truth is that radio broadcasters cannot continue serving their local communities and listeners if they cannot effectively compete in today's media marketplace. Moreover, retaining the status quo will not resolve the issues plaguing the radio industry, and will instead only make them worse. Broadcasters must be able to expand their reach to fight back effectively against the Tech giants that now dominate local advertising sales and audience reach, which they can do only if the broadcast ownership rules are eliminated. The current trends unequivocally demonstrate that Big Tech companies and other out-of-market digital platforms are eroding radio's advertising base and audience share by offering broad and diverse audio products that are not subject to any regulation. Broadcast radio's survival depends on the ability of broadcasters to themselves offer a broad and diverse product in their local markets, which they cannot do when limited by the ownership rules. By increasing their scale, radio will be able to provide a better product by reaching a broader audience that will allow them to compete with digital media.

As no data has been supplied to refute the Joint Commenters' conclusions, the decision is clear: the Commission must act quickly to eliminate unnecessary regulations that prevent local radio broadcasters from adapting to, and competing in, the ever-evolving digital world. Failure to provide regulatory relief to allow local broadcasters to achieve scale in their markets will inevitably result in digital media's irretrievable erosion of local radio's audience and revenues—to the detriment of the local communities and listeners that radio broadcasters serve. Accordingly, the

Joint Commenters urge the Commission to eliminate the Local Radio Ownership Rule to ensure the future viability of radio broadcasting for the benefit of all Americans.

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Connoisseur Media, LLC (“Connoisseur”), Mid-West Family Broadcasting (“Mid-West Family”), Midwest Communications, Inc. (“Midwest Communications”), Townsquare Media, Inc. (“Townsquare”), Bonneville International Corporation (“Bonneville”), Legend Communications, LLC (“Legend Communications”), and the Frandsen Family Stations (“Frandsen,” collectively, the “Joint Commenters”),<sup>1</sup> hereby submit their reply comments in

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<sup>1</sup> For a description of the Joint Commenters, *see* Joint Comments of Connoisseur Media, LLC, Mid-West Family Broadcasting, Midwest Communications, Inc., Townsquare Media, Inc., Bonneville International Corporation, Legend Communications, LLC, and the Frandsen Family Stations, MB Docket No. 22-459, at n.1 (filed Dec. 17, 2025) (“2025 Joint Initial Comments”). As noted below, many of these same companies filed extensive comments earlier in the 2022 Quadrennial Review and in the 2018 Quadrennial Review, and intervened to represent radio interests in the Eighth Circuit’s review of the Commission’s decision in the 2018 Quadrennial Review. As the majority of the current Joint Commenters have been parties to these prior filings, all prior filings will be referred to herein as filings of the Joint Commenters. *See* Joint Comments of Connoisseur Media, LLC, *et al.*, MB Docket No. 18-349 (filed Apr. 29, 2019) (“2019 Joint Initial Comments”); Joint Reply Comments of Connoisseur Media, LLC, *et al.*, MB Docket No. 18-349 (filed May 29, 2019); Joint Comments of Connoisseur Media, LLC, *et al.*, MB Docket No. 18-349 (filed Sept. 1, 2021); Joint Reply Comments of Connoisseur Media, *et al.*, MB Docket No. 18-349 (filed Oct. 1, 2021); Joint Comments of Connoisseur Media, LLC, *et al.*, MB Docket No. 22-459 (filed Mar. 3, 2023) (“2023 Joint Initial Comments”); Joint Reply Comments of Connoisseur Media, LLC, *et al.*, MB Docket No. 22-459 (filed Mar. 20, 2023) (“2023 Joint Reply Comments”).

response to the Commission’s *Notice of Proposed Rulemaking* (“NPRM”), dated September 30, 2025, in the above-referenced proceeding.<sup>2</sup>

## I. INTRODUCTION

In reviewing whether the Local Radio Ownership Rule remains in the public interest, Section 202(h) of the Telecommunications Act of 1996 (the “1996 Act”) requires that the Commission assess the current status of competition in the radio marketplace and choose between (1) maintaining the status quo or (2) eliminating or relaxing the rule.<sup>3</sup> In this proceeding, almost all industry commenters support the relaxation or elimination of the rules, and most of the advocacy groups opposing the relaxation or elimination of any local ownership rules focus not on radio, but instead on the local television ownership rules without mentioning the radio rules at all.<sup>4</sup> Others, while primarily focusing on the video marketplace, address radio in a cursory manner, provide no empirical studies of the audio marketplace, and simply lump the Local Radio Ownership Rule in with those rules applicable to television. The few comments opposing relaxation or elimination of the rules that focus on radio rely on unproven canards that modifying or repealing the radio rules will somehow lessen format choices for local listeners,

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<sup>2</sup> See generally 2022 Quadrennial Review, et al., MB Docket No. 22-459, Notice of Proposed Rulemaking, FCC 25-64 (rel. Sept. 30, 2025) (“NPRM”).

<sup>3</sup> See *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828, 860-61 (8th Cir. 2025) (“Section 202(h) . . . provides for a two-step process. First, the Commission determines whether any of the regulations subject to review are necessary in the public interest as the result of competition. If the rules are no longer necessary, *the Commission has two choices: repeal or modify*. If the rules remain necessary in the public interest, however, the inquiry and the FCC’s authority end.” (emphasis added)). See also *infra* note 20 and accompanying text.

<sup>4</sup> See, e.g., Comments of the American Television Alliance, MB Docket No. 22-459 (filed Dec. 17, 2025); Comments of the NCTA – The Internet & Television Association, MB Docket No. 22-459 (filed Dec. 17, 2025); Comments of Newsmax Media, Inc., MB Docket No. 22-459 (filed Dec. 16, 2025); Comments of DIRECTV, LLC, MB Docket No. 22-459 (filed Dec. 17, 2025).

deprive them of local news and information, harm AM radio, and otherwise be contrary to the public interest.<sup>5</sup> These claims simply do not withstand scrutiny.

The commenters opposing relaxation or elimination of the rules rely upon ostrich-like claims that the audio marketplace remains unchanged almost 30 years after the Local Radio Ownership Rule was initially adopted. They somehow believe that the challenges currently faced by the radio industry will be solved only by keeping the ownership rules in their current state, or by tightening those rules. None of these commenters explain how doing nothing and keeping the current rules in place will stem the erosion of audience and advertisers from radio to digital platforms. Instead, due to the fierce competition to radio posed by satellite and digital audio platforms for local advertising revenue and audience share, the Commission’s broadcast ownership limits place radio broadcasters in an existential crisis as they can no longer compete effectively in the 21<sup>st</sup> Century audio marketplace. The Commission must act now to repeal the Local Radio Ownership Rule to enable broadcasters to continue to compete in the current media marketplace and to continue serving their local communities.

The data provided by the Joint Commenters makes it apparent now more than ever before that the decades-old Local Radio Ownership Rule artificially constrains local radio broadcasters’ ability to compete for both audiences and advertising revenue. Local broadcasters’ operations

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<sup>5</sup> See, e.g., Comments of musicFIRST Coalition & Future of Music Coalition, MB Docket No. 22-459, at 3 (filed Dec. 17, 2025) (“2025 musicFIRST and FMC Comments”) (“Increasing FM ownership caps would necessarily result in a reduction in the number of independent owners in local markets,” which “would weaken intramodal/intragroup competition, and undermine localism and diversity . . . .”); Comments of the National Association of Black Owned Broadcasters, a Division of U.S. Black Chambers, Inc., MB Docket No. 22-459, at 4 (filed Dec. 17, 2025) (“2025 NABOB Comments”) (“[R]epeal or relaxation of the Local Radio Ownership Rule will lead to another wave of consolidation, which will create another new set of barriers to entry for new entrepreneurs. Thus, maintaining the existing rule will promote competition, localism and viewpoint diversity . . . .”).

are under assault by massive out-of-market Big Tech companies who are not shackled by the outdated ownership limits that threaten the survival of the broadcast industry. As stated in the Joint Commenters' 2025 comments, in the last 12 years, *radio has lost about half of its audience and almost half of its advertising dollars without adjusting for inflation.*<sup>6</sup> At the same time, the listenership of digital competitors has exploded, and over two-thirds of all local advertising dollars—the lifeblood of local radio—now goes to digital platforms (up from only 26% in 2013).<sup>7</sup> These Big Tech companies dominate the local advertising marketplace and are now the dominant players in the audio listening market. Claims that this competition should be ignored in evaluating whether to retain the current rules simply make no sense.

The comments—*even those of some parties that oppose changing the Local Radio Ownership Rule*—overwhelmingly demonstrate that radio broadcasters face ever-increasing competition from non-broadcast audio platforms for audience and advertisers.<sup>8</sup> Some

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<sup>6</sup> 2025 Joint Initial Comments at 5.

<sup>7</sup> *Id.* at 15.

<sup>8</sup> See, e.g., Comments of the National Association of Broadcasters, MB Docket No. 22-459, at 11 (filed Dec. 17, 2025) (“2025 NAB Comments”) (“[B]roadcasters face unprecedented competition for audiences and the advertising revenues that sustain local station operations.”); Comments of Americom Limited Partnership and Reno Media Group, L.P., MB Docket No. 22-459, at 2 (filed Dec. 17, 2025) (stating that the “audio advertising marketplace today includes a host of new competitors for Radio that were nowhere to be found thirty years ago,” which “only exacerbates Radio’s competitive difficulties.”); Comments of the International Center for Law & Economics, MB Docket No. 22-459, at 6-7 (filed Dec. 17, 2025) (“ICLE Comments”) (“The Local Radio Ownership Rule[’s] . . . . continued existence stifles investment, prevents efficiencies, and harms listeners by weakening local radio stations’ ability to serve their communities.”); 2025 musicFIRST and FMC Comments at 2-3 (noting the increased competition to radio from non-broadcast audio platforms but opposing eliminating or relaxing the Local Radio Ownership Rule); Comments of The Archival Producers Alliance, *et al.*, MB Docket No. 22-459, at 14-18 (filed Dec. 17, 2025) (“The Archival Producers Alliance, *et al.*, Comments”) (opposing changes in the ownership rules while noting the increased competition from internet and social media sources while claiming that these sources do not substitute the importance of broadcasters to democratic engagement).

commenters argue that the proponents of eliminating the Local Radio Ownership Rule have not met their purported burden of showing the need to eliminate the ownership caps.<sup>9</sup> But they offer no countervailing empirical and statistical information to challenge the detailed statistical data on the audio marketplace from Edison Research (on audience trends) and Borrell Associates (on the local advertising market) offered by the Joint Commenters. The comments do not—and cannot—dispute the detailed statistical data and marketplace analysis submitted by both the Joint Commenters and others that demonstrate the permanent, structural changes in the marketplace since the local radio ownership caps were adopted almost 30 years ago.

The stark truth is that broadcasters cannot fulfill their public interest obligations if they cannot compete in today's audio marketplace. The old canards used by those opposing change in the Local Radio Ownership Rule—that localism and diversity will be negatively affected if greater local ownership is allowed—no longer hold water. The ownership rules are not responsible for less minority and local ownership. Instead, competition from digital media is to blame. Greater local service cannot be provided without a broadcaster having the financial ability to provide that service, and the Local Radio Ownership Rule stands in the way of that necessary financial support. Greater diverse and local ownership cannot happen without access to capital, and the barriers to full competition from broadcasters explains that lack of capital. Who wants to financially back new operators when revenue and audience is down 50% in the last decade?<sup>10</sup> Leaving ownership rules in place will not provide investors with any reason to

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<sup>9</sup> See *infra* note 68.

<sup>10</sup> See 2025 Joint Initial Comments at 4 (“In the last 12 years, radio has lost about half of its audience and almost half of its advertising dollars (without adjusting for inflation).” (citing *id.* at Ex. A (Edison Research, *Share of Ear: Share of Time Spent Listening to Audio Services Q3 2025 Study* (Dec. 2025)), p. 4 (“2025 Share of Ear Exhibit”); *id.* at Ex. B (Borrell Associates, *2025 Digital Advertising Report* (Dec. 2025)), p. 7 (“2025 Borrell Exhibit”))).

change their reluctance to invest in broadcast radio. Even arguments that modifying or repealing the Local Radio Ownership Rule would undermine AM radio cannot withstand scrutiny as the problems facing AM radio have nothing to do with the ownership limits. These problems are technology based, and leaving the current rules in place will not solve AM’s problems.<sup>11</sup>

As detailed in these Reply Comments, both the legal and factual arguments made by commenters opposing relaxation or elimination of the rules cannot avoid what is an inescapable conclusion: the Commission must act *now* to eliminate unnecessary regulations that prevent local radio broadcasters from adapting to, and competing in, the ever-evolving digital world. The Commission’s failure to do so will inevitably result in digital media’s irretrievable erosion of local radio’s audience and revenues—to the detriment of the local communities and listeners that radio broadcasters serve.<sup>12</sup> Radio broadcasters must have the ability to challenge digital companies’ broad media service and product offerings by growing in their local markets to

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<sup>11</sup> Note that the most recently proposed solution for assisting AM broadcasters has nothing to do with the ownership rules, but instead is intended to provide AM stations with more opportunities to broadcast on the FM band. *See* Press Communications, LLC, *et al.*, Petition for Rulemaking (filed Dec. 22, 2025), *available at* <https://www.fcc.gov/ecfs/document/12222160012753/1> (“Press Communications, LLC, *et al.*, Petition for Rulemaking”).

<sup>12</sup> *See* 2025 NAB Comments at 10 (“[T]he FCC’s asymmetric *ex ante* rules now only function to prevent broadcasters from effectively competing for audiences, advertising revenue, and scarce investment capital. These outdated rules do not promote the FCC’s goals of competition, localism, or viewpoint diversity . . . and significantly impair local broadcast stations’ provision of . . . news, emergency information, and valued . . . programming in local communities . . . .” (citing Comments of the National Association of Broadcasters, MB Docket No. 17-318, at 6-25 (filed Aug. 4, 2025); Comments of the National Association of Broadcasters, MB Docket No. 18-349, at 15-19 (filed Sept. 2, 2021) (“2021 NAB Comments”); Comments of the National Association of Broadcasters, GN Docket No. 24-119, at 21-36 (filed June 6, 2024)); Comments of Beasley Media Group Licenses, LLC, MB Docket No. 22-459, at 11-12 (filed Dec. 17, 2025) (“Beasley Comments”) (“Broadcasters are stewards of localism – providing news, information, public service, and entertainment programming in local communities nationwide. If the Commission is committed to maintaining localism as a core component of media policy and American life, it must modify the Local Radio Ownership Rule.”)).

counteract the billions of dollars in advertising revenue and millions of listeners lost to digital platforms. Without being able to more effectively compete for revenue and listeners, the important services provided by radio broadcasters to their local communities are no longer sustainable, and the exact harm feared by those who oppose the elimination or relaxation of the Local Radio Ownership Rule will be realized: a media landscape that is severely lacking local content and diverse, local voices. Thus, the Joint Commenters reiterate their previous requests that the Commission eliminate the Local Radio Ownership Rule once and for all to ensure the future viability of radio broadcasting for the benefit of all Americans.

## **II. SECTION 202(H) MANDATES THAT THE COMMISSION MAINTAIN A DEREGULATORY PERSPECTIVE FOCUSED ON COMPETITION IN REVIEWING ITS MEDIA OWNERSHIP RULES**

Several commenters continue to reject the commonsense reading of Section 202(h) of the 1996 Act that the Commission pursue a deregulatory path in assessing whether its media ownership rules remain “necessary in the public interest as a result of competition,” and to “repeal or modify any regulation [that it] determines to be no longer in the public interest.”<sup>13</sup> As explained below and in the Joint Commenters’ comments in this proceeding, the argument that Section 202(h) requires anything other than a deregulatory approach based on an assessment of the degree of competition faced by broadcasters is legally and practically inaccurate. Moreover, the Commission must conclude that the competition analysis under Section 202(h) extends to *all* competition faced by *broadcasters*—not just competition that broadcasters experience from other broadcasters.

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<sup>13</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12 (1996) (“1996 Act”). *See also* Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3 (2004) (amending Sections 202(c) and 202(h) of the 1996 Act).

**A. Section 202(h) Prescribes a Deregulatory Approach for the Commission’s Review of its Broadcast Ownership Rules**

Commenters opposing relaxation or elimination of the ownership rules baselessly argue that the text of Section 202(h) and the accompanying language in the statute and legislative history do not really mean what they say when they express the purpose of the statute was to be deregulatory and to give the Commission the authority to review ownership rules as new technologies entered the marketplace.<sup>14</sup> The Archival Producers Alliance, *et al.*, echo the Commission’s conclusion in the *2018 Quadrennial Review Order* that Section 202(h) does not compel deregulation, but rather “permits the Commission to retain existing ownership limits and, where the record justifies it, strengthen those safeguards to protect competition, localism and viewpoint diversity.”<sup>15</sup> The Archival Producers Alliance, *et al.*, also claim that the conclusion of

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<sup>14</sup> The 1996 Act’s Preamble confirms that the quadrennial review is intended to “promote competition and reduce regulation . . . .” 1996 Act at Preamble, 110 Stat. at 56. The legislative history makes clear that Congress meant that the Commission in this review would assess competition in the broader media marketplace, of which broadcasters are only one part. The House Committee considering the legislation explained that “[t]he audio and video marketplace . . . has undergone significant changes over the past fifty years and the scarcity rationale for government regulation no longer applies.” H.R. REP. NO. 104-204, at 54 (1995). The committee went on to cite myriad technologies new at the time of the legislation as examples of the competitive forces faced by broadcasters that warranted the Quadrennial Review. *See id.* at 54-55. While the technologies described by Congress were principally video technologies (probably because most of today’s audio competition did not yet exist in 1996), the recognition of new and future competitors led the drafters to a conclusion equally applicable to audio:

To ensure the industry’s ability to compete effectively in a multichannel media market, Congress and the Commission must reform Federal policy and the current regulatory framework to reflect the new marketplace realities. To accomplish this goal, the *Committee chooses to depart from the traditional notions of broadcast regulation and to rely more on competitive market forces*. In a competitive environment, arbitrary limitations on broadcast ownership . . . are no longer necessary.

*Id.* at 55 (emphasis added).

<sup>15</sup> The Archival Producers Alliance, *et al.*, Comments at 5 (citing *2018 Quadrennial Regulatory Review*, *et al.*, Report and Order, 38 FCC Rcd 12782, 12790-91, ¶¶ 12-17 (2023)

the U.S. Court of Appeals for the Eighth Circuit in *Zimmer Radio of Mid-Missouri, Inc. v. FCC* that Section 202(h) does not permit the Commission to “tighten” its ownership rules during the quadrennial review, “appears to be dictum, as it was unnecessary to the bottom-line holding” in that decision.<sup>16</sup> In contrast, musicFIRST Coalition and Future of Music Coalition (“musicFIRST and FMC”) seem to accept what the Eighth Circuit said, but observe that the holding in *Zimmer* “differed with the Third Circuit’s decision” in *Prometheus I* regarding “whether it is permissible for the Commission, when applying Section 202(h) . . . , to make any of its media ownership rules *more* stringent than before”—thereby creating a circuit split on the issue.<sup>17</sup> They also contend that the Eighth Circuit in *Zimmer* only held that “the FCC cannot tighten ownership restrictions under Section 202(h),” and not that the statute established a presumption in favor of deregulation.<sup>18</sup>

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(“2018 Quadrennial Review Order”); *Prometheus Radio Project v. FCC*, 373 F.3d 372, 395 (3d Cir. 2004) (“*Prometheus I*”); *NPRM* at ¶ 12).

<sup>16</sup> *Id.* at 7 (citing *Zimmer*, 145 F.4th at 860-61).

<sup>17</sup> 2025 musicFIRST and FMC Comments at 6 (citing *Zimmer*, 145 F.4th at 828 and 860). musicFIRST and FMC also erroneously claim that the U.S. Court of Appeals for the D.C. Circuit in *Fox Television Stations, Inc. v. FCC*, 293 F.3d 537 (D.C. Cir. 2002) (“*Fox II*”) retracted its earlier decision in *Fox Television, Inc. v. FCC*, 280 F.3d 1027 (D.C. Cir. 2002) (“*Fox I*”) that Section 202(h) carries a presumption in favor of repealing or modifying the ownership rules. 2025 musicFIRST and FMC Comments at 5. Instead, the D.C. Circuit’s decision in *Fox II* only “examined the precise meaning of the word ‘necessary’ in Sections 202(h) and 11 of the 1996 Act, *not whether there was a presumption in favor of deregulation.*” Reply Brief of Petitioners at 3-4, n.1, *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828 (8th Cir. 2025) (No. 24-1380) (“*Zimmer* Reply Brief”) (emphasis added) (citing *Fox II*, 293 F.3d at 538-40; *Cellco P’ship v. FCC*, 357 F.3d 88, 98-99 (D.C. Cir. 2004)). Therefore, as further explained below, both the D.C. Circuit in *Fox I* (as left unchanged by *Fox II*) and the Eighth Circuit in *Zimmer* concluded that Section 202(h) has a deregulatory presumption, while the Third Circuit in *Prometheus I* is the only court to conclude that Section 202(h) “does not foreclose the possibility of increased regulation . . . if the Commission finds such action in the public interest.” *Prometheus I*, 373 F.3d at 394.

<sup>18</sup> 2025 musicFIRST and FMC Comments at 7-8 (citing *Zimmer*, 145 F.4th at 860).

The Commission cannot accept these commenters' characterization of Section 202(h) because doing so would lead to absurd results that Congress clearly did not intend. "It would be bizarre to interpret the statute as though Congress authorized the FCC to add to or tighten an unnecessary rule" because the commenters' reading "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 . . . ."<sup>19</sup> The Eighth Circuit made this determination clear when it offered the following common sense reading of the statute, focusing on Congress' goal of the Commission relaxing or eliminating the ownership rules where dictated by competition:

Section 202(h) . . . provides for a two-step process. First, the Commission determines whether any of the regulations subject to review are necessary in the public interest as the result of competition. If the rules are no longer necessary, *the Commission has two choices: repeal or modify*. If the rules remain necessary in the public interest, however, the inquiry and the FCC's authority end. *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.*<sup>20</sup>

This is not dicta, but is instead a clear statement of Section 202(h)'s mandate. If the word "modify" in Section 202(h) means that the Commission could tighten its ownership rules, "the Commission could use Section 202(h) proceedings to resurrect previously-repealed rules."<sup>21</sup> "An interpretation that creates such 'absurd' results cannot be the best reading of the statute" and must be rejected.<sup>22</sup>

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<sup>19</sup> 2025 NAB Comments at 13 and 16.

<sup>20</sup> *Zimmer*, 145 F.4th at 860-61 (emphasis added) (citing *Landstar Exp. Am., Inc. v. Fed. Mar. Comm'n*, 569 F.3d 493, 498 (D.C. Cir. 2009) ("A statutory outcome is absurd if it defies rationality."))).

<sup>21</sup> *Zimmer* Reply Brief at 8.

<sup>22</sup> *Id.* (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024); *Darling v. Bowen*, 878 F.2d 1069, 1075-76 (8th Cir. 1989)). Indeed, the NAB explains why the Third Circuit's contrary reading of Section 202(h) in *Prometheus I* conflicts with Congress's intent and therefore must be rejected. *See* 2025 NAB Comments at 15-16.

Section 202(h)’s text and legislative history clearly demonstrate that Congress intended that the Commission take a deregulatory approach in reviewing its broadcast ownership rules during the quadrennial review.<sup>23</sup> Section 202(h) “established a presumption in favor of deregulation” because “Congress wanted to ensure broadcasters could continue to compete in light of emerging technologies.”<sup>24</sup> Even the Third Circuit conceded in *Prometheus I* that “[t]he text and legislative history of the 1996 Act indicate that Congress intended periodic reviews to operate as an ‘ongoing mechanism to ensure that the Commission’s regulatory framework would keep pace with the competitive changes in the marketplace,’” and that Section 202(h) “‘was enacted in the context of deregulatory amendments.’”<sup>25</sup> Similarly, the D.C. Circuit found in *Fox I* that “in the 1996 Act[,] ‘Congress set in motion a process to deregulate’ the broadcast industry’s structure, . . . by eliminating or relaxing a number of ownership restrictions,” and “Section 202(h) follows those provisions . . . .”<sup>26</sup>

FCC Chairman Carr has agreed with the D.C. Circuit and the Eighth Circuit’s deregulatory reading of Section 202(h). In his dissent to the *2018 Quadrennial Review Order*, then-Commissioner Carr stated that the Commission has “‘consistently ignored Congress’s deregulatory mandate’” under Section 202(h).<sup>27</sup> Chairman Carr later stated in a separate proceeding that the quadrennial review was “‘a proceeding that Congress directed’” the

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<sup>23</sup> See 2025 Joint Initial Comments at 11-12.

<sup>24</sup> Brief of Petitioners at 24, *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828 (8th Cir. 2025) (No. 24-1380) (citing S. REP. No. 104-23 at 1-5 (1995)).

<sup>25</sup> *Id.* at 23 (quoting *Prometheus I*, 373 F.3d at 391 and 394).

<sup>26</sup> 2025 NAB Comments at 16-17 (quoting *Fox I*, 280 F.3d at 1033).

<sup>27</sup> See 2025 Joint Initial Comments at 10 (quoting *2018 Quadrennial Review Order*, 38 FCC Rcd at 12873 (Comm’r Carr, dissenting)).

Commission to “undertake for purposes of reducing regulations.”<sup>28</sup> Former Commissioner Simington has also found that according to Section 202(h)’s deregulatory mandate, “the Commission [] should have eliminated or loosened the Local Radio Ownership Rule, as the factual record regarding the competitive environment in the audio marketplace clearly supports that conclusion.”<sup>29</sup>

Congress clearly intended that the Commission take a deregulatory approach in reviewing its broadcast ownership rules under Section 202(h). Accordingly, the Joint Commenters believe that the Commission must follow the deregulatory approach prescribed by the *Zimmer* court in determining whether to modify or repeal the radio ownership limits in this proceeding.

**B. Section 202(h) Requires that the Commission Consider Competition Across the Entire Audio Marketplace in Reviewing its Broadcast Ownership Rules**

Even though Section 202(h) clearly states that the Commission must determine whether its broadcast ownership rules remain necessary in the public interest as a result of competition, the commenters opposing relaxation or elimination of the rules contend that competition is not the primary factor to be considered by the Commission. The Archival Producers Alliance, *et al.*, claim that the U.S. Supreme Court concluded in *FCC v. Prometheus Radio Project* (“*Prometheus III*”) that Section 202(h) “requires the agency to reassess whether its rules continue to serve competition, localism, and viewpoint diversity,” while “leaving the ultimate

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<sup>28</sup> See 2025 NAB Comments at 13 (quoting *Political Programming and Online Public File Requirements for Low Power Television Stations, et al.*, Notice of Proposed Rulemaking, 39 FCC Rcd 6318, 6396 (2024) (Comm’r Carr, dissenting)).

<sup>29</sup> 2025 Joint Initial Comments at 10 (quoting *2018 Quadrennial Review Order*, 38 FCC Rcd at 12875 (Comm’r Simington, dissenting)).

calibration” of those factors “to the Commission’s expert judgment.”<sup>30</sup> musicFIRST and FMC also claim that the Eighth Circuit in *Zimmer* did not conclude that “competition is the overriding factor in analyzing whether a given rule is in the public interest.”<sup>31</sup> Rather, they claim that competition, localism, and viewpoint diversity must be accorded equal weight by the Commission under Section 202(h) because the U.S. Supreme Court in *Prometheus III* “repeatedly refer[red] to ‘competition, localism, and diversity’ as a trio, never elevating competition above the other two elements.”<sup>32</sup>

The reliance on the Supreme Court’s decision, which upheld deregulatory actions of the Commission and overturned a Court of Appeals decision that had relied on factors other than competition to reject the Commission’s decision, certainly does not provide strong support for these parties’ claims that competition should not be the factor driving the FCC’s analysis of whether to retain the ownership rules. Deregulation when called for by changes in competition is the most logical reading of Section 202(h), a reading which is supported by the 1996 Act’s legislative history. “[C]ompetition is the *only public interest factor* Congress specifically identified in Section 202(h),” and therefore “‘competition’ in Section 202(h) is best understood as the lens through which the public interest need for the ownership rules must be viewed.”<sup>33</sup> The 1996 Act’s legislative history demonstrates “Congress’s focus on broadcasting’s competitiveness,” and states that “‘promoting competition’, along with ‘reduc[ing] regulation,’

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<sup>30</sup> The Archival Producers Alliance, *et al.*, Comments at 6 (citing *FCC v. Prometheus Radio Project*, 592 U.S. 414, 419 (2021) (“*Prometheus III*”)).

<sup>31</sup> 2025 musicFIRST and FMC Comments at 7 and 8 (citation omitted).

<sup>32</sup> *Id.* at 8-9 (citing Amicus Brief of Common Cause, *et al.*, at 23, *Zimmer Radio of Mid-Missouri, Inc. v. FCC*, 145 F.4th 828 (8th Cir. 2025) (No. 24-1380)).

<sup>33</sup> 2025 NAB Comments at 20 (emphasis added).

are the purposes of the 1996 Act.”<sup>34</sup> This reflects “Congress’ understanding that “[t]o ensure the [broadcast] industry’s ability to compete effectively,’ . . . [Congress] and ‘the Commission must reform Federal policy and the current regulatory framework to reflect the new marketplace realities.”<sup>35</sup> Accordingly, “Congress’s specific focus on competition cannot be (re)written out of the statute.”<sup>36</sup>

The Commission “should view ‘competition’ in Section 202(h)’s first sentence broadly and consider competition in all its forms and from all sources” because “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.’”<sup>37</sup> The Commission erroneously concluded in the *2018 Quadrennial Review Order* that broadcast radio constituted a separate marketplace from other audio platforms because advertisers and listeners did not view different audio sources as substitutes for one another.<sup>38</sup> All of the empirical data provided by the Joint Commenters in

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<sup>34</sup> *Id.* (quoting 1996 Act, 110 Stat. 56).

<sup>35</sup> *Id.* (emphasis added) (quoting H.R. REP. NO. 104-204 at 55). *See also Prometheus III*, 592 U.S. at 419 (observing that Section 202(h) “requires the FCC to keep pace with industry developments and to regularly reassess how its rules function in the marketplace” (emphasis added)).

<sup>36</sup> 2025 NAB Comments at 22.

<sup>37</sup> *Id.*

<sup>38</sup> *See* 2025 Joint Initial Comments at 14-26 (explaining how Borrell’s updated data demonstrates that local advertisers view digital advertising as a direct substitute, and in some cases, a replacement, for radio advertising); *id.* at 27-45 (explaining how Edison’s updated data clearly demonstrates that listeners are increasingly turning to digital audio platforms at the expense of broadcast radio). *See also* 2018 *Quadrennial Review Order*, 38 FCC Rcd at 12803, ¶ 39 (concluding that advertisers did not view digital advertising as a substitute for broadcast radio advertising—despite acknowledging that “advertising dollars may have started to flow to other sources over time . . . .”); *id.* at 12802-03, ¶¶ 37-38 (concluding that digital offerings were more likely a substitute for listeners’ owned music rather than for radio).

their 2025 comments demonstrates the opposite to be true for both local advertising and listener preferences.<sup>39</sup>

Again applying common sense to the analysis, why would Congress instruct the Commission to review competition to broadcasters in deciding whether the rules remained necessary if it did not mean competition in its broadest sense? If Congress intended the Commission to simply assess competition among broadcasters, why call for a review of that competition every four years when the intra-broadcast marketplace changes little, if at all in that period? Did Congress intend that the Commission make its decisions on which programming formats were most successful in the past four years, or which media campaign brought the most listeners to a station? These are the kinds of changes that occur within the broadcast market, and they clearly do not provide any basis for regularly reviewing the ownership rules. If digital audio sources are not part of the required analysis, the Commission would not need to review the ownership rules every four years. Instead, the regulatory “inertia” about which the Eighth Circuit warned would prevail.<sup>40</sup> The Commission could just leave the ownership restrictions on radio in place forever—with the assurance that radio fades into obscurity.

The Commission cannot be permitted to abdicate its mandate under Section 202(h) to review the need for the broadcast ownership rules based on competition in the limited fashion urged by those opposing relaxation or elimination of the rules. Instead, the Commission must acknowledge the entire audio marketplace is relevant to analyzing whether its radio ownership rules remain in the public interest as a result of competition.

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<sup>39</sup> See 2025 Joint Initial Comments at 14-26 (Borrell data) and 27-45 (Edison data).

<sup>40</sup> See *id.* at 10-11 (“Section 202(h) establishes an iterative process that ensure[s] that the FCC’s ownership rules do not remain in place simply through inertia.” (quoting *Zimmer*, 145 F.4th at 828 (internal quotation omitted))).

### **III. THE DATA DEMONSTRATES THE INDISPUTABLE FACT THAT RADIO COMPETES WITH DIGITAL MEDIA FOR ADVERTISING REVENUE AND LISTENERS**

Going beyond the statutory analysis above to look at the substantive comments made by those who oppose any change to the Commission’s ownership rules, perhaps the biggest fallacy is some commenters’ assertion that broadcast radio is a market unto itself that operates in a vacuum immune from the effects of digital media. These commenters conclude that over-the-air radio is somehow different than all of its audio competitors and that difference means that the Commission does not need to evaluate competition from non-broadcast audio sources in determining whether to modify or eliminate the Local Radio Ownership Rule.<sup>41</sup> Any review of the data provided by the Joint Commenters demonstrates that there is in fact direct competition from digital media for both audience and advertisers. Broadcasters face this direct competition every day, and that very real competition must be included in any review of the ownership restrictions that apply only to broadcasters.<sup>42</sup> Those opposed to relaxation or elimination of the rules provide no data to refute the showings of the Joint Commenters, the NAB, and other supporters of change. Given that there is no competing data (and that data showing that

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<sup>41</sup> See, e.g., 2025 NABOB Comments at 24 (“Advertisers now allocate separate budgets for digital and broadcast, because they recognize that these media reach consumers in very different ways and neither can reach consumers in the manner of the other.”); 2025 musicFIRST and FMC Comments at 10-11 (“Pro-deregulatory broadcasters have [] long-asserted, falsely, that the only kind of competition that matters in AM/FM radio is what the Commission has referred to as ‘intermodal’ or ‘intergroup’ competition between the entire AM/FM industry as a whole and non-broadcast platforms that compete for audience and ad dollars.” (citations omitted)); Comments of Screen Actors Guild-American Federation of Television and Radio Artists, MB Docket No. 22-459, at 5 (filed Dec. 17, 2025) (“SAG-AFTRA Comments”) (“The broadcast industry and associated markets differ quite significantly from most others . . . . As public trustees of the airwaves, the competitive focus for market participants must be on serving the public interest, not maximizing corporate and shareholder profits.”).

<sup>42</sup> See Edison Research, et al., *The Infinite Dial 2025*, at 29 (Mar. 20, 2025) (“Infinite Dial 2025”), <https://www.edisonresearch.com/wp-content/uploads/2025/03/The-Infinite-Dial-2025-Presentation.pdf>; 2025 Joint Initial Comments at 2025 Share of Ear Exhibit, p. 4.

broadcasters are immune from competition from these other sources likely does not exist), the Commission must conclude that today's marketplace is radically different from that of 1996 when the Local Radio Ownership Rule was adopted. Broadcasters competing today must be able to expand their reach to fight back effectively against the Tech giants that now dominate local advertising sales and local audio listening. The future of broadcasting depends on it. These changes in the marketplace are further discussed below, refuting any argument that the over-the-air radio market is unique.

**A. The Data Shows that Broadcast Radio Competes Directly with Digital Media for Listeners**

In their 2025 comments, the Joint Commenters demonstrated through detailed statistical analysis that, over the last 12 years, there has been a profound shift in listeners' audio listening habits. Since 2012, radio has lost more than half of its listening, while digital media listening has exploded.<sup>43</sup> The trends are undeniable.

To further highlight the shift, it is important to remember the technological changes that have occurred since 1996 when the Local Radio Ownership Rule was adopted. In the late 1990s, only half of Americans had a computer in their home, and only a third of the population had Internet access.<sup>44</sup> In 2025, an estimated 262 million Americans, or 91% of Americans ages 12 or older, owned a smartphone—giving them immediate access to audio, video, and advertising content from the Tech giants everywhere they go.<sup>45</sup> In the home, 40% of Americans reported in 2025 that they *no longer owned a radio in their home*—a number much larger in younger

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<sup>43</sup> 2025 Joint Initial Comments at 27-45.

<sup>44</sup> See 2023 Joint Reply Comments at 3-4 (citing Edison Research, *et al.*, *The Infinite Dial 2023*, at 3 and 5 (Mar. 2, 2023) (“Infinite Dial 2023”), <https://www.edisonresearch.com/wp-content/uploads/2023/03/The-Infinite-Dial-2023.pdf>).

<sup>45</sup> Infinite Dial 2025 at 6.

demographics.<sup>46</sup> In vehicles, more and more Americans are migrating from using “traditional” radio receivers to newer audio devices such as digital and satellite audio platforms, with 40% of all vehicles in 2025 having phone integration directly to the car dashboard through integrated technologies such as Apple CarPlay and Android Auto, and 55% of listeners reporting that they have used online audio in their car in the last month.<sup>47</sup> Online audio is now used in the car by 82% of Americans between the ages of 18 and 34, while only 54% of that demographic uses over-the-air radio.<sup>48</sup>

This marked shift to the ubiquitous usage of digital technologies is reflected in the changes in Americans’ audio listening habits since 1996. Listening to online audio was available only to a limited number of early adopters when the Local Radio Ownership Rule was initially adopted.<sup>49</sup> Today, almost 79% of Americans (or an estimated 228 million Americans) listen to online audio on a monthly basis.<sup>50</sup> As noted in the 2025 Joint Comments, radio’s major audio competitors (e.g., YouTube, Spotify, Apple Music, Amazon Music, Pandora, etc.), did not even exist for over a decade after the adoption of the current rules.<sup>51</sup> Indeed, the dramatic shift in Americans’ audio listening habits is more acutely demonstrated by the fact that while only 2% of Americans ages 12 or older reported in 2000 that they listened to online audio on a weekly basis,

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<sup>46</sup> 2025 Joint Initial Comments at 46 (stating that “Forty percent of Americans age 12+, and 53% of Americans age 12-34, don’t have a traditional radio receiver in their home” (quoting Ex. D (Declaration of Larry Rosin), p. 1 (“Rosin Declaration”)); Infinite Dial 2025 at 9.

<sup>47</sup> Infinite Dial 2025 at 51 and 53.

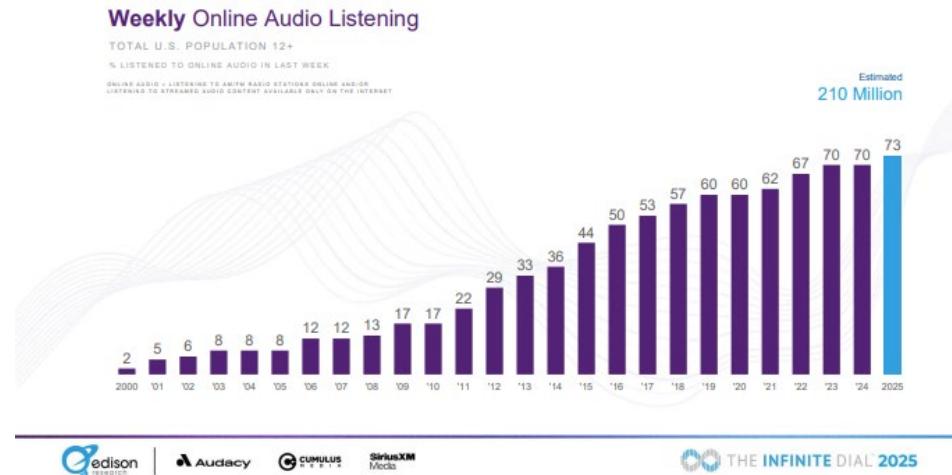
<sup>48</sup> *Id.* at 51-54.

<sup>49</sup> See 2023 Joint Reply Comments at 5 (stating that in 1998, only 6% of Americans ages 12 or older reported that they had *ever* listened to online audio (citing Infinite Dial 2023 at 4)).

<sup>50</sup> Infinite Dial 2025 at 28.

<sup>51</sup> See 2025 Joint Initial Comments at 12, n.31.

73% of Americans ages 12 or older (or an estimated 210 million Americans) reported in 2025 that they did so on a weekly basis:<sup>52</sup>



Podcasting is also at an all-time high. Edison reports that 73% of Americans ages 12 or older (or an estimated 210 million Americans) reported in 2025 that they not only had *listened* to podcasts but also had *watched* them.<sup>53</sup> Edison also reports that 55% of Americans are now monthly consumers of podcasts.<sup>54</sup> These statistics demonstrate that Americans audio listening habits have dramatically changed since 1996 as listeners embrace newer forms of audio platforms. Digital streaming has now traded places with traditional AM/FM radio as the indisputable dominant audio platform for Americans. As graphically depicted below, time spent listening to over-the-air radio has decreased by 50% in the last 12 years, while digital audio listening has doubled; and the time spent listening to online audio is now almost twice that of radio:<sup>55</sup>

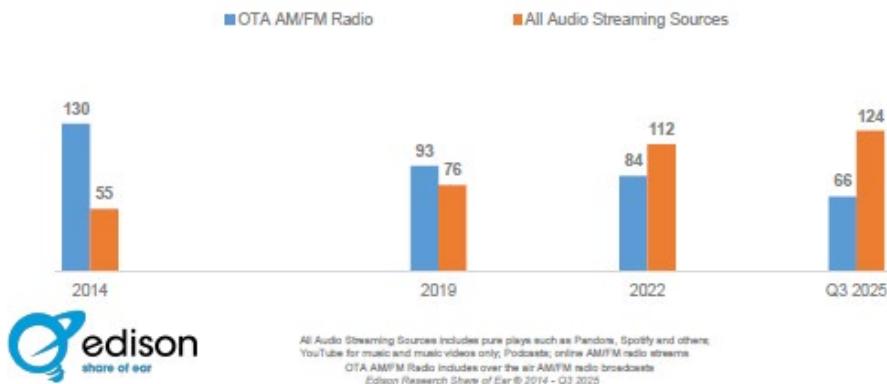
<sup>52</sup> Infinite Dial 2025 at 29.

<sup>53</sup> *Id.* at 39.

<sup>54</sup> *Id.* at 42.

<sup>55</sup> 2025 Joint Initial Comments at 2025 Share of Ear Exhibit, p. 4.

**U.S. Population 13+ Daily Time Spent  
Listening to Audio Sources in Minutes**



With the direct correlation between the loss of radio listening and the increase in the listening to digital audio sources, it is impossible to argue that radio is somehow unique and immune from competition with digital media. Some commenters submit that because radio is free, that somehow sets it apart from competition with digital services, some of which are paid or require paid internet service.<sup>56</sup> The migration of listening from radio to digital demonstrated in the charts above makes it clear that the cost of a digital audio service, or the cost of internet service, is not an impediment to listeners. As more people now have smartphones than over-the-air radio receivers in their homes,<sup>57</sup> to most consumers, the service that imposes a new cost is broadcasting as it would entail actually buying a radio, not getting an internet connection which most consumers already have. Moreover, for price-sensitive consumers, there are plenty of free, ad-supported digital services—from ad-supported Spotify to hundreds of thousands of free

<sup>56</sup> See *id.* at 45-47 (refuting the Commissions' conclusion in the *2018 Quadrennial Review Order* that broadcast radio's status as a free service makes it a unique and separate audio market).

<sup>57</sup> Compare *Infinite Dial 2025* at 6 (reporting that 91% of Americans ages 12 or older own a smartphone), with 2025 Joint Initial Comments at Rosin Declaration, p. 1 (stating that "Forty percent of Americans age 12+ . . . don't have a traditional radio receiver in their home").

podcasts.<sup>58</sup> The migration of audiences from radio to digital is real, and the evidence shows that audiences see different audio platforms as direct substitutes for one another. Commenters who argue that radio is somehow unique cannot find any support from the facts about the audio marketplace.

**B. The Data Shows that Broadcast Radio Competes Directly with Digital Media for Advertising Revenue**

The local advertising market has also profoundly changed since 1996 due to the increasing dominance of Big Tech. Borrell's report on local advertising competition provided with the Joint Commenters' 2025 Comments shows that digital media's local advertising revenue rose by 333% from \$24.7 billion in 2013 to a projected \$107 billion in 2025.<sup>59</sup> By contrast, radio's local advertising revenue has decreased by 43% from \$11.4 billion in 2013 to a projected \$6.5 billion in 2025.<sup>60</sup> Digital media is also projected to have 73% of all local advertising revenue in 2025:<sup>61</sup>

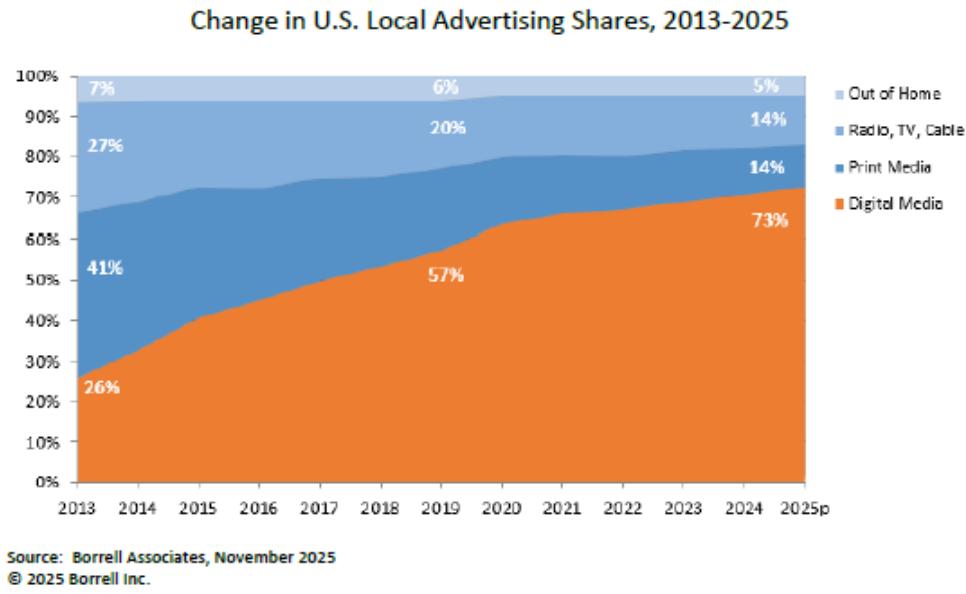
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<sup>58</sup> See, e.g., *Top 15 Free Podcasts*, Goodpods (Jan. 14, 2026), <https://goodpods.com/leaderboard/top-100-shows-by-category/other/free>; Jessica Petyo, *5 Best Free Music Streaming Apps That Don't Cost a Dime*, Rockform (Jan. 11, 2026), <https://www.rokform.com/blogs/rokform-blog/best-free-music-streaming-apps>; Doug Aamoth, *5 excellent free podcast apps for iOS and Android*, FastCompany (Aug. 18, 2025), <https://www.fastcompany.com/91383028/best-free-podcast-apps>; Jeffrey L. Wilson, *The Best Free Online Streaming Music Services for 2026*, PCMag (Mar. 5, 2025), <https://www.pcmag.com/picks/the-best-free-online-streaming-music-services>.

<sup>59</sup> 2025 Joint Initial Comments at 2025 Borrell Exhibit, p. 3.

<sup>60</sup> *Id.* at 2025 Borrell Exhibit, p. 6.

<sup>61</sup> *Id.*



Borrell reports that the majority of local advertising is now controlled by three Tech giants:

Alphabet (Google), Amazon, and Meta (Facebook).<sup>62</sup> In contrast, *no locally-based broadcast or print media entity in any market currently controls more than a 3% share of local advertising*, which is down from 6% in 2023.<sup>63</sup> And there has been a dramatic decline in the number of local businesses buying radio advertising, with annual radio advertiser expenditures decreasing by 66% between 2017 and 2025.<sup>64</sup>

These statistics are not anomalies. Joint Commenters' 2025 comments, and the declarations of broadcasters provided with those comments, provide myriad examples of radio competing directly with digital platforms for advertising dollars. As with listening, as digital's

<sup>62</sup> *Id.* at 2025 Borrell Exhibit, p. 2.

<sup>63</sup> *Id.*; 2023 Joint Initial Comments at Ex. F (Borrell – 2023 Digital Advertising Report), p. 2.

<sup>64</sup> 2025 Joint Initial Comments at 2025 Borrell Exhibit, p. 4. *See also id.* at Ex. M (Declaration of Ryan Hatch, Bonneville International Corporation), p. 1 (noting that Bonneville's Phoenix stations have seen a 25% decrease in advertising revenue from \$24 million in 2022 to only \$18 million in 2025 due to competition from digital media).

share of the advertising marketplace rose, radio's share fell.<sup>65</sup> As with the fight for audience share, the fight for advertising dollars cannot be reasonably disputed. Digital competitors barely imagined in 1996 now intensely compete with radio for both audience and revenue.<sup>66</sup>

The arguments of those opposed to relaxation or elimination of the rules that radio somehow exists in a bubble immune from competition with other media cannot be credited. Radio does not operate in a vacuum. Digital platforms are now direct substitutes for broadcast radio, and the Commission must consider the competition that these digital platforms pose in its assessment of the Local Radio Ownership Rule.

#### **IV. ARGUMENTS OF PUBLIC INTEREST HARMS FROM RELAXED OWNERSHIP RULES CANNOT BE CREDITED—RELAXATION OF THE RULES WILL BENEFIT THE PUBLIC**

Despite the overwhelming evidence that radio competes in the same market as digital media—competition that is so great that it requires the Commission to conclude that the Local Radio Ownership Rule is no longer in the public interest—several parties raise specific concerns about the abolition of the rule. Some commenters echo the Commission's assertion in the *2018 Quadrennial Review Order* that relaxing or eliminating the broadcast ownership rules will not address the difficulties faced by broadcasters in today's media marketplace, and would instead be

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<sup>65</sup> See *id.* at 2025 Borrell Exhibit, p. 3 (showing that between 2013 and 2025, share radio, television, and cable's share of local advertising fell from 27% to 14%, while digital media's share rose from 26% to 73%). See also *supra* note 64 and accompanying text.

<sup>66</sup> See, e.g., 2025 Joint Initial Comments at 4-5 (“The correlation between the decreases in radio's audience and advertising revenue, and the growth of digital media's audience and advertising revenue, leads to the inescapable conclusion that these Tech companies are competitors” who “must be assessed in any analysis of the ownership rules . . .”); 2025 NAB Comments at 46 (“[L]ocal radio stations face intense and increasing competition for audiences from an expanding universe of . . . content providers accessible via virtually ubiquitous digital devices that strongly affect consumers' content choices. These trends have only accelerated since the last quadrennial review . . .” (citation omitted)); Beasley Comments at 7 (“That broadcast radio is now just one player among many in an integrated audio distribution market is confirmed not just by listenership statistics but also by the current state of local advertising.”).

harmful to broadcasters' communities and their audiences by reducing localism and viewpoint diversity.<sup>67</sup> The Archival Producers Alliance, *et al.*, and musicFIRST and FMC claim that broadcasters have failed to show that allowing broadcasters greater ownership in their local markets will mitigate the issues facing broadcasters while allowing them to meet their public interest obligations.<sup>68</sup> The Screen Actors Guild-American Federation of Television and Radio Artists ("SAG-AFTRA") claims that "[g]iven the existing scope of consolidation" in the broadcast market, "relaxation of the Rules will undoubtedly jeopardize localism and viewpoint diversity and could result in job loss and economic harm, particularly in local markets."<sup>69</sup> The Archival Producers Alliance, *et al.*, further assert that "[m]edia consolidation in local media markets adversely affects the quantity and quality of local news programming available to local communities."<sup>70</sup> These concerns are addressed below.

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<sup>67</sup> See *2018 Quadrennial Review Order*, 38 FCC Rcd at 12797, ¶ 28 ("[T]he record does not persuade us that further consolidation would meaningfully address the problems radio faces . . . [W]e find that allowing one entity to own more radio stations in a market . . . would harm competition without" allowing "station owners to compete more effectively with social media companies and national advertising platforms like Google and Facebook.").

<sup>68</sup> The Archival Producers Alliance, *et al.*, Comments at 27 (claiming that "the Commission lacks current, rigorous empirical data" showing that "economies of scale improve localism or viewpoint diversity, or to . . . assess the impact of new media on the traditional local broadcast market"); 2025 musicFIRST and FMC Comments at 11-12 (stating that "the NAB and pro-consolidation broadcasters have not met their burden to show that prior beneficiaries of . . . economies of scale have actually reinvested cost savings into programming that better meets the needs of local communities" (citations omitted)); *id.* at 12 (claiming that "'building scale' is no longer a viable solution to radio's competitive woes" because it "does not constitute the modernization that radio companies need . . . to meet competitive challenges" (citing Hartley Adkins, iHeartMedia President of Integrated Revenue Strategy, Remarks at FCC Symposium on Current and Future Trends in the Broadcast Radio and Television Industries, at 53:00 (Nov. 21, 2019), <https://www.fcc.gov/news-events/events/2019/11/symposiumcurrent-and-future-trends-broadcast-radio-and-television>) ("Adkins 2019 FCC Symposium Remarks"))).

<sup>69</sup> SAG-AFTRA Comments at 3.

<sup>70</sup> The Archival Producers Alliance, *et al.*, Comments at 8.

**A. Eliminating the Local Radio Ownership Rule Will Allow Broadcasters to Compete with Big Tech while Protecting Localism and Viewpoint Diversity**

Contrary to some commenters' claims, allowing broadcasters to own more radio stations in their markets will not degrade their local service but will, instead, enhance it. In their 2025 comments, the Joint Commenters provide several declarations from broadcasters demonstrating that repealing the Local Radio Ownership Rule is necessary to preserve and enhance localism and viewpoint diversity by allowing broadcasters to invest in their local communities.<sup>71</sup> The Joint Commenters have provided concrete examples of how the current rules inhibit their ability to attract advertising that is going to digital platforms, and how greater local ownership can overcome those concerns.<sup>72</sup>

Other broadcast groups have similarly shown the ways that providing broadcasters with relief from the current ownership rules will advance localism. The NAB discusses several empirical studies and provides a recent BIA study showing that repealing the broadcast ownership caps "will enhance station resources, enable broadcasters to improve their locally-oriented services, and . . . spur growth in the variety of programming on local radio stations."<sup>73</sup>

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<sup>71</sup> See 2025 Joint Initial Comments at 55-59 and 61-64 (citing *id.* at Ex. F (Declaration of Katie Philippi, Connoisseur Media, LLC) at 1 ("Philippi Declaration"); *id.* at Ex. G (Declaration of Kristin Okesson, Connoisseur Media, LLC) at 1-2 ("Okesson Declaration"); *id.* at Ex. J (Declaration of Ricky Mitchell, Connoisseur Media, LLC) at 1 ("Mitchell Declaration"); *id.* at Ex. K (Declaration of Michael Paterson, Mid-West Family Broadcasting) at 1-3; *id.* at Ex. L (Declaration of W. Lawrence Patrick, Legend Communications, LLC) at 2 ("2025 Patrick Declaration"); *id.* at Ex. N (Declaration of M. Kent Frandsen, Frandsen Family Stations) at 1 ("2025 Frandsen Declaration"); 2023 Joint Initial Comments at Ex. G (2023 Declaration of W. Lawrence Patrick), p. 2 ("First 2023 Patrick Declaration"); 2023 Joint Reply Comments at Ex. B (Second Declaration of W. Lawrence Patrick), p. 3 ("Second 2023 Patrick Declaration"); 2023 Joint Reply Comments at Ex. C (Declaration of Kristen Okesson), p. 1).

<sup>72</sup> See *id.*

<sup>73</sup> 2025 NAB Comments at 69. See also *id.* at 69-77; *id.* at Attach. A (BIA Advisory Services, *Thirty Years After Radio Deregulation: Has the Variety of Programming Expanded?* (Apr. 2025)).

“If allowed to grow,” the NAB adds, “local radio groups would have clear economic incentives . . . to provide new and different programming services, just as broadcasters did after passage of the 1996 Act.”<sup>74</sup> This “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 a lack of resources.”<sup>75</sup>

Other broadcasters tell similar stories. Beasley Media Group states that repealing radio ownership limits “will enable them to invest more heavily in digital content and platforms that appeal to local audiences, thereby increasing their ability to better compete in the digital space with their much larger competitors,” and “will also ensure they have sufficient resources to provide critical, life-saving information to local communities during emergencies.”<sup>76</sup> Beasley also asserts that “[f]ormat diversity will increase because combining operations will encourage owners to eliminate format duplication . . .”<sup>77</sup>

As for advertising, Beasley states that a “larger listener base will allow” broadcasters to “become more attractive to advertisers,” and “[a] larger group of stations with diverse formats will provide more targeted advertising opportunities for advertisers, . . . help[ing] broadcasters compete more effectively with digital competitors that specialize in targeting specific audiences.”<sup>78</sup> Beasley asserts that consolidation “will enable station groups to enhance their ability to provide local news and information.”<sup>79</sup>

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<sup>74</sup> *Id.* at 74 and 75.

<sup>75</sup> *Id.*

<sup>76</sup> Beasley Comments at 10.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 11 (citing Letter from Richard Hudson, Member of Congress, to Brendan Carr, Chairman, FCC (Mar. 28, 2025), *available at*

JVC Media LLC states that stronger radio clusters allow “more full-time staff and producers, more live/local content, more community involvement, more promotional activity, and more charitable and public-service initiatives.”<sup>80</sup> The Cromwell Group, Inc. asserts that “[e]liminating the Local Radio Ownership Rule will be great benefit to [local] communities” by allowing “local radio stations, some of which may be struggling to survive, to combine operations and become more viable.”<sup>81</sup> “Additional scale,” according to The Cromwell Group, “can mean the difference between maintaining a local newsroom and eliminating it altogether,” and “will allow stations to pool resources, share infrastructure, and reinvest savings into community-focused programming.”<sup>82</sup>

These examples show why greater scale in local markets will enhance, not detract, from localism. As the Joint Commenters previously stated and other commenters in this proceeding have noted, the newspaper industry serves as a cautionary tale as to what could happen to broadcast radio if the industry is not given them means to compete against Big Tech.<sup>83</sup> News and information programming demands resources, and resources will only come from successful

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[https://www.nab.org/documents/newsRoom/pdfs/032825\\_Media\\_Ownership\\_Letter.pdf](https://www.nab.org/documents/newsRoom/pdfs/032825_Media_Ownership_Letter.pdf) (stating that “[w]hen broadcasters cannot combine or expand operations, they struggle to maintain sufficient newsroom staff and invest in journalism”)).

<sup>80</sup> Comments of JVC Media LLC, MB Docket No. 22-459, at 2 (filed Nov. 18, 2025) (cleaned up).

<sup>81</sup> Comments of The Cromwell Group, Inc., MB Docket No. 22-459, at 3 (filed Dec. 17, 2025) (“The Cromwell Group Comments”).

<sup>82</sup> *Id.*

<sup>83</sup> See 2025 Joint Comments at 58-59 and 69; Comments of Gray Media, Inc., MB Docket No. 22-459, at 3 (filed Dec. 17, 2025) (“The Internet destroyed the advertising and distribution revenue that newspapers used to support their newsgathering operations, because subscribers could see information whenever and wherever they wanted and advertisers could pivot from classified ads to technologically superior options on the Internet like Craigslist, eBay, and Facebook Marketplace. Today, the broadcast industry faces similar challenges . . .”).

stations. Several of the Joint Commenters have provided information about local independently owned stations that are nothing but a satellite dish and a computer, providing little or no local service.<sup>84</sup> These stations have often approached members of the Joint Commenters with requests to be bought out, which the Local Radio Ownership Rule precludes.<sup>85</sup>

Indeed, “with the demise of local newspapers, radio often serves as the only outlet for news, information, and local expression.”<sup>86</sup> Radio must be enabled to fight back against Big Tech so that it can continue providing the local service that the listening public deserves and demands. Considering the ongoing trends, the radio industry cannot continue to endure the same ownership restrictions that it has faced for almost 30 years.

**B. The Data Supporting Commenters’ Arguments that Consolidation will lead to Less Programming Diversity is not the case in Individual Local Markets**

Similarly, those commenters arguing that relaxing or eliminating the ownership rules will lead to less programming diversity base their conclusions upon flawed studies and assumptions. The Archival Producers Alliance, *et al.*, claim that “the consolidation process results in representation of fewer diverse points of view for both financial and ideological reasons.”<sup>87</sup> The Archival Producers Alliance, *et al.*, base their conclusion on studies showing that “[a]fter local

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<sup>84</sup> See, e.g., 2025 Joint Comments at Okesson Declaration, p. 2 (“There are [] stations in our markets . . . that provide little or no meaningful local service . . . . Many stations remain locked and unstaffed during normal business hours while airing only satellite-fed music or syndicated shows.”); 2023 Joint Initial Comments at First 2023 Patrick Declaration, p. 1 (discussing stations that provided “no local news sports, weather, or emergency information . . . .They were simply juke boxes on the air” and “[t]heir programming consists of nothing but satellite-delivered music and a few repetitive liners”).

<sup>85</sup> See, e.g., 2019 Joint Initial Comments at Ex. C (Declaration of W. Lawrence Patrick, Patrick Communications LLC), p. 2 (“For years, our weaker competitors . . . have asked us to purchase their properties. We cannot do so under the current rules.”).

<sup>86</sup> The Cromwell Group Comments at 2-3.

<sup>87</sup> The Archival Producers Alliance, *et al.*, Comments at 19.

stations are purchased by larger national broadcast groups, uniform coverage of *national issues tends to increase*,” and that “even *regional consolidation* [] tends to lead to uniformity in coverage throughout stations in . . . a region . . .”<sup>88</sup> These commenters claim that this occurs because “national broadcast groups are financially motivated to shift coverage throughout their network towards topics that can be distributed in multiple markets rather than local issues.”<sup>89</sup> musicFIRST and FMC similarly claim that consolidation in the broadcast industry has also lead to stations airing “remotely produced nationally syndicated programming.”<sup>90</sup>

These commenters, however, mistakenly focus on programming diversity *across* markets rather than *within* individual local markets. While allowing one owner to own many stations in different markets may lead to some distribution in programming *nationally*, national ownership is not the issue before the Commission. The issue is instead whether allowing greater ownership *within a local* market will promote the public interest. Arguments about ownership across markets simply are not before the Commission in this proceeding.

The question here is whether allowing greater scale *in local markets* will lead to more diversity of programming *within* those markets. While commenters like musicFIRST and FMC contend that greater ownership will mean fewer format choices, this simply does not make sense. In a market with multiple owners, each owner is looking to maximize their audience share. Each owner will operate stations in the major formats to at least get a share of the audience that favors that format. So, you may have three country stations, or three light rock stations, all playing similar music as each owner wants to get a piece of the large market share that these formats

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<sup>88</sup> *Id.* (emphasis added) (citing Gregory J. Martin & Joshua McCrain, *Local News and National Politics*, 113 AM. POL. SCI. REV. 372 (2019)).

<sup>89</sup> *Id.* (citing Martin & McCrain, 113 AM. POL. SCI. REV. 372).

<sup>90</sup> 2025 musicFIRST and FMC Comments at 12 (citation omitted).

command. In a market without rival ownership groups, a local owner is not incentivized to compete with itself in these bigger formats, but to instead provide a greater diversity of music and other programming to reach a greater share of the local audience, just as the digital music services (which are not constrained in the formats that they offer) do.

This dynamic has been highlighted in the declarations provided by the Joint Commenters. Ricky Mitchell, the Market Manager for Connoisseur's Jackson, Mississippi stations, states that under the current broadcast ownership rules, the three main radio groups within the market are forced to "all compete with the same formats."<sup>91</sup> Mr. Mitchell states that an increased revenue base would "add more stations to our footprint," which "would allow us to add more and different formats," thereby "giv[ing] listeners more local choices for music . . ."<sup>92</sup> Similarly, Mr. Frandsen of Frandsen Family Stations observed that "[t]oday, the limitations of ownership have forced us to focus on formats with wider potential audiences to optimize the stations we have," but "having a bigger local platform would give us more resources . . . to do more to highlight the community and serve more people . . ."<sup>93</sup> These comments are logical—why would a broadcaster compete with itself in the same format when it could reach new audiences with new program offerings? It only makes sense that greater in-market ownership will improve broadcast programming diversity *within* local markets because an owner would have a financial incentive, along with the necessary revenue base, to offer more formats to reach everyone in that market.

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<sup>91</sup> 2025 Joint Initial Comments at Mitchell Declaration, p. 1.

<sup>92</sup> *Id.*

<sup>93</sup> 2019 Joint Initial Comments at Ex. C (Declaration of M. Kent Frandsen), p. 2.

### **C. Commenters' Arguments that Preserving the Status Quo is Necessary to Address the Issues Facing the Radio Industry is Irrational**

Some commenters illogically argue that preserving the status quo for the broadcast ownership rules is necessary to address the issues facing radio broadcasters. musicFIRST and FMC make two directly contradictory assertions to support their arguments. First, they state that “control of radio playlists consolidated among fewer programmers” following the 1996 Act’s passage, led to many listeners currently saying that “a main reason why they were listening less . . . to AM/FM radio . . . was because the music is too predictable on the radio.”<sup>94</sup> At the same time, they also argue that retaining the Local Radio Ownership Rule is necessary to ensure that “vibrant competitive local radio” continues to exist.<sup>95</sup> Is the radio too predictable or vibrant? These contradictory positions cannot be reconciled.

Similarly, the Archival Producers Alliance, *et al.*, discuss the problem with news deserts throughout the country by claiming that “[t]he ongoing lack of local news options means that any further consolidation of broadcast ownership will only exacerbate the existing information deficits,”<sup>96</sup> but never explain how leaving the rules as they are will address this problem. The National Association of Black Owned Broadcasters (“NABOB”) states that “Black owned radio stations are not receiving a . . . commensurate . . . share of advertising dollars,” and claims that the Local Radio Ownership Rule is the only “tool available to help slow the decline in Black American broadcast station ownership and to give that ownership an opportunity to grow . . .”<sup>97</sup> How does leaving the rules as they are improve the revenue share of Black owned radio? How

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<sup>94</sup> 2025 musicFIRST and FMC Comments at 2-3.

<sup>95</sup> *Id.* at 3.

<sup>96</sup> The Archival Producers Alliance, *et al.*, Comments at 24.

<sup>97</sup> 2025 NABOB Comments at 11 and 16.

will doing nothing address these perceived problems? These commenters offer no viable alternatives for improving the plight facing *all* broadcasters under the current regulatory regime.

And these commenters are not seeing the big picture. Without repealing the Local Radio Ownership Rule, *all* broadcasters will remain mired in the current issues facing broadcasters, which are caused by the exodus of advertising revenue and listeners for digital media platforms. It is not greater ownership of broadcast stations *within* the broadcast industry that is leading to audience and advertising erosion, it is their loss to digital media. As the Joint Commenters have asserted time and time again, radio broadcasters need to become more competitive with Big Tech. Without the increased capitalization and revenue possibilities enabled through greater reach within their markets, broadcasters will lack the money and resources needed to improve programming options that will allow them to increase their online offerings and to continue providing service to their local communities.<sup>98</sup> Enabling broadcasters to become more competitive by repealing the Commission’s ownership rules is the only viable option for addressing the issues plaguing the broadcast industry.

Contrary to some commenters’ assertions, technological changes, *not* market consolidation, threaten the future of all radio broadcasters.<sup>99</sup> “[E]xternal competitive forces, not

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<sup>98</sup> See ICLE Comments at 15 (“Financially stronger, scaled station groups are better positioned to make the long-term investments in local journalism that serve the communities in which they are licensed. The current rule . . . ensures a greater number of weaker competitors, leading to a reduction in local-content investment.”).

<sup>99</sup> See, e.g., 2025 musicFIRST and FMC Comments at i-ii and 1-4 (claiming that the Commission should only be concerned with regulating “intramodal” competition (i.e., competition among broadcasters) pursuant to the Local Radio Ownership Rule, while claiming that the “intermodal” competition (i.e., competition from digital audio platforms) experienced by broadcasters is not actually a threat to the broadcasting industry); 2025 NABOB Comments at 24 (arguing that existential threat posed by digital audio platforms to radio broadcasters is overstated, and the Commission should merely focus on preserving competition among broadcasters).

the ‘intramodal’ competitive forces . . . are the greatest threat to the viability of radio broadcasting—in all of its formats.”<sup>100</sup> Big Tech “enjoy[s] yet another competitive advantage by controlling many of the consumer technologies . . . used by hundreds of millions of U.S. consumers to access digital content.”<sup>101</sup> “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,” resulting in annual “economic losses to broadcasters . . . close to \$2 billion . . . .”<sup>102</sup> “[T]hese Big Tech companies each have market capitalizations over one hundred times that of the entire broadcast industry—combined.”<sup>103</sup> This financial disparity resulting from Big Tech’s technological dominance emphasizes Chairman Carr’s recognition of the urgent need for

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<sup>100</sup> 2023 Joint Reply Comments at 16-17 (emphasis in original).

<sup>101</sup> 2023 NAB Comments at 21.

<sup>102</sup> 2025 NAB Comments at 97 (citing *id.* at Attach. B (BIA Advisory Services, *Economic Impact of Big Tech Platforms on the Viability of Local Broadcast News* (May 2021)); 2021 NAB Comments at 23-28 and Attach. A (Testimony of Gordon H. Smith, President and CEO, NAB, Before the U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Antitrust, Commercial and Administrative Law (Sept. 2, 2020))).

<sup>103</sup> 2025 Joint Initial Comments at 3 (“[A]s of December 2025, Alphabet (Google) has a market capitalization of \$3.733 trillion, while the combined market capitalization of the 26 largest companies in the broadcast industry is currently only \$15.3 billion.” (citing *Market capitalization of Alphabet (Google)*, Companies Market Cap, <https://companiesmarketcap.com/alphabet-google/marketcap/> (last visited Dec. 12, 2025); *Largest companies in Broadcasting industry by market cap (United States)*, GoMarketCap, <https://gomarketcap.com/us/sector-communication-services/industry-broadcasting> (last visited Dec. 12, 2025))).

promoting investment in broadcasting “by removing legacy regulations that prevent capital from flowing to broadcasters.”<sup>104</sup>

With respect to declining minority broadcast ownership, the Joint Commenters assert that minority broadcasters’ lack of access to sufficient capital is causing this issue.<sup>105</sup> And, contrary to NABOB’s assertions, retaining the present broadcast ownership limits will not address this issue.<sup>106</sup> Under the current rules, minority broadcasters could proactively boost their reach today by buying stations when prices have never been lower and there are many broadcasters owners looking to sell their stations.<sup>107</sup> But this is not currently occurring because investors are deterred

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<sup>104</sup> 2025 NAB Comments at 4 (“[T]he FCC’s ‘primary goal’ in this proceeding ‘is to promote investment in local broadcasters’ that provide trusted news and information to local communities.” (quoting *NPRM* at Statement of Chairman Brendan Carr)).

<sup>105</sup> The Free Press also argues that “the Commission’s potential move to loosen or outright eliminate the local broadcast radio multiple ownership rule . . . would directly undermine the Commission’s only proactive ownership diversity policy, the 2018 Radio Incubator Rule.” Comments of Free Press, MB Docket No. 22-459, at 41 (filed Dec. 17, 2025) (“Free Press Comments”) (citing *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, Report and Order, 33 FCC Rcd 7911, 7914-15, ¶¶ 11-12 (2018)). Free Press cites no instance in which the broadcast incubator program has ever been used. Certainly, that program has never led to a significant increase in minority ownership. One of the most successful programs for increasing ownership diversity was the minority tax certificates which Congress has never reinstated after their repeal in 1995. The status of that certificate has nothing to do with changes to the ownership rules. *See* 2025 NABOB Comments at 13 and 15.

<sup>106</sup> *See* 2025 NABOB Comments at 16 (claiming that since the Commission “has no regulatory authority over any financial institution,” and that “lack of access of capital inhibits . . . Black American entrepreneurs [from] becom[ing] broadcast station owners . . . The Commission has only one direct tool available to help it slow the decline in Black American broadcast station ownership and to give that ownership an opportunity to grow – it must maintain rules that slow industry consolidation”).

<sup>107</sup> *See* 2025 Joint Initial Comments at 2025 Patrick Declaration, p. 2 (noting the large inventory of stations that cannot be sold to in-market competitors under the current radio ownership limits); 2023 Joint Initial Comments at First 2023 Patrick Declaration, p. 2 (“[A]s a broker I am increasingly finding owners calling to sell stations with no real interested buyers. We have run into the exact same situation within the past year with stations in Louisiana, Michigan, Missouri, Texas, California, Pennsylvania, Tennessee, and Alabama. [The] [o]wnership rules . . . push many owners into . . . minimal sale pricing” as “[t]he best buyers are restricted from competing for these stations.”); 2023 Joint Reply Comments at Second 2023

from investing in the broadcast industry, which is beset by “asymmetric regulations in the face of new competition.”<sup>108</sup> This “creates regulatory distortions, drives up regulated industry 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 regulation.”<sup>109</sup> Moreover, “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.”<sup>110</sup> Instead, “reforms that reduce regulatory-related entry barriers have been shown to stimulate capital acquisition . . .”<sup>111</sup> In other words, broadcasters—whether or not they are members of minority groups—cannot access more capital until the Commission incentivizes

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Patrick Declaration, p. 3, ¶ 9 (“[W]e have had a half-dozen or more stations in unrated markets go unsold over the past two years because the logical and best buyer for their station or stations was prohibited from purchasing them. These range from stations in Arizona, Missouri, Virginia, California, Michigan, West Virginia, Mississippi, South Dakota, and Wyoming.”).

<sup>108</sup> 2025 NAB Comments at 63.

<sup>109</sup> *Id.* at 63-64 (citing 2021 NAB Comments at 15-19; S. Pociask & 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); G.S. Ford, *Net Neutrality, Reclassification and Investment: A Counterfactual Analysis*, Phoenix Center Perspectives (Apr. 25, 2017); E. Ehrlich, *A Brief History of Internet Regulation*, Progressive Policy Institute, at 16-17 (Mar. 2014); R. Frieden, *Regulatory Opportunism in Telecommunications: The Unlevel Competitive Playing Fields*, 10 COMMLAW CONSPECTUS 81 (2001); J. Bailey & D. Thomas, *Regulating Away Competition: The Effect of Regulation on Entrepreneurship and Employment*, 52 J. REG. ECON. 237 (2017)).

<sup>110</sup> *Id.* at 64 (citing G.M. Phillips & A. Zhdanov, *Venture Capital Investments, Merger Activity, and Competition Laws around the World*, 13(2) REV. CORP. FIN. STUD. 303 (2024); X. Gao, J.R. Ritter & Z. Zhu, *Where Have All the IPOs Gone?*, 48(6) J. FIN. & QUANTITATIVE ANALYSIS 1663 (Dec. 2013)).

<sup>111</sup> *Id.* at 65 (A. Alesina, *et al.*, 3(4) REG. & INVESTMENT, J. EUR. ECON. ASS’N 791 (June 2005)).

investment in the broadcast industry by repealing the ownership rules.<sup>112</sup> Investors simply will not invest in an industry that is constrained in its ability to reach its full customer base in ways that its competitors are not.

The evidence provided in this proceeding regarding the fierce competition faced by broadcasters from Big Tech clearly demonstrates the urgent need for the Commission to repeal its broadcast ownership rules to provide broadcasters with the financial capability necessary to “afford investments in improved technology”—thereby improving the “competitive viability of broadcasting.”<sup>113</sup> The NAB states that “[b]roadcasters are now caught in a vicious cycle” because “asymmetric ownership rules . . . 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.”<sup>114</sup> The only way to “end this negative feedback loop” is by the Commission repealing the broadcast ownership limits.<sup>115</sup> Doing so will attract the investment necessary for broadcasters to fight back against Big Tech for their lost audiences and advertising revenue.

**D. Eliminating the Local Radio Ownership Rule will not have Particularized Negative Effects on AM Broadcasters**

Some commenters claim that market consolidation will negatively affect AM stations. musicFIRST and FMC claim that the FM station ownership restrictions should not be loosened because ““what you are going to see is a lot more of content that you can currently only get on

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<sup>112</sup> See ICLE Comments at 2 (“Repealing these outdated rules would allow broadcasters to compete effectively, increase their investment in local content, and better serve the public interest in an era of media abundance.”).

<sup>113</sup> 2023 NAB Comments at 15.

<sup>114</sup> 2025 NAB Comments at 4.

<sup>115</sup> *Id.*

AM is going to move to FM, which is going to be the death knell of AM radio.”<sup>116</sup> musicFIRST and FMC further contend that this shift would lead to the “devaluation on the AM side . . . along with destruction of capital financing options” for AM broadcasters.<sup>117</sup> NABOB argues that eliminating the Local Radio Ownership Rule “would undermine the Commission’s efforts to revitalize AM radio,” and claim that the rule was enacted to protect the AM service from the more competitive FM service.<sup>118</sup>

These commenters misunderstand the point of this proceeding. The quadrennial review “is not meant to fix the problems that are facing AM radio.”<sup>119</sup> The problems of AM will exist whether or not there is greater local ownership. Already, AM licenses are being surrendered every year because there are no viable business options for owners to pursue.<sup>120</sup> There are “[o]ther proceedings at the Commission have already taken steps to address the issues faced by AM broadcasters,” which the Joint Commenters continue to fully support.<sup>121</sup>

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<sup>116</sup> 2025 musicFIRST and FMC Comments at 17 (quoting Adkins 2019 FCC Symposium Remarks at 1:20:00-1:23:00).

<sup>117</sup> *Id.* at 18 (citations omitted).

<sup>118</sup> 2025 NABOB Comments at 17.

<sup>119</sup> 2023 Joint Reply Comments at 22.

<sup>120</sup> See 2025 Joint Initial Comments at 24 (stating that “the radio industry has suffered a net loss of . . . 250 AM stations . . . since 2019” (citing *id.* at 2025 Borrell Exhibit, p. 2; *Broadcast Station Totals as of June 30, 2025*, Public Notice, DA-25-581 at 1 (MB, rel. Jul. 8, 2025) (reporting a total of 4,360 AM stations); *Broadcast Station totals as of June 30, 2019*, News Release at 1 (MB, rel. Jul. 9, 2019), <https://docs.fcc.gov/public/attachments/DOC-358350A1.pdf> (reporting a total of 4,610 AM stations)); *Broadcast Station Totals*, FCC, <https://www.fcc.gov/media/broadcast-station-totals> (last visited Jan. 14, 2026) (showing that 567 AM stations were lost between 1995 and 2025)).

<sup>121</sup> 2023 Joint Reply Comments at 22. Initiatives such as the proposed new cross-service FM translator filing window are better means for addressing the issues facing AM stations. See Press Communications, LLC, *et al.*, Petition for Rulemaking, *supra* note 11.

Instead, AM and FM stations continue to suffer equally from Big Tech’s competition for listeners and advertising revenue.<sup>122</sup> As rising waters raise all ships, *all* radio broadcasters will benefit from enhanced competitive opportunities created by the elimination of the Local Radio Ownership Rule, including by making broadcast radio more financially appealing to investors.<sup>123</sup> Increased ownership caps may also allow for AM specialists to come into markets and buy many AMs to provide unique services.<sup>124</sup> The prior relaxation of the ownership rules is not responsible for the problems of the AM service, and keeping the rules as they are will not fix those problems.

## **V. SAG-AFTRA’S PROPOSED COMPETITION TEST ACTUALLY DEMONSTRATES THAT CONSOLIDATION IS NECESSARY IN THE BROADCAST RADIO INDUSTRY**

SAG-AFTRA proposes that the Commission, “to assess how competition in broadcast actually functions,” use Michael Porter’s “five forces framework,” which examines: “(1) barriers to entry, (2) rivalry among existing firms, (3) buyer power, (4) supplier power, and (5) substitutes.”<sup>125</sup> SAG-AFTRA asserts that under that framework, the Commission’s ownership rules “are pro-competitive,” and “remain an important tool for preserving competition” because the rules “must be considered in the unique context in which broadcast television and radio operate.”<sup>126</sup> The Joint Commenters show below how Porter’s “five forces”

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<sup>122</sup> 2023 Joint Reply Comments at 22 and 23.

<sup>123</sup> See ICLE Comments at 11 (“A more effective path to AM revitalization would be to allow operators to build sustainable business models through consolidation and investment.”).

<sup>124</sup> Cf. 2025 NABOB Comments at 22 (arguing that if broadcasters “were given permission to abandon AM radio as part of their market maximization strategies, AM equipment suppliers, engineers and consultants would suffer a significant loss of their best customers and employers,” and “many of these suppliers, engineers and consultants might abandon their AM businesses altogether”).

<sup>125</sup> SAG-AFTRA Comments at 4 and 6 (citing Michael E. Porter, *The Five Competitive Forces that Shape Strategy*, 86 HARV. BUS. REV. 1, 78-93 (Jan. 2008)).

<sup>126</sup> *Id.* at 6.

framework actually demonstrates that consolidation in the broadcast industry is necessary for broadcasters to remain competitively viable in the media marketplace.

**1. Barriers to Entry.** SAG-AFTRA claims that under the first factor, “[t]he structural limits and scarcity” of the broadcast service “function as a meaningful and durable barrier to entry, preventing local broadcast markets from ‘self-correcting’ through new entrants the way many other markets do,” which Congress addressed by “condition[ing] broadcast licenses on service to the public interest, providing licensees use of the airwaves, but not ownership.”<sup>127</sup>

This is similar to Free Press’ contention that broadcasters should remain subject to ownership restrictions simply because they “hav[e] an affirmative obligation to serve the needs and interest of the local community.”<sup>128</sup> Free Press states that “[i]t is [] very alarming that Chairman Carr said in this proceeding that the Commission ‘intend[s] to take a fresh approach to competition by examining the broader media marketplace, rather than treating broadcast radio and television as isolated markets.’”<sup>129</sup> Free Press further asserts that broadcasters “are not just isolated, they are *special*” because “broadcasters have not only special duties, but special privileges.”<sup>130</sup> Therefore “the Commission’s public interest mandate requires and necessitates

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<sup>127</sup> *Id.* at 4-5 (citing *Red Lion Broad. Co., Inc. v. FCC*, 395 U.S. 367, 383 (1969) (quoting S. REP. NO. 562 at 8-9 (1959) (recognizing that broadcast frequencies are limited and are therefore considered a public trust, mandating licensees to operate in the public interest))).

<sup>128</sup> *2018 Quadrennial Review Order*, 38 FCC Rcd at 12801, ¶ 36.

<sup>129</sup> Free Press Comments at 14 (quoting *NPRM* at Statement of Chairman Brendan Carr).

<sup>130</sup> *Id.* at 14-15 (emphasis added). *See also id.* at 7 (arguing that broadcast spectrum’s “scarcity and pervasiveness justifies government regulation” and “in particular [] justifies and requires regulation that maximize the number of unique license holders” (emphasis in original) (citations omitted)); *id.* at 2 (“This scarcity, broadcasting’s pervasiveness, and the central fact that a federal government agency alone determines who can use these airwaves to speak, means that by definition a broadcast license holder’s speech is privileged above that of other speakers.”).

that its review of broadcast ownership rules and license transfer applications goes beyond mere economic antitrust jurisprudence.”<sup>131</sup>

SAG-AFTRA and Free Press define the competitive market not based on competition, as required by Section 202(h), but instead based on the current state of regulation. In essence, these arguments are exactly the *regulatory inertia* about which the Eighth Circuit in *Zimmer* warned. The argument they advance is that, because broadcasters are regulated, they are different and should stay regulated—which is exactly the process that Section 202(h) was meant to discourage.

Competition determines if there are actual barriers to entry in the marketplace in which over-the-air radio competes. SAG-AFTRA would have the Commission believe that there are barriers to entry into that marketplace simply because it has already defined the marketplace as belonging solely to broadcast radio. It has not even looked at whether there are in fact barriers to entering what is today’s true marketplace. The true market is instead measured by the very real competition faced by radio broadcasters every day in the media marketplace from all digital platforms.

The Joint Commenters (and others favoring relaxation or elimination of the ownership rules) have convincingly shown throughout their comments and in this pleading that real barriers to entry into the marketplace in which broadcasters compete no longer exist. Digital media is competing day-to-day with broadcasters for audience and advertising revenue. That cannot be debated. As the Joint Commenters have shown, the technological developments in the 30 years since the current rules were adopted media industry have progressed to the point that non-broadcast services threaten broadcasting’s continued viability. There are no barriers to entry into the market in which broadcasters compete. Anyone can start a podcast or create an online radio

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<sup>131</sup> *Id.* at 14-15.

station<sup>132</sup> that the world can listen to on their smartphones which, as we have shown above, are now more ubiquitous in the homes than are broadcast radios. Under a real-world analysis of the first prong of the test posited by SAG-AFTRA, the ownership rules cannot be justified as there are no barriers to entry into the marketplace in which broadcasters truly compete.

2. ***Rivalry Among Existing Firms.*** Under the second factor, SAG-AFTRA claims that the broadcast ownership rules “help ensure meaningful rivalry among incumbents in markets” by “prevent[ing] a small number of companies from accumulating outsized control over the highest-real local outlets, particularly . . . in markets where the number of viable outlets is inherently limited.”<sup>133</sup> Here, SAG-AFTRA makes the same mistake that many other commenters opposing the elimination of the broadcast ownership rules do: ignoring the very real and fierce competition from digital media for audience and advertising revenue. The Joint Commenters previously explained that digital audio platforms are now the dominant players in local media markets and have effectively shut out radio broadcasters from meaningful competition for listeners and advertising revenue due to their outsized technological and financial advantages.<sup>134</sup> Accordingly, instead of ensuring “meaningful rivalry” among competitors in the media market, the ownership rules prevent broadcasters from competing with their digital rivals.

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<sup>132</sup> For instance, the platform offered by Live365 can be used by anyone to create their own online radio station. See *Radio Broadcasting*, Live365, <https://live365.com/broadcaster/radio-broadcasting> (last visited Jan. 14, 2026). Live365’s platform is alone home to “tens of thousands of broadcasters globally.” *Live365: Two Decades of Internet Radio*, Live365 <https://live365.com/about> (last visited Jan. 16, 2026).

<sup>133</sup> SAG-AFTRA Comments at 5 and 6.

<sup>134</sup> See 2025 Joint Initial Comments at 13-45.

3. ***Buyer Power.*** Under the third factor, SAG-AFTRA contends that the broadcast ownership rules “help limit owners[’] ability to gain outsized leverage over buyers (e.g., local advertisers)” by “preserv[ing] real choices for local advertisers.”<sup>135</sup> SAG-AFTRA states that “consolidation can shift how local broadcast advertising markets work,” including by allowing larger broadcasters to “increase[] sales to multi-market advertisers” while decreasing sales to “single-market advertisers (i.e., local-only buyers).”<sup>136</sup>

SAG-AFTRA confuses the subject of this proceeding. It talks about sales to “multi-market advertising,” which is an issue affecting national ownership, not the ownership within a single market. The Local Radio Ownership Rule does not govern national ownership—only local ownership. And the issue before the Commission in this proceeding is not multi-market advertising, but local advertising.

When you focus on the correct set of advertisers, a far different picture than the one painted by SAG-AFTRA emerges. That is the effect of digital media platforms’ presence in local media markets. The Borrell study has shown that digital platforms have increased their share of local advertising dollars from 26% in 2013 to 70% in 2024. As noted by some of the broadcasters providing declarations in support of the Joint Commenters’ comments, digital media platforms now dominate local advertising markets due to their ability to reach consumers in each market in all demographics while broadcasters are limited to just reaching those in the few formats they can offer on the handful of stations that the Local Ownership Rules allow them to own in each market.<sup>137</sup> Repealing the broadcast ownership rules will allow broadcasters to

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<sup>135</sup> SAG-AFTRA Comments at 5 and 6.

<sup>136</sup> *Id.* at 11-12.

<sup>137</sup> See, e.g., 2025 Joint Initial Comments at Philippi Declaration, p. 1 (“[A]dvertisers [] deal with multiple sales reps, pay multiple invoices, and try and interpret multiple rates cards and other sales jargon that comes from each owner. Thus, the buyer either chooses between the

gain the means to fight back against digital media for local advertising dollars by letting them reach the entire market. This will also give advertisers the incentive to advertise not only on digital platforms in local markets, but also on broadcast stations—thereby restoring balance to local advertising markets.

4. ***Supplier Power.*** Under the fourth factor, SAG-AFTRA contends that the broadcast ownership rules “help limit owners[’] ability to gain outsized leverage over . . . key inputs/suppliers (e.g., network affiliation relationships and high-value programming)” by “ensur[ing] communities get meaningful local news by reducing the risk that consolidation turns ‘competition’ into cost-cutting, centralized decision-making, and less investment in truly local coverage.”<sup>138</sup> SAG-AFTRA also argues that broadcast remains a “popular” and “critical source for local news,” and that media conglomerates’ centralization of production operations has led to job losses.<sup>139</sup>

SAG-AFTRA once again focuses on national ownership issues, not those that are at issue in this proceeding. As discussed above,<sup>140</sup> many broadcasters want to provide better services to

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broadcast advertising vendors in the market and does not reach everyone in their target demos, or they have to work with multiple companies to reach everyone in those demos. This contrasts with the digital space where nearly every impression is available to be bought and sold by a single vendor. . . . Not only does this not put us on an even playing field with digital media in competing for advertising revenue, it limits our capacity to leverage local business support to deliver community impact with real people that live or work in these cities and towns.”) (quoting)); *id.* at Mitchell Declaration, p. 1 (“Automated digital ad buying via digital platforms also hurts our local advertising as it allows” digital advertisers “to buy hyper-local inventory cheaply and efficiently, bypassing local radio stations’ sales teams and fixed rates.”).

<sup>138</sup> SAG-AFTRA Comments at 5 and 6.

<sup>139</sup> *Id.* at 7-8 (citing Elisa Shearer, *et al.*, *Americans’ Changing Relationship with Local News* at 3, Pew Research (May 7, 2024) (“2024 Pew Research Study”), [https://www.pewresearch.org/wp-content/uploads/sites/20/2024/04/PJ\\_2024.05.07\\_local-news-trends\\_report.pdf](https://www.pewresearch.org/wp-content/uploads/sites/20/2024/04/PJ_2024.05.07_local-news-trends_report.pdf)); *id.* at 10-11.

<sup>140</sup> See *supra* Section IV.A.

their local communities, including more local news and diverse programming formats, and employ more community members, but do not currently have the reach within their markets to do so.<sup>141</sup>

With respect to local news, while SAG-AFTRA cites data from a Pew Research study regarding the amount of news Americans get from broadcast sources, SAG-AFTRA neglects to note that the study showed that 48% of Americans in 2024 get their local news from internet and social media sources, as opposed to only 9% getting their local news from local radio stations.<sup>142</sup> Moreover, the study showed that local news is becoming “increasingly digital,” with the percentage of Americans preferring to get their local news from the internet increasing from 23% in 2018 to 26% in 2024, and those preferring to get their local news from social media increasing from 15% in 2018 to 23% in 2024.<sup>143</sup> While SAG-AFTRA extensively cites public trust in local broadcast news, that trust is not driving Americans to get local news from broadcasters.<sup>144</sup> Instead, consumers are increasingly obtaining local news and information online due to “convenience and speed.”<sup>145</sup>

Broadcasters are increasingly competing with digital and social media platforms to provide services to their local communities that were once almost exclusively provided by

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<sup>141</sup> See 2025 Joint Initial Comments at 59-65.

<sup>142</sup> See *id.* at 49 (citing 2024 Pew Research Study at 3).

<sup>143</sup> *Id.* (citing 2024 Pew Research Study at 8). See also *id.* at 2025 Borrell Exhibit, p. 10 (discussing same).

<sup>144</sup> See SAG-AFTRA Comments at 7-9.

<sup>145</sup> 2025 Joint Initial Comments at 49 (citing Luxuan Wang & Naomi Forman-Katz, *Many Americans find value in getting news on social media, but concerns about inaccuracy have risen*, Pew Research (Feb. 7, 2024), <https://www.pewresearch.org/short-reads/2024/02/07/many-americans-find-value-in-getting-news-on-social-media-but-concerns-about-inaccuracy-have-risen/>).

broadcast stations. “[I]n the battle for consumers’ attention, there is direct competition between radio and digital platforms for access to this local programming and information—a battle that Big Tech is increasingly using their immense market power to shut out broadcasters.”<sup>146</sup> Allowing more scale in local markets will give broadcasters the opportunity to offer more local service.<sup>147</sup> In contrast, retaining the broadcast ownership rules, as SAG-AFTRA suggests, will do nothing to make broadcasters a better supplier of news and information to their communities. Scale is needed to compete with digital media as a source of information and that scale can only come with relaxation or elimination of the ownership rules.

**5. Substitutes.** On the final factor, SAG-AFTRA states that “*while the threat of substitutes from digital and online media is very real*, in the broadcast context it does not automatically replicate the competitive constraints that matter most for the public interest broadcasters are meant to serve.”<sup>148</sup> SAG-AFTRA adds that the broadcast ownership rules “ensure there remain alternatives when station owners in a market decide to make dramatic changes to local programming, particularly local newscasts.”<sup>149</sup>

As noted above, the ownership rules are actually *preventing* broadcasters from providing better and more programming options for their audiences and fulfilling their public interest obligations to their local communities. Without greater reach in their markets, broadcasters

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<sup>146</sup> 2025 Joint Initial Comments at 50-51 (citing *id.* at 2025 Frandsen Declaration, p. 1-2 (noting experience with “Big Tech companies [] act[ing] as gatekeepers and limit[ing] our coverage of local events” by arbitrarily shutting down station broadcasts on their platforms)).

<sup>147</sup> See *id.* at 2025 Frandsen Declaration, p. 2 (reciting the Frandsen Family Stations’ efforts to become a source of information by publishing the *Cache Valley Daily*—what is in essence an online newspaper in markets where they can own a greater percentage of the stations than in other markets where their reach is far more limited).

<sup>148</sup> SAG-AFTRA Comments at 5 (emphasis added).

<sup>149</sup> *Id.* at 6 (citing Gregory J. Martin, *et al.*, *Media Consolidation*, Kilts Center at Chicago Booth Marketing Data Center (May 28, 2024)).

cannot claw back advertising revenue from digital platforms or attract more capital that is necessary finance better programming options for their audiences. They cannot offer the diversity of programming options that their digital competitors can. They simply cannot reach the entirety of their own markets, but are constrained by the ownership rules, limiting them to reaching at best a small portion of their markets. The Joint Commenters have shown that there is no “uniqueness” to over-the-air radio which mandates their continued designation as a separate marketplace. There is no question that they compete directly with digital platforms for audience and advertising revenue.<sup>150</sup> In reality, both audiences and advertisers see digital media platforms as *direct substitutes* for broadcasters, and the broadcast ownership rules are preventing broadcasters from competing with them.

On each of the five factors cited by SAG-AFTRA, a review of the real state of competition in the radio industry shows that allowing more scale in local broadcast ownership serves the public interest, and the interest in ensuring that broadcasters are a competitive force that can challenge the digital media giants that dominate local audiences and advertising. Broadcasters must get relief from the ownership rules to thrive in today’s media market and thus it is time for these rules to go.

## VI. CONCLUSION

The Commission must act now to allow broadcasters to build strong local brands that can compete against the Tech giants. The long-outdated Local Radio Ownership Rule prevents local radio broadcasters from competing effectively in today’s media marketplace by achieving the scale necessary to compete against digital audio platforms for local advertising revenue and audience share. Competition for audience and advertising has only increased since the

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<sup>150</sup> See 2025 Joint Initial Comments at 45-51.

Commission made its flawed conclusions in the 2018 Quadrennial Review, and these trends will only continue as non-broadcast media outlets—many of which are controlled by the biggest companies in America—continue to explode. Absent relief from outdated and overly restrictive ownership limits, over-the-air radio stations will simply be unable to maintain their current levels of service to their local communities. The time is now for the Commission to remove the archaic regulatory burdens that restrict radio’s ability to compete in the modern marketplace.

Respectfully submitted,

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