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

In the Matter of **Clear Channel Broadcasting Licenses, Inc.** **Citicasters Co.** **Central NY News, Inc.** **CCB Texas Licenses, L.P.** **Capstar TX Limited Partnership** **Bel Meade Broadcasting Company, Inc.** **Ackerley Broadcasting Operations, LLC** **Ackerley Broadcasting Fresno, LLC** (Assignors) and **Newport Television LLC** (Assignee) For Assignment of License of Station WPMI-TV, Mobile, Alabama *et al.*	))))))))))))))))))))	 File Nos. BALCT-20070504ADI *et al.*

MEMORANDUM OPINION AND ORDER

Adopted: November 13, 2007 **Released: November 29, 2007**

By the Commission: Commissioner Copps dissenting and issuing a statement.

I. INTRODUCTION

1. The Commission has under consideration the unopposed applications listed in the attached Appendix that seek consent to assign 35 broadcast television licenses and associated low-power, Class A, and television translator licenses from the above-captioned, wholly-owned subsidiaries of Clear Channel Communications, Inc. ("Clear Channel") to Newport Television LLC ("Newport"). In connection with the proposed acquisition, Newport has requested six months to bring its investors into compliance with Section 73.3555(b) of the Commission's Rules (the "local television ownership rule") in nine markets.[1] Newport also requests a continuing waiver of Section 73.1125 of the Commission's Rules (the "main studio rule") to permit it to utilize the studio of station KSAS-TV, Wichita, Kansas, as the main studio for commonly-owned stations KAAS-TV, Salina, Kansas, and KOCW(TV), Hoisington, Kansas.[2] We grant the applications, subject to the conditions set forth below. We also deny in part a petition filed by Buckley Broadcasting of Monterey ("Buckley"), seeking reconsideration of the 2002 Commission

[1] 47 C.F.R. § 73.3555(b) (2002).

[2] 47 C.F.R. § 73.1125.

decision granting applications to transfer control of the Ackerley Group, Inc. to Clear Channel.[3]

II. BACKGROUND

2. On December 20, 2006, the Commission issued a public notice accepting for filing applications seeking consent to transfer control of Clear Channel from its current shareholders to the stockholders of BT Triple Crown Merger Co., Inc. ("BT Triple Crown").[4] Those applications, which remain pending, include both the broadcast television and radio authorizations ultimately controlled by Clear Channel. Clear Channel stated in the applications, however, that it was actively seeking to sell its broadcast television stations prior to consummation of the transfer of control, and the instant transaction is the result of these efforts.[5] Newport proposes to acquire Clear Channel's broadcast television stations, and associated television translator and low power television stations, for approximately $13.7 billion. The instant applications are unopposed. Newport, which has been formed for the purposes of the proposed transaction, is wholly owned by investment funds that are commonly controlled affiliates of Providence Equity Partners, Inc. ("PEP"). The PEP investment funds involved in this transaction are structured so that they will ultimately be controlled by three investment managers - Jonathan Nelson, Glenn Creamer, and Paul Salem - with the remainder of the equity held by insulated limited partners.[6]

3. On March 27, 2007, the Commission conditionally approved the acquisition of Univision Communications, Inc. ("Univision") by Broadcasting Media Partners, Inc. ("BMPI"), an investor group that also includes PEP investment funds.[7] As a result of the *2007 Univision Order*, PEP holds an attributable, 19% interest in Univision. In addition, as further noted in the *2007 Univision Order*, PEP holds an attributable, 16% interest in Freedom Communications Holdings, Inc. ("Freedom"), and an attributable, 33.3% interest in Bustos Media, LLC ("Bustos").[8] PEP, through its interest in Univision, also has an attributable interest in television stations owned and controlled by Entravision Communications Corporation ("Entravision") that are affiliated with the Univision Television Network, and can only be sold with the approval of Univision.[9]

4. PEP's interests in Univision and Freedom resulted in violation of Section 73.3555(d) of the Commission's Rules (the "newspaper/broadcast cross-ownership rule") in five markets.[10] Therefore, in the *2007 Univision Order* the Commission required PEP to take steps to come into compliance with the newspaper/broadcast cross-ownership rule within six months of consummation of the Univision/BMPI

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[3] *Shareholders of the Ackerley Group, Inc.*, 17 FCC Rcd 10828 (2002) ("*2002 Ackerley Order*").

[4] *See Clear Channel Communications, Inc., Thomas H. Lee Equity Fund VI, L.P., and Bain Capital (CC) IX, L.P. Seek Approval to Transfer Control of Licensee Entities Holding FCC Licenses and Other Authorizations*, Public Notice, 21 FCC Rcd 14509 (MB 2006).

[5] *See Clear Channel Communications, Inc., Applications for Transfer of Control*, File No. BTCCT-20061212BFW *et seq.*, Exhibit 18-1, page 1.

[6] *See Clear Channel Communications, Inc., Applications for Assignment of License* (*"Assignment Applications"*), at Exhibit 11. Newport has certified that all insulated limited partners meet the relevant insulation criteria referenced in the notes to Section 73.3555 of the Commission's Rules, and thus such insulated limited partners are nonattributable. *See* 47 C.F.R. § 73.3555, Note 2(f).

[7] *See Shareholders of Univision Communications, Inc.*, 22 FCC Rcd 5842 (2007) ("*2007 Univision Order*"). As described in the *2007 Univision Order*, PEP was one of five entities that invested in the formation of BMPI, which was created to purchase Univision.

[8] *Assignment Applications* at Exhibit 16, pages 2-4.

[9] *Shareholders of Hispanic Broadcasting Corporation*, 18 FCC Rcd 18834, 18852 (2003).

[10] 47 C.F.R. §73.3555(d) (2002).

transaction. The post-merger Univision was given the choice of divesting, within six months of consummation, either the necessary broadcast stations in those markets where PEP's interest in Freedom resulted in violation of the broadcast/newspaper cross-ownership rule, or divesting PEP's minority interest in Freedom. [11] BMPI consummated its acquisition of Univision on March 29, 2007, and, as a result, set September 29, 2007, as the deadline for meeting this divestiture condition. On June 25, 2007, PEP, after filing the instant applications, filed a letter notifying the Commission that it intended to divest its interest in Freedom by September 27, 2007.[12] Subsequently, on September 25, 2007, PEP requested, and the staff granted, a 30-day extension of the deadline through October 29, 2007. On October 31, 2007, PEP filed a further Motion for Extension of Time, in which it states that it "had intended to comply with the [Univision condition] by way of redemption of its attributable interest in Freedom," but that "due to extraordinarily volatile conditions in the credit market and newspaper industry in general," it has not been able to obtain the necessary financing.[13] Instead, it proposes to convert its interest in Freedom into one that is not attributable under the Commission's rules and, by doing so, come into compliance with the broadcast/newspaper cross-ownership rule in the five markets at issue.[14]

5. Newport acknowledges that, following consummation, PEP's interests will violate the broadcast television ownership rule in nine markets[15] and has requested six months from consummation to bring these combinations into compliance with the local television ownership rule, either by sale of nonconforming broadcasting television stations, or by rendering a current attributable interest nonattributable "consistent with the Commission's attribution guidelines."[16]

III. DISCUSSION

6. **Multiple Ownership Showings.** Under the local television ownership rule, a party may own, operate or control two television stations within the same Nielsen Designated Market Area ("DMA") if the Grade B contours of the stations do not overlap, or if eight or more independently owned and operating commercial and noncommercial television stations will be licensed to the DMA and at least one

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[11] *2007 Univision Order*, 22 FCC Rcd at 5860 ("(1). the post-merger Univision shall come into compliance with the newspaper/broadcast cross-ownership rule in the affected markets within six months of consummation by Providence Equity Partners, Inc. either divesting its interest in Freedom Communications Holdings, Inc., or the post-merger Univision divesting those broadcast station licenses implicating the newspaper/broadcast cross-ownership rule in the Los Angeles, Phoenix, Fresno-Visalia, Harlingen-Weslaco-Brownsville-McAllen and Odessa-Midland markets. To ensure that the post-merger Univision no longer owns or controls properties implicating the newspaper/broadcast cross-ownership rule in the above markets following expiration of the six month period, the parties must ensure either that: (A) within 60 days of release of this order, PEP files evidence of a binding commitment to transfer its stock interest in Freedom to a divestiture trust, including a copy of the trust agreement, if full compliance with the newspaper/broadcast cross-ownership rule has not been achieved within six months of consummation; or (B) within 60 days of release of this order, Univision files applications seeking to assign those broadcast licenses implicating the newspaper/broadcast cross-ownership rule to a divestiture trust, including a copy of the trust agreement, which the Commission shall grant, if the applicants are so qualified and full compliance with the newspaper/broadcast cross-ownership rule has not been achieved within six months of consummation").

[12] Letter from Mace J. Rosenstein, Esq., to Marlene H. Dortch, Secretary, Federal Communications Commission, dated June 25, 2007.

[13] PEP Motion for Extension of Time, at 2.

[14] *Id*.

[15] *Assignment Applications* at Exhibit 15, page 2.

[16] *Id.*

of the stations is not ranked within the top four stations in the DMA in terms of audience share.[17] Newport will be acquiring existing Clear Channel television duopolies in the following five markets: Little Rock–Pine Bluff, Arkansas; Memphis, Tennessee; Mobile, Alabama/Pensacola, Florida; Eugene, Oregon; and Tulsa, Oklahoma. Having reviewed the showings, we agree that the Little Rock, Memphis, Mobile, and Tulsa duopolies will comply with the numerical ownership limits of the local television ownership rule.[18] In the Eugene, Oregon, DMA, Clear Channel currently owns station KMTR(TV), Eugene, Oregon, and station KTCW(TV), Roseburg, Oregon, pursuant to a satellite exception to the local television ownership rule.[19] Newport states, however, that use of the Longley-Rice terrain shielding methodology indicates that there exists no actual Grade B overlap between the stations and, thus, that common ownership is consistent with the local television ownership rule. After a review of the engineering showing provided by Newport, we agree that there is no actual Grade B contour overlap between station KMTR(TV) and station KTCW(TV).[20] Common ownership of these stations, therefore, does not implicate the local television ownership rule. Newport has certified that both stations comply with the requirements of the main studio rule. Newport will also acquire station KSAS-TV, Wichita, Kansas, station KOCW(TV), Hoisington, Kansas, and station KAAS-TV, Salina, Kansas, all of which are located in the Wichita-Hutchinson, Kansas, DMA. Common ownership of these three stations will not implicate the local television ownership rule because the stations' respective Grade B contours do not overlap. Since stations KAAS-TV and KOCW(TV) utilize the main studio of station KSAS-TV as their main studio, Newport has requested a waiver of Section 73.1125 of the Commission's Rules.[21]

7. Following consummation of the proposed transaction, PEP will, due to its interests in Newport, Univision, Entravision, and Freedom, hold interests in broadcast television stations that violate the numerical ownership/voice count limits of the local television ownership rule in the following nine

[17] 47 C.F.R. §73.3555(b) (2002). On July 2, 2003, the Commission issued its 2002 *Biennial Review Order*, in which it modified the local television ownership rule by permitting attributable interests in two stations in those DMA's containing 17 or fewer full-power commercial and noncommercial television stations, and by permitting attributable interests in three stations in those DMA's with 18 or greater full-power commercial and noncommercial television stations. *See 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunication Act of 2002*, 18 FCC Rcd 13620 (2003) ("*2002 Biennial Review Order*"), aff'd in part and remanded in part, *Prometheus Radio Project et al. v. Federal Communications Commission*, 373 F.3d 372 (3d Cir. 2004) ("*Prometheus Remand Order*"), stay modified on rehearing, (3d Cir. Sept. 3, 2004) ("*Prometheus Rehearing Order*"). On September 3, 2003, the U.S. Court of Appeals for the Third Circuit stayed the effective date of the rule changes contained in the *2002 Biennial Review Order*, stating that the "prior ownership rules [will] remain in effect pending resolution of these proceedings." *Prometheus Radio Project v. Federal Communications Commission*, No. 03-3388 (3d Cir. Sept. 3, 2003) (per curiam).

[18] In the Harrisburg-Lancaster-Lebanon-York, PA DMA, Clear Channel currently owns WHP-TV, Harrisburg, but also has a local marketing agreement ("LMA") with station WLYH-TV, Lancaster, Pennsylvania. In the Wichita-Hutchinson, Kansas, DMA, Clear Channel also has an LMA with station KMTW(TV), Hutchinson, Kansas. Because the parties entered into the LMAs prior to November 5, 1996, the LMAs, while attributable under current standards, are "grandfathered" and fully transferable pending completion of the Commission's quadrennial review of the media ownership rules. *See, e.g., Montclair Communications, Inc.*, 22 FCC Rcd 7271, 7272 n. 5 (MB 2007). As discussed in further detail below, in the Monterey-Salinas, California, market Clear Channel will be assigning a non-attributable LMA with station KCBA(TV), Salinas, California. *See* ¶¶ 20-23, *infra*.

[19] 47 C.F.R. § 73.3555, Note 5 (2002). KMCB(TV), Coos Bay, Oregon, has traditionally been operated as a "satellite" of KMTR(TV). A continuing satellite exemption under Note 5 is not necessary, however, for KMCB(TV) since Newport has adequately demonstrated that the Grade B contour of KMCB(TV) does not overlap the predicted Grade B contour of either KMTR(TV) or KTCW(TV).

[20] *See Heritage Media, Inc.*, 13 FCC Rcd 5644, 5649 (1998).

[21] *See* ¶¶ 23-25, *infra*.

DMAs: Bakersfield, California; San Francisco-Oakland-San Jose, California; Santa Barbara-Santa Maria-San Luis Obispo, California; Salt Lake City, Utah; Albany-Schenectady-Troy, New York; Jacksonville, Florida; Fresno-Visalia, California; San Antonio, Texas; and Monterey-Salinas, California. In requesting waivers, Newport cites instances where the Commission has granted 24-month, 18-month and 12-month waivers of the multiple ownership rules.[22] Newport also states that "neither [Newport] nor PEP presently operates any broadcast station, nor does either entity have a controlling interest, in any broadcast licensee in any of the affected markets."[23] Newport states that "as a further safeguard to preserve media diversity in the markets at issue here, during the waiver period [Newport] will maintain the separate management, programming and sales operations of the stations in the markets in which duopoly waivers are granted."[24] Finally, Newport maintains that the level of media diversity in each of the nine markets is similar to or greater than markets in which the Commission has previously granted temporary waivers of the multiple ownership rules.[25]

8. In the Bakersfield, California, market, PEP investment funds, as a result of their interest in Univision, hold a cognizable interest in station KUVI-TV, Bakersfield, California. Clear Channel currently controls station KGET-TV, Bakersfield, California. Because the Bakersfield, California, DMA will contain only three independently owned and operating commercial and noncommercial television stations after consummation, PEP may only have a cognizable interest in one television station. Consequently, the transaction will result in PEP holding interests that exceed the numerical ownership limit of the local television ownership rule by one television station. In requesting a temporary 6-month waiver of the local television ownership rule, Newport cites competition from multichannel video programming distributors ("MVPDs"), a cable penetration rate of over 56%; and the fact that over 81% of the households in the market subscribe to some form of MVPD service.[26] Newport also states that there are 43 broadcast radio stations licensed to communities in the DMA, and that one daily newspaper and five weekly newspapers are published in the market.

9. In the San Francisco-Oakland-San Jose market, PEP investment funds, as a result of their interest in Univision, hold cognizable interests in stations KDTV(TV), San Francisco, California, and KFSF-TV, Vallejo, California. Common ownership of these stations complies with the local television ownership rule.[27] Clear Channel currently controls station KFTY(TV), Santa Rosa, California. PEP may hold attributable interests in at most two television stations regardless of the number of independently owned and operating television stations in a DMA. Thus, the transaction will result in PEP exceeding the numerical ownership limit of the local television ownership rule by one television station. In requesting a temporary waiver, Newport states that over 88% of households in the San Francisco-Oakland-San Jose

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[22] Newport cites *Fox Television Stations, Inc.*, 16 FCC Rcd 14975, 14989 (2001) (24-month waiver of the newspaper/broadcast cross-ownership rule); *Capital Cities/ABC, Inc.*, 11 FCC Rcd 5841, 5871 (1996) (six month waiver of local television ownership rule); and *Telemundo Communications Group, Inc.*, 17 FCC Rcd 6958, 6979 (2002) (12-month waiver of the local television ownership rule).

[23] *Assignment Applications*, at Exhibit 15, page 6.

[24] *Id.*

[25] Newport cites, among other instances, *Liberty Corporation*, 21 FCC Rcd 244, 245 n.5 (MB 2006) (noting markets where two, three, and five independent television voices would exist for the brief waiver period); *AFLAC Broadcasting Group, Inc.*, 12 FCC Rcd 3907 (1997) (temporary waivers in Hattiesburg-Laurel DMA, the 165th ranked DMA, where during the divestiture period there would be only one independent television voice in the DMA, and in the Savannah DMA, the 100th ranked DMA, where during the divestiture period there would be six independent television voices).

[26] *Ackerley Broadcasting Operations, LLC, Assignment Application*, at Exhibit 15, Attachment 1.

[27] *2007 Univision Order*, 22 FCC Rcd at 5850-5851.

DMA subscribe to some form of MVPD service with a cable penetration rate of 68%; that there are 29 independent radio voices in San Francisco, 20 independent radio voices in Sacramento, and eight Arbitron independent radio voices in Santa Rosa; and that there are 22 daily newspapers and 53 weekly newspapers published in the DMA.[28]

10. In the Santa Barbara-Santa Maria-San Luis Obispo, California DMA, Entravision controls station KPMR(TV), Santa Barbara, California, which is attributable to Univision. PEP, as an attributable interest holder in Univision, also holds an attributable interest in station KPMR(TV). Clear Channel currently controls station KCOY-TV, Santa Maria, California. Because the Santa Barbara-Santa Maria-San Luis Obispo, California DMA will contain only four independently owned and operating commercial and non-commercial television stations after consummation, PEP may only have an attributable interest in one station in the market. Thus, the transaction will result in PEP exceeding the numerical ownership limit of the local television rule by one television station. In requesting a temporary waiver, Newport states that the DMA's cable television penetration rate is 67%; that seven different cable systems owned by six different cable operators serve the market; that several low-power television stations serve the market; and that there are nine independent radio voices in the Santa Maria-Lompoc radio metro market, and 13 independent radio voices in the San Luis Obispo radio metro market.[29]

11. In the Salt Lake City, Utah DMA, PEP investment funds, as a result of their interest in Univision, hold an attributable interest in station KUTH(TV), Provo, Utah.[30] Clear Channel currently controls station KTVX(TV), Salt Lake City, Utah, and station KUCW(TV), Ogden, Utah. The transaction will result in PEP holding interests that exceed the numerical ownership limit of the local television ownership rule by one television station. In requesting a temporary waiver, Newport states that there are 21 full-power television stations operated by 13 independent media voices serving the Salt Lake City, Utah, DMA; that 73.9% of households in the DMA receive some form of MVPD service; that the DMA contains 80 different cable systems with 17 different cable operators; that 25 independent radio voices will serve the Salt Lake City-Ogden-Provo radio metro market; and that eight daily and 44 weekly newspapers are produced in the market.[31] We further take note of the fact that the Salt Lake City, Utah, DMA contains all of the counties located in the state of Utah.

12. In the Albany-Schenectady-Troy, New York DMA, PEP investment funds, a result of their interest in Freedom, currently have cognizable interests in stations WRGB(TV) and WCWN(TV), Schenectady, New York. Clear Channel currently controls station WXXA-TV, Albany, New York. Not only does the local television ownership rule prohibit common ownership of three television stations in a single DMA regardless of the number of independently owned and operating television stations located in the DMA, but both stations WRGB(TV) and WXXA(TV) are ranked in the top four in the DMA in terms of audience share. Because the Albany-Schenectady-Troy DMA contains only 7 independently owned and operating television stations, PEP, as a result of a transaction, will hold interests that exceed the numerical ownership limit of the local television ownership rule by two television stations.[32] Newport

[28] *Id.* at Exhibit 15, Attachment 3.

[29] *Id.* at Exhibit 14, Attachment 4.

[30] Also pending is an application to assign the license of Station KUTF(TV), Logan, Utah, from Logan 12, Inc., a subsidiary of Equity Media Holdings Corporation, to Univision. *See* File No. BALCT-20070809ABL. Based on the assumption that the instant transaction will have already closed, Univision has also requested a temporary waiver of the local television ownership rule in connection with the station KUTF(TV) assignment application. *See* File No. BALCT-20070809ABL, Exhibit 15.

[31] *Clear Channel Broadcasting Licenses, Inc., Assignment Application*, at Exhibit 15, Attachment 2.

[32] Freedom acquired a waiver of the local television ownership rule permitting it own both stations WRGB(TV) and WCWN(TV) on November 22, 2006. *See WCWN LLC*, 21 FCC Rcd 13522 (VD 2006).

has also requested a six-month waiver of the local television ownership rule in the Albany-Schenectady-Troy market. In support of the waiver, it states that 89% of the households in the Albany DMA receive some sort of MVPD service with a cable penetration rate of 77%; that there are 22 cable systems in the DMA and six cable operators; and that Albany has 52 radio stations and is served by 12 daily and 32 weekly newspapers.[33]

13. We note, however, that PEP has not yet come into compliance with the terms of the *2007 Univision Order*.[34] Consequently, we will not grant the six-month waiver as requested in the instant applications. Instead, we will require PEP to come into compliance with the terms of the *2007 Univision Order* prior to consummation.

14. In the Jacksonville, Florida DMA, Clear Channel currently controls stations WAWS(TV) and WTEV-TV, Jacksonville, Florida. At the time of Clear Channel's original acquisition, the duopoly complied with the numerical ownership limit of the local television ownership rule.[35] Station WAWS(TV)'s audience share ranking has changed since Clear Channel's acquisition, so that, at the time of filing of the instant applications, both stations WAWS(TV) and WTEV-TV are ranked within the top four in the Jacksonville, Florida, DMA. Consequently, Clear Channel's combination violates the audience share prong of the local television ownership rule. In requesting a temporary waiver, Newport states that the Commission has recognized that the Jacksonville DMA is both "diverse and highly competitive."[36] Newport further states that there are ten full-power television stations and eight independent "voices" that will continue to serve the DMA; that 89% of households in the DMA receive some form of MVPD service, with a cable penetration rate of 64%; that 26 cable systems serve the DMA; that Jacksonville is home to 49 broadcast radio stations operated by 19 independent owners; and that there are six daily and 18 weekly newspapers serving the Jacksonville area.

15. In the Fresno-Visalia, California DMA, PEP investment funds, as a result of their interest in Univision, have a cognizable interest in station KFTV(TV), Hanford, California, and station KTFF-TV, Porterville, California. Common ownership of these stations complies with the local television ownership rule.[37] Clear Channel currently controls station KGPE(TV), Fresno, California.[38] The transaction will result in attributable ownership interests that exceed the numerical ownership limit of the local television ownership rule by one television station. In addition, both station KFTV(TV) and station KGPE(TV) are ranked in the top four in the DMA in terms of audience share. Divestiture of station KTFF-TV, therefore,

[33] *Clear Channel Broadcasting Licenses, Inc., Assignment Application,* at Exhibit 15, Attachment 4.

[34] In the Motion for Extension of Time, PEP proposes to come into compliance with the specific condition set forth in paragraph 47 of the *2007 Univision Order* by rendering its interest in Freedom nonattributable, thereby, according to PEP, "achiev[ing] full compliance with the multiple ownership rules." Motion for Extension of Time, at 3. The recent acquisition of Univision did not implicate the radio/television cross-ownership rule with respect to Freedom's television stations, but rather the limited waiver granted in the *2007 Univision Order* applied only to the newspapers owned by Freedom.

[35] *See* File No. BALCT-19991116BEF (granted March 31, 2000).

[36] *Id.* at Exhibit 15, Attachment 3, page 1, *citing, Shareholders of Jacor Communications, Inc.*, 14 FCC Rcd. 6867, 6905 (MMB 1999).

[37] *See* Letter from W. Kenneth Ferree, Chief, Media Bureau, to John P. Feore, Jr., Esq., and Andrew J. Schwartzman, Esq., dated February 7, 2003.

[38] PEP, as a result of its current interest in Freedom, also has an attributable interest in the *Porterville Recorder*. Common ownership of station KGPE(TV) and the *Porterville Recorder,* will not implicate the newspaper/broadcast cross-ownership rule because the Grade A contour of KGPE(TV) does not encompass Porterville. 47 C.F.R. § 73.3555(d)(3) (2002). Regardless, as noted above, PEP has committed to divesting its interest in Freedom by September 27, 2007.

will not bring PEP's interests into compliance with the local television ownership rule. In support of the requested waiver, Newport states that ten independently owned broadcast television stations will continue to serve the Fresno-Visalia DMA; that over 74% of the households in the Fresno-Visalia DMA subscribe to some form of MVPD service; that the Fresno-Visalia DMA has 21 cable systems and six cable operators; that there are 90 radio stations in the DMA, 24 of which are independently owned; and that there are six daily newspapers and 32 weekly newspapers published in the DMA.[39]

16. In the San Antonio, Texas, DMA, PEP investment funds, due to their interest in Univision, hold attributable interests in station KWEX-TV, San Antonio, Texas, and station KNIC-TV, Blanco, Texas.[40] Common ownership of these stations complies with the local television ownership rule. Clear Channel currently controls station WOAI-TV, San Antonio, Texas. The transaction will result in cognizable ownership interests that exceed the numerical ownership limit of the local television ownership rule by one television station. In support of a temporary waiver, Newport states that the San Antonio DMA is served by 14 full-power television stations licensed to 11 independent owners; that the San Antonio radio metro market is home to 52 radio stations licensed to 22 independent owners; that over 91% of households in the market receive some form of MVPD service with a cable penetration rate of 61%; and that the market is home to 41 newspapers.[41]

17. In the Monterey-Salinas, California DMA, PEP investment funds have an attributable interest in Entravision station KSMS-TV, Monterey, California. Clear Channel subsidiary Ackerley Broadcasting Operations, LLC ("Ackerley") currently owns station KION-TV, Monterey, California. Because the Monterey-Salinas DMA will only have four independently owned and operating television stations after the transaction, PEP may have an attributable interest in only one station in the market. Both stations are also located in the top four in the DMA in terms of audience share. Thus, the transaction will result in PEP exceeding the numerical ownership limit of the local television ownership rule by one television station. In support of its request for a six-month waiver, Newport states that over 85% of households in the Monterey-Salinas DMA subscribe to some form of MVPD service; that the DMA has a cable penetration rate of 59% and is served by eight cable systems owned by three cable operators; that there are 45 radio stations and 22 radio owners in the DMA; and that there are five daily and eleven weekly newspapers published in the market.[42]

18. **Waiver Standard.** Having reviewed the record in its entirety, we conclude that grant of temporary waivers in eight of the markets described above would be in the public interest. In evaluating a request for waiver of the multiple and cross-ownership rules, the Commission weighs public interest concerns on a case-by-case basis in order to insure that the waiver does not unduly compromise the twin purposes of fostering diversity and economic competition that underlie the multiple and cross-ownership rules.[43] The Commission has stated that waivers of limited duration have less impact on diversity and competition and may be analyzed within this context.[44]

19. Not only are the waivers requested of limited duration, but the impact on diversity and competition during the brief period of noncompliance with the local television ownership rule is further

[39] *Ackerley Broadcasting Fresno, LLC, Assignment Application*, at Exhibit 15, Attachment 1.

[40] Univision recently activated station KNIC-TV, creating a compliant duopoly in the San Antonio, Texas, DMA. *See* File No. BLCT-20061003AFN (granted February 7, 2007).

[41] *CCB Texas Licenses, L.P., Assignment Application*, at Exhibit 15, page 7-8.

[42] *Ackerley Broadcasting Operations, LLC, Assignment Application*, at Exhibit 15, Attachment 2.

[43] *Multimedia, Inc.*, 11 FCC Rcd 4883, 4884-4885 (1995).

[44] *2007 Univision Order*, 22 FCC Rcd at 5851-5852, *citing, Multimedia, Inc.*, 11 FCC Rcd at 4885.

diminished by the fact that the PEP interests at issue are not majority or controlling interests. As described above, in the eight markets at issue, there exists a substantial diversity of media voices.

20. In the past, the Commission has granted temporary waivers of its multiple and cross-ownership rules in order to facilitate transactions involving stations in different markets, stating that where "mergers or transfers of multiple stations are involved, in general we believe that the benefits derived from such transactions support grant of a reasonable period to effectuate the merger and permit time to come into compliance with our rules."[45] The Commission has stated that such waivers "promote commerce, encourage investment in the broadcast industry, and allow for the free transferability of broadcast licenses,"[46] while preventing a potential "fire sale" at below-market prices. In this case, Clear Channel is proposing to sell all of its 35 full-service television stations, thus severing ownership of its television from its radio stations. The proposed transaction is occurring within the context of the larger sale of Clear Channel to BT Triple Crown, which will also entail the potential spin-off of a number of radio stations. In these circumstances, we believe it reasonable to grant a short period of time to permit the restructuring of PEP's investments and/or sale of television stations.

21. Having reviewed the record in its entirety, we conclude that, with the exception of the Albany-Schenectady-Troy, NY, market, it would be in the public interest to grant Newport a temporary, six-month waiver of the local television ownership rule in the eight markets subject to the conditions described below. Newport shall come into compliance with the local television ownership rule within six months of consummation of the proposed transaction by PEP either divesting its interest in Univision, or the post-merger Newport otherwise divesting those broadcast station licenses necessary to come into compliance with the local television ownership rule in the Bakersfield, San Francisco-Oakland-San Jose, Santa Barbara-Santa Maria-San Luis Obispo, Salt Lake City, Fresno-Visalia, San Antonio, and Monterey-Salinas markets. To ensure that Newport and/or PEP has brought itself into compliance with the local television ownership rule in the above seven markets following expiration of the six-month period, the parties must ensure either that: (1) within 60 days of release of this order, PEP files evidence of a binding commitment to transfer its interest in Univision to a divestiture trust within six months of consummation, including a copy of the trust agreement, if full compliance with the local television ownership rule has not been achieved within six months of consummation; or (2) within 60 days of release of this order, Newport files applications seeking to assign those broadcast licenses necessary to come into compliance with the local television ownership rule in each of the affected markets to a divestiture trust, along with a copy of the trust agreement, which the Commission shall entertain, if full compliance with the local television ownership rule has not been otherwise achieved within six months of consummation.[47] In the Jacksonville, Florida, market, Newport must assign the license of either station WAWS(TV) or WTEV-

[45] *2007 Univision Order*, 22 FCC Rcd at 5851-5852.

[46] *Id.* at 5852, *citing Stockholders of CBS, Inc.*, 11 FCC Rcd 3733, 3755 (1995).

[47] The trustee shall have no family relationships with the principals of either PEP, the post-merger Newport, or Clear Channel, and no past business relationship with either PEP, Newport, or Clear Channel, their affiliates or principals, except to the extent required to establish the trust. The trust, which shall have as its sole purpose the divestiture of the interests and/or properties at issue, shall place the exclusive authority to vote and control the interest in Univision, or manage and operate the stations at issue, in the hands of a trustee. The trust shall terminate upon the sale of all of PEP's interest in Univision, or the sale of Univision properties exceeding the numerical ownership limits of the local television ownership rule to a third party, which shall occur no later than six months after transfer of the properties and/or interests to the trust. The proceeds from the sale of the properties, less the expenses associated with the sale, shall go to either PEP or Newport. While the trust is in effect, revenue in excess of expenses may be remitted periodically to either PEP or Newport. The trust shall comport with the insulation standards applicable to such mechanisms under Commission practice, including barring certain communications between the beneficiary and the trustee and contractual and other relationships between the parties. *See Twentieth Holdings Corporation*, 4 FCC Rcd at 4052.

TV within six months of consummation. To ensure compliance with the local television ownership rule in the Jacksonville market within the six-month period, Newport must file within 60 days of release of this order, an application to assign the license of either station WAWS(TV) or WTEV-TV license to a divestiture trust, along with a copy of the trust agreement, which the Commission shall entertain if full compliance has not been otherwise achieved within 6 months of consummation. We deny Newport's request for a temporary waiver in the Albany-Schenectady-Troy market for the reasons set forth above.

22. **Monterey-Salinas Market.** In addition to finding that the temporary waivers described above would serve the public interest, we further deny in part, and dismiss in part a petition for reconsideration opposing Clear Channel's June 14, 2002, acquisition of Ackerley.[48] Ackerley is the licensee of station KION-TV, Monterey, California, and it currently holds an LMA and related Shared Services Agreement ("SSA") with the licensee of station KCBA(TV), Salinas, California, Seal Rock Broadcasters, L.L.C. ("Seal Rock"). A previous version of the LMA entered into on January 12, 2000, contained a joint sales agreement ("JSA") that provided Ackerley with the right to retain "all advertising and other revenues, including accounts receivable, arising from or relating to the [programming provided under the LMA] and to programming provided by [Seal Rock], during the term hereof (other than network compensation revenues)."[49] The Commission conditioned its grant of the application transferring control of station KION-TV to Clear Channel "upon reformation of the January 12, 2000 [LMA]" between Ackerley and Seal Rock, "to remove any contractual right or other related arrangement entitling the broker to advertising revenues not resulting solely from the 15% of programming provided under [] the [LMA]."[50]

23. On June 13, 2002, Ackerley filed with the Commission an Amended and Restated Time Brokerage Agreement and a new Shared Services Agreement. Buckley Broadcasting of Monterey ("Buckley"), which previously challenged Clear Channel's acquisition of Ackerley, filed a petition for reconsideration of the *2002 Ackerley Order*. Buckley argues that the revised agreements do not meet the condition placed on Clear Channel acquisition of station KION-TV because Seal Rock still does not have an economic incentive to control station KCBA(TV)'s programming under the revised agreements.

24. Our review of the revised agreements between Ackerley and Seal Rock and the petition for reconsideration leads us to conclude that Seal Rock does have an economic incentive to control station KCBA(TV)'s programming, that Clear Channel has met the condition placed on its 2002 acquisition of station KION-TV, and that Clear Channel does not have an attributable interest in station KCBA(TV). The Commission, in the 1999 *Attribution Order* "declin[ed] to impose new rules attributing JSAs as long as they dealt primarily with the sale of advertising time and did not contain terms that affect programming or other core operations such that they were, in fact, substantively equivalent to LMAs,"[51] and further concluded that LMAs that cover no more than 15% of the weekly broadcast hours of the brokered station are generally not attributable to the brokering licensee.[52] The *2002 Ackerley Order* presented the first instance in which the Commission considered the terms of a JSA in determining whether a purportedly

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[48] *Shareholders of the Ackerley Group, Inc.*, 17 FCC Rcd 10828 (2002). If we were to grant the petition for reconsideration, Clear Channel would currently have attributable interests in two television stations in the Monterey-Salinas market. We consider Buckley's pleading within the context of the instant proceeding because disposition of the petition for reconsideration will determine both the number of stations Newport would need to divest as a result of the proposed transaction, and whether Clear Channel is currently in compliance with the local television ownership rule in the market.

[49] *Id.* at 10841.

[50] *Id.* at 10844.

[51] *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests ("Attribution Order")*, 14 FCC Rcd 12559, 12612-12613 (1999).

[52] *Id.* at 12597.

compliant LMA met the attribution thresholds set forth in the *1999 Attribution Order*. Based on the language of the original LMA, the Commission stated in the *2002 Ackerley Order* that Ackerley appeared to have the right to collect 100% of the advertising revenue from all non-network programming aired on KCBA(TV),[53] and that the "[LMA] and related agreements between Seal Rock and [Ackerley]…were 'substantively equivalent' to a [LMA] in excess of 15% of KCBA(TV)'s weekly broadcast hours."[54] Because it received virtually no advertising revenue, Seal Rock's programming choices presented no financial risk or opportunity for financial reward.

25. In contrast, the revised LMA does not give Ackerley the right to retain advertising revenue associated with programming not provided under the LMA.[55] Additionally, Ackerley and Seal Rock have further negotiated a payment arrangement whereby all advertising revenue collected for Seal Rock's programming will go into a lockbox maintained jointly by Ackerley and Seal Rock. From the total lockbox funds, Seal Rock will receive reimbursement for expenses related to the 85% percent of station programming it provides and it will disburse directly to the credit facility all debt service payments due under its existing loan. If any funds remain in the lockbox, Ackerley will receive a Basic Fee of $600,000 per year for the services provided under the Shared Services Agreement. Ackerley will fund any shortfall if the lockbox funds are insufficient to reimburse Seal Rock's expenses for 85% of the programming aired on station KCBA(TV) or to meet the debt service payments on its loan. Seal Rock's profits under this new arrangement are only limited by its own expenses, the Basic Fee, and any previously funded shortfalls. Seal Rock appears to have an incentive to collect as much advertising revenue from its programming as possible, as well as to limit the amount of expenses reimbursed from revenue collections. Seal Rock appears to have a significant opportunity for financial reward under this arrangement and, thus, and economic incentive to control station KCBA(TV)'s programming. Finally, the revised agreements specify that Seal Rock will hire a new manager who will serve as a General Manager, General Sales Manager, and Program Director for KCBA(TV). The new manager will report to and be supervised by Seal Rock; and will have the power to approve or deny any advertising sales. Seal Rock will supervise any shared personnel, and each shared employee will report to Seal Rock when performing services for KCBA(TV). Under this new arrangement, Seal Rock, clearly, will be ultimately responsible for the programming aired on station KCBA(TV). Consequently, we find that the LMA, and related JSA, are not "substantively equivalent" to an LMA that accords Ackerley effective control over the airing of programming for more than 15% of station KCBA(TV)'s weekly broadcast hours.[56]

26. **Main Studio Waiver.** We will grant authorization for Clear Channel to continue to utilize station KSAS-TV, Wichita, Kansas, as the main studio for station KAAS-TV, Salina, Kansas, and station KOCW(TV), Hoisington, Kansas, all of which are located in the Wichita-Hutchison, Kansas, DMA. The main studio rule requires that a station locate its main studio either: (1) within a station's principal community contour; (2) within the principal community contour of any other broadcast station licensed to the station's community of license; or (3) within 25 miles of the center of its community of license.[57] A licensee must acquire written authorization to move and maintain a main studio outside of these

[53] *2002 Ackerley Order*, 17 FCC Rcd at 10841.

[54] *Id.* at 10841-10842.

[55] The parties also added a clause to Section 6 of the revised LMA stating that "[u]nder no circumstances shall [Ackerley/Clear Channel] be entitled to any [station] advertising revenues which are not related solely [to the programming provided by the broker under the LMA]."

[56] Buckley has also argued that the Commission failed to adequately consider its argument that the transaction would result in excessive media concentration in the Monterey-Salinas market. This argument is mooted by the instant transaction, which will effectively divest Clear Channel of the television stations it owns in the market.

[57] 47 C.F.R. § 73.1125(a).

locations.[58] Commission staff first authorized Clear Channel to co-locate the main studios for stations KSAS-TV, KAAS-TV, and KOCW(TV) in 1998.[59]

27. In its showing, Newport states that the Wichita-Hutchison DMA extends 300 miles east to west and 200 miles north to south, and comprises approximately 70% of the area of Kansas.[60] Newport states that, aside from station KOCW(TV) and station KAAS-TV, no full-power stations are licensed to Hoisington or Salina.[61] Newport further notes that Hoisington has only 2,975 residents and is 100 miles from Wichita, while Salinas is 90 miles from Wichita.[62] Newport maintains that "the population served by the Salina and Hoisington stations simply cannot provide the economic support necessary to operate main studios in those communities."[63] Newport states that between 1985 and 2004, there has been a net migration of 27,000 taxpayers out of the counties served by station KAAS-TV. According to Newport, staffing efficiencies that result from co-location of the stations' main studios have permitted the stations' to continue their service to underserved rural communities and provide local-oriented programming.

28. We believe the public interest would be served by waiver of the main studio rule to permit Newport to continue to co-locate the main studios for stations KSAS-TV, KOCW(TV), and KAAS-TV. Stations KOCW(TV) and KAAS-TV have operated without main studios in their local communities for several years. Not only have the circumstances underlying the original main studio waiver not changed significantly since 1998, but the stations have, and will continue to maintain, files available for public inspection in their local communities. Newport states that it will also maintain "a toll-free telephone number and web site through which Salina and Hoisington residents can contact the station and obtain programming and other information."[64]

IV. CONCLUSION

29. We have reviewed the proposed merger and related pleadings and conclude that grant of the applications as conditioned herein will comply with the Commission's rules. We conclude that the applicants are fully qualified and that grant of above-captioned assignment applications, subject to the conditions set forth in this order, will serve the public interest, convenience, and necessity.

V. ORDERING CLAUSES

30. Accordingly, **IT IS ORDERED**, that the request for a continuing waiver of Section 73.1125(a) of the Commission's Rules to permit station KOCW(TV), Hoisington, Kansas, and station KAAS-TV, Salina, Kansas to utilize station KSAS-TV, Wichita, Kansas, as their main studio **IS GRANTED**.

31. **IT IS FURTHER ORDERED**, that the petition of Buckley Broadcasting of Monterey seeking reconsideration of the Commission decision *Shareholders of the Ackerley Group, Inc.*, 17 FCC Rcd 10828 (2002) **IS DENIED** in part, and **DISMISSED** in part.

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[58] 47 C.F.R. § 73.1125(d)(2).

[59] Letter from Barbara A. Kreisman, Chief, Video Services Division, to John M. Burgett, dated February 12, 1998.

[60] *Clear Channel Broadcasting Licenses, Inc., Assignment Application*, at Exhibit 15, page 11.

[61] *Id.* at Exhibit 15, page 13.

[62] *Id.* at Exhibit 15, pages 11-12.

[63] *Id.* at Exhibit 15, page 10.

[64] *Id.* at Exhibit 15, page 13.

32. **IT IS FURTHER ORDERED**, that the applications for consent to assign the licenses of the stations listed in the Appendix **ARE GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:** (1) Newport Television LLC shall come into compliance with the local television ownership rule in the Bakersfield, California; San Francisco-Oakland-San Jose, California; Santa Barbara-Santa Maria-San Luis Obispo, California; Salt Lake City, Utah; Fresno-Visalia, California; San Antonio, Texas and Monterey-Salinas, California markets within six months of consummation of the proposed transaction by Providence Equity Partners, Inc., either divesting its interest in Univision Communications, Inc., or the post-merger Newport otherwise divesting those broadcast station licenses necessary to come into compliance with the local television ownership rule in the above seven markets. To ensure that Newport and/or PEP has brought itself into compliance with the local television ownership rule in the above seven markets following expiration of the six-month period, the parties must ensure either that: (A) within 60 days of release of this order, PEP files evidence of a binding commitment to transfer its interest in Univision to a divestiture trust within 6 months of consummation, including a copy of the trust agreement, if full compliance with the local television ownership rule has not been achieved within six months of consummation; or (B) within 60 days of release of this order, Newport files applications seeking to assign those broadcast licenses necessary to come into compliance with the local television ownership rule in each of the affected markets to a divestiture trust, along with a copy of the trust agreement, which the Commission shall entertain, if full compliance with the local television ownership rule has not been otherwise achieved within six months of consummation; (2) Newport shall come into compliance with the local television ownership rule in the Jacksonville, Florida, market within six months of consummation of the instant transaction by divestiture of either station WAWS(TV), Jacksonville, Florida, or station WTEV-TV, Jacksonville, Florida. To ensure that Newport does not hold television stations in violation of the local television ownership rule in the Jacksonville market following expiration of the six-month period, Newport must file an application seeking to assign the license of either station WAWS(TV) or WTEV-TV to a divestiture trust, along with a copy of the trust agreement, within 60 days of release of this order, which the Commission shall entertain if full compliance with the local television ownership rule has not been otherwise achieved within 6 months of consummation; and (3) PEP must come into compliance with the condition placed in the *2007 Univision Order*, 22 FCC Rcd 5842, 5860 (2007), prior to consummation.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Authorizations to be Assigned from Wholly Owned Subsidiaries of Clear Channel Communications, Inc., to Newport Television LLC

Licensee	Call Sign(s)	Facility ID Number(s)	File Number
Clear Channel Broadcasting Licenses, Inc.	WPMI-TV, Mobile, AL	11906	BALCT-20070504ADI
	KUCW(TV), Ogden, UT	1136	BALCT-20070504AEK
	WPTY-TV, Memphis, TN	11907	BALCT-20070504ADZ
	WAWS(TV), Jacksonville, FL	11909	BALCT-20070504ADM
	KOKI-TV, Tulsa, OK	11910	BALCT-20070504ADV
	KSAS-TV, Wichita, KS	11911	BALCT-20070504ADT
	KAAS-TV, Salina, KS	11912	BALCT-20070504ADS
	KLRT-TV, Little Rock, AR	11951	BALCT-20070504ADJ
	WXXA-TV, Albany, NY	11970	BALCT-20070504ADU
	WTEV-TV, Jacksonville, FL	35576	BALCT-20070504ADN
	WJTC(TV), Pensacola, FL	41210	BALCT-20070504ADO
	KASN(TV), Pine Bluff, AR	41212	BALCT-20070504ADK
	KMYT-TV, Tulsa, OK	54420	BALCT-20070504ADW
	KMUV-LP, Monterey, CA	59362	BALTTL-20070504ADL
	WLMT(TV), Memphis, TN	68518	BALCT-20070504AEA
	WJKT(TV), Jackson, TN	68519	BALCT-20070504ADY
	KTVX(TV), Salt Lake City, UT	68889	BALCT-20070504AER
	WHP-TV, Harrisburg, PA	72313	BALCT-20070504ADX
	KOCW(TV), Hoisington, KS	83181	BALCT-20070504ADR
	KSAS-LP, Dodge City, KS	11967	BALTTL-20070504ADP
	KAAS-LP, Garden City, KS	11968	BALTTL-20070504ADQ
	K45FW, Price, UT	68879	BALTT-20070504AEO
	K51BK-D, Aurora, UT	68882	BALDTT-20070504AEC
	K18FU-D, Rural Beaver County, UT	68887	BALDTT-20070504AEP
	K13QK, Virgin, UT	70949	BALTTV-20070504AEX
	K1100, Pine Valley, UT	70957	BALTTV-20070504AEL
	KUWB-LP, Bloomington, UT	70960	BALTTL-20070504AED
	K34CX, Apple Valley, UT	70970	BALTT-20070504AEB
	K09SU, Hildale, UT	70973	BALTTV-20070504AEH
	K05BU, Enterprise, UT	70974	BALTTV-20070504AEG
	K31IS-D, Toquerville, UT	70987	BALDTT-20070504AEW
	K28EA, Washington, UT	70995	BALTT-20070504AEZ
	K69CT, St. George, UT	70999	BALTT-20070504AEV
	K28DV, Evanston, WY	74268	BALTT-20070504AFC
	K24GK, Salina, UT	128228	BALTT-20070504AEQ
	K51IC, Springlen, UT	128236	BALTT-20070504AET
	K14LW, Myton, UT	128240	BALTT-20070504AEJ
	K17GT-D, Price, UT	128241	BALDTT-20070504AEM
	K40HS, Duchesne, UT	128242	BALTT-20070504AEE
	K48JD, Santa Clara and Washington, UT	129687	BALTT-20070504AES
	K45IA, Rock Springs, WY	131206	BALTT-20070504AFB
	K31FW, Mountain View, WY	131213	BALTT-20070504AFA
	K35HI, Dutch John, UT	131214	BAPTT-20070504AEF
	K43JF, Manti/Ephraim, UT	131215	BAPTT-20070504AEI
	KMUV-LD, Monterey, CA	167544	

	K52KG-D, Washington, UT K25JS-D, St. George, UT K24HP-D, Price, etc., UT	167545 167546 167548	BALDTT-20070504AEY BALDTT-20070504AEU BAPDTT-20070504AEN
Citicasters Co.	WKRC-TV, Cincinnati, OH	11289	BALCT-20070504AFH
Central NY News, Inc.	WIVT(TV), Binghamton, NY WWTI(TV), Watertown, NY WSYR-TV, Syracuse, NY WHAM-TV, Rochester, NY WBGH-CA, Binghamton, NY W07BA, Syracuse-DeWitt, NY	11260 16747 73113 73371 15569 73114	BALCT-20070504AFI BALCT-20070504AFN BALCT-20070504AFL BALCT-20070504AFK BALTTA-20070504AFJ BALTTV-20070504AFM
CCB Texas Licenses, L.P.	WOAI-TV, San Antonio, TX	69618	BALCT-20070504AFO
Capstar TX Limited Partnership	WETM-TV, Elvira, NY	60653	BALCT-20070504AFP
Bel Meade Broadcasting Company, Inc.	KKEY-LP, Bakersfield, CA KKEY-LD, Bakersfield, CA	18750 167607	BALTVL-20070504AFR
Ackerley Broadcasting Operations, LLC	KTVF(TV), Fairbanks, AK KION-TV, Monterey, CA KFTY(TV), Santa Rosa, CA KGET-TV, Bakersfield, CA KMCB(TV), Coos Bay, OR KTCW(TV), Roseburg, OR KMTR(TV), Eugene, OR KVOS-TV, Bellingham, WA KCOY-TV, Santa Maria, CA K07NJ, Delta Junction, AK K06LA, Healy, AK K44DN, Paso Robles, CA KKFX-CA, San Luis Obispo, CA K46AS, Coos Bay, OR KMOR-LP, Eugene, OR K03CQ, Mapleton, OR K05DF, Mapleton, OR K31AE, Sutherlin, OR K22GX, Tri City, OR	49621 26249 34440 34459 35183 35187 35189 35862 63165 49617 49626 63172 33870 35188 25325 39855 39854 35172 35184	BALCT-20070504AFS BALCT-20070504AFW BALCT-20070504AGA BALCT-20070504AFV BALCT-20070504AGB BALCT-20070504AGH BALCT-20070504AGE BALCT-20070504AGK BALCT-20070504AFZ BALTTV-20070504AFT BALTTV-20070504AFU BALTT-20070504AFX BALTTA-20070504AFY BALTT-20070504AGC BALTTL-20070504AGD BALTTV-20070504AGF BALTTV-20070504AGG BALTT-20070504AGI BALTT-20070504AGJ
Ackerley Broadcasting Fresno, LLC	KGPE(TV), Fresno, CA	56034	BALCT-20070504AGL

DISSENTING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

In the Matter of Clear Channel Broadcasting Licenses, Inc., et al. and Newport Television LLC

No one should be under any illusion that Clear Channel's sale of its 35 full-power television stations strikes a blow for de-consolidation. After this transaction closes and all divestitures have occurred, Providence Equity Partners will have attributable interests in a whopping 86 television stations and 99 radio stations in the United States, as well as interests in media companies around the world such as MGM studios (largest shareholder), Yes Network, Hallmark Channel, and Warner Music Group. You will search this Order in vain, however, for any mention of the scope of Providence's holdings or how they potentially affect our public interest analysis.

What makes this case particularly different than other license transfers from one media giant to another is the fact that this one involves private equity. In the Univision Order last March, I urged the Commission to examine the impact of private equity on our ability to ensure that licensees protect, serve and sustain the public interest. Unfortunately, that has not happened. Instead, we close our eyes and pretend that nothing has changed. We proceed without knowing how segments of the conglomerate are controlled and managed. How, amid such murky shadows, does a regulator protect the public interest? Why doesn't the Commission have enough curiosity to even ask?

I don't claim to have all the answers here, but I have plenty of questions. What are the financial and public interest implications of private equity investment? Can our attribution rules can keep up with these complex and opaque ownership structures? Why haven't we studied what happens to long-term investment in communications when a private equity firm takes control? Do such entities usually take the longer view because they are not subject to the pressures of Wall Street, or are we beginning to see more of a "strip it and flip it" pattern? How will a purchaser's assumption of massive amounts of debt affect its stewardship of the airwaves? For broadcast stations, what happens to newsgathering and other programming of local interest? There are many other questions. Our lack of answers to them, coupled with Commission willingness to plunge ahead in spite of its appalling unawareness, is chilling. When we proceed without adequate information to approve this new kind of media consolidation, we are heading into dangerous waters.

Doing our job depends on our ability to assess who actually influences licensees' editorial decisions and financial strategy. As Chairmen Dingell and Markey noted in a July 12, 2007 letter to Chairman Martin:

> History also suggests that private equity ownership is marked by a management structure that is not overly transparent and by fluid asset management where actual holdings and control may vary significantly, as properties are bought and sold. These historical styles may not be consistent with many of the core public interest and localism values that Congress has assigned to local media and may implicitly undermine the Commission's media ownership rules.

We need to heed such counsel. Many industries, not just communications, have gotten themselves into serious difficulties by heading off on seemingly promising and fashionable tangents without asking the questions they should have asked. The outcomes have often been disastrous to the businesses themselves, to customers, and to the country's well-being. It's time to get serious about this.

Because we proceed down such a blind alley, I must dissent from today's decision.