

[US] Debate Continues Over New Media Ownership Rules Following FCC's Adoption

IRIS 2003-10:1/35

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New broadcast ownership rules were adopted on 2 June 2003, by the Republican-dominated Federal Communications Commission, which voted 3-2 along party lines to ease decades-old ownership restrictions. Under the new rules, television networks could own stations that reach 45 percent or more of the national market - even more if they were UHF - as opposed to the former 35 percent limit. Companies could have both a newspaper and broadcast stations in the same market. Further, companies could own as many as three stations in big cities. The rules have been challenged in court and debated in Congress - plunging the Commission into the greatest political turmoil since the license-grant bribery charges of the 1950's.

On 3 September 2003, the day the rules were to go into effect, the Third Circuit in Philadelphia stayed the new Media Ownership Rules. A petition to stay the new rules was brought by the Prometheus Radio Project, a Philadelphia group that supports community radio stations. In granting the stay, the three-judge panel wrote: "The harm to petitioners absent a stay would be the likely loss of an adequate remedy should new ownership rules be declared invalid in whole or in part. In contrast to this irreparable harm, there is little indication that a stay pending appeal will result in substantial harm to the Commission or other interested parties."

On 16 September 2003, the Senate voted 55 to 40 to repeal the media-ownership rules, choosing an unusual legislative vehicle. To succeed, the resolution - called a "congressional veto" - needs majority approval in the Senate and House as well as President Bush's signature. If President Bush vetoed the resolution, it would take a two-thirds majority in the House and Senate to override his veto. Senate supporters of the measure said their vote would send a message to the Bush administration, the FCC and large media companies. A congressional veto, however, has been used successfully only once before.

There also seems to be White House support for the rules. According to President Bush's spokesman, Scott McClellan, "We think that the rules that the FCC came up with more accurately reflect the changing media landscape and the current state of network-station ownership while guarding against undue concentration in the marketplace, so we think the FCC did its job." Jeff Chester, the executive

director of the Center for Digital Democracy, however, is confident that the Administration will not veto the override.

Further, a vote to repeal the new rules seems unlikely in the House of Representatives, since Republican leaders have vowed to kill the bill. Following the vote in the Senate, House Energy and Commerce Committee Chairman Billy Tauzin (R-LA) stated “Based on today's vote there clearly is not enough support in the Senate to override a threatened presidential veto. It's time for Congress to move on.”

Prometheus Radio Project v. FCC, 2003 U.S. App. LEXIS 18390

