

ALERT

FCC Implements Supreme Court's *Prometheus* Decision, Eliminating Cross-Ownership Rules and Restoring Modified Local Television and Radio Ownership Rules

June 7, 2021

On June 4, 2021, the Federal Communications Commission's (FCC's or Commission's) Media Bureau formally implemented changes to the Commission's media ownership rules as required to effectuate the recent decision by the U.S. Supreme Court concerning those rules. The Supreme Court's unanimous decision determined that the FCC reasonably decided to eliminate the newspaper/broadcast cross-ownership rule and the radio/television cross-ownership rule and to relax the local television ownership rule.

The June 4 action removes any uncertainty surrounding the practical impact of the Supreme Court's decision. The Media Bureau's Order (Order) eliminates the newspaper/broadcast cross-ownership rule, the radio/television cross-ownership rule, and the television joint sales agreement attribution rule. It also reinstates the previous version of the local television ownership rule, which does not require that eight independent voices remain in a market post-transaction and permits case by case showings that application of the top-four rule is not in the public interest. And it restores a presumption concerning embedded markets under the local radio ownership rule, as well as the "eligible entity" standard applicable to certain diversity-enhancing measures and the "incubator" program for radio (also intended to improve diversity of radio ownership).

As a result of the Order, transactions proposing ownership of newspaper/television combinations, radio/television combinations, and television station combinations that comply with the modified

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local television ownership rule are permitted. Television joint sales agreements are not considered attributable under the media ownership rules, and parties can avail themselves of diversity-enhancing measures including the radio incubator program. At the same time, whether the FCC will make changes to any of these rules in the future remains to be seen, including in the context of the still-pending 2018 quadrennial review proceeding on which we will be updating clients separately. If you have any questions about the revised ownership rules, please contact one of the authors listed on this alert.