

**DISSENTING STATEMENT OF
COMMISSIONER NATHAN SIMINGTON**

Re: *2018 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 18-349, Report and Order.

I dissent from this item, which represents poor policy and an illegal reading of our statute and rules.

Let us start with the illegal portion. Section 202(h) of the Act requires that the Commission, *as the result of competition*, repeal or modify any rule that is no longer in the public interest. What this does not mean, and what this cannot mean, is that the Commission properly may wedge in new, burdensome rules on broadcasters who are, at present, being *outcompeted* in the video marketplace under the guise of "loophole closing" in the so-called public interest. It cannot. By not merely ignoring the competitive realities of the modern video marketplace, but indeed turning them on their head, this Commission, yet again, fails to understand the meaning of the word "result." Section 202(h) requires that a competitive analysis *drive* the "repeal or modification" of rules, not sit along for in the back seat for the ride.

Speaking of being taken for a ride, the American people, at the hands of the so-called public interest groups, yet again lose. The item is at pains to point out that local news production has actually *increased* in recent years in small DMAs. Tabling the truth of the issue, let us stipulate to it for the purposes of argument. The increase would be a direct result of station groups recognizing that local news is one of their two competitive advantages (the other being sports), and consequently *investing* in its production. And, *as a result of competition*—the very competition *driving* the production of local content—the Commission will now *undercut* those gains in localism by making investing in small DMAs a less attractive commercial proposition? And this, as we are admonished in the item, is in the public interest, actually? Given that the Commission is, in this item, transporting itself back in time to the age of broadcast tycoons, perhaps a "Hello, McFly?" is warranted.

The fully novel application of this item's approach to extending the Local Television Ownership Rule to multicast streams and low power stations (which will impact principally smaller DMAs where it is not even arguable that broadcasters are "winning" in the video marketplace) is without factual foundation and flies in the face of the essentially de-regulatory precedent of the Quadrennial Review. This decision is anti-localism and hastens the death of local news in small markets, and it does so on the thinnest of gruels supplied in the factual record. The item tells a just-so story about viewpoint diversity and public interest while, at the same time, destroying the asset value of the very small market stations providing what limited viewpoint diversity remains. The Commission did not kill local print journalism, but it prepaid its ticket across the Styx, and today's decision is a second punch in the loyalty card.

Briefly, the Commission *also* 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. Yet it is not to be. The Commission here, in the name of public interest, viewpoint diversity, and *competition*, valiantly relies on the national industry incumbent—whose commercial dominance in the radio marketplace would be hurt by elimination of the rule—to make its arguments for it. Just so.