

Amendment

In light of the Supreme Court’s decision in *Prometheus*, Quincy Media, Inc. (“Quincy”) and Gray Television, Inc. (“Gray”) hereby amend their pending applications seeking Commission consent to the long-form transfer of control to Gray of certain license-holding subsidiaries of Quincy.¹ Quincy and Gray submit the instant amendment to refresh the record concerning the three markets in which Gray initially requested failing station waivers. The parties provide herein data demonstrating that each of those station combinations continues to comply with the Commission’s local television ownership rule as adopted in the Reconsideration Order.

Prior to the *Order on Reconsideration*, the Commission’s rules prohibited any entity from owning two stations unless (i) eight independent television voices remained in the market (the “Eight-Voices Test”) after the proposed combination; and (ii) at least one of the stations was not ranked among the top-four television station in a market (the “Top Four Prohibition”). The Commission’s rules also limited the number of television and radio stations any entity could own in a single market (“Radio-Television Cross-Ownership Rule”). In the *Order on Reconsideration*, the Commission eliminated the Eight-Voices Test and the Radio-Television Cross-Ownership Rule, which the Supreme Court in *Prometheus* has now affirmed.

In the initial applications, Gray requested failing station waivers in three markets: (1) South Bend-Elkhart, Indiana; (2) Fort Wayne, Indiana; and (3) Duluth, Minnesota-Superior, Wisconsin. In each of the markets Gray requested a failing station waiver, because the markets will not have eight independent television voices following the transaction. The parties have obtained more recent audience share data than was available at the time the initial applications were filed. In each case, the data demonstrates that at least one of the stations in each market is not ranked among the top-four stations in the market.

In the South Bend-Elkhart, Indiana market, Gray is the licensee of WNDU-TV, South Bend, Indiana. WNDU-TV is an affiliate of the NBC network and is ranked second in the market. Quincy is the licensee of WSJV(TV), Elkhart, Indiana. WSJV(TV) is an affiliate of the Heroes and Icons network and is ranked fifth in the market.² Gray’s common ownership of WNDU-TV and WSJV(TV) complies with the Commission’s local television ownership rule.

¹ In 2017, the Commission adopted an *Order on Reconsideration* modifying certain of its media ownership rules. 2014 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, *Order on Reconsideration and Notice of Proposed Rulemaking*, 32 FCC Rcd 9802 (2017) (“Order on Reconsideration”). Prometheus Radio Project and several other organizations petitioned for review. The Third Circuit agreed with the petitioners and vacated the Order on Reconsideration. *Prometheus Radio Project v. FCC*, 939 F.3d 567 (3d. Cir. 2019). The Third Circuit’s decision was appeal to the U.S. Supreme Court. On April 1, the United States Supreme Court unanimously reversed the Third Circuit. *FCC v. Prometheus Radio Project*, No. 19-1231 (U.S. Apr. 1, 2021) (“*Prometheus*”).

² See Exhibit 1.

In the Fort Wayne, Indiana market, Gray proposes to acquire Quincy's co-owned WPTA(TV), Fort Wayne, Indiana and WISE-TV, Fort Wayne, Indiana. WPTA(TV) is affiliated with the ABC network and is ranked second in the market.³ WISE-TV is an affiliate of the CW network and is ranked fifth in the market.⁴ Gray's common ownership of WPTA(TV) and WISE-TV complies with the Commission's local television ownership rule.

In the Duluth, Minnesota-Superior, Wisconsin market, Gray proposes to acquire Quincy's co-owned KBJR-TV, Superior, Wisconsin and KDLH(TV), Duluth, Minnesota. KBJR-TV is affiliated with the NBC network and is ranked first in the market.⁵ KDLH(TV) is an affiliate of the CW network and is ranked fifth in the market.⁶ Gray's common ownership of KBJR-TV and KDLH(TV) complies with the Commission's local television ownership rule.

Accordingly, the Commission need not reach a decision on whether the failing station waivers are needed.⁷ In addition, the Commission need not determine whether the application demonstrates compliance with the Radio-Television Cross-Ownership Rule. The Commission can grant the applications based on the demonstration in the original application that Gray's acquisition of Quincy's stations will serve the public interest.

³ WPTA(TV) is also affiliated with the NBC network.

⁴ See Exhibit 2.

⁵ KBJR-TV is also affiliated with the CBS network.

⁶ See Exhibit 3.

⁷ Gray is not withdrawing its requests for failing station waivers with respect to the three markets since those waivers provide additional information regarding the public interest benefits that the station combinations bring to the stations' communities.

Exhibit 1

South Bend-Elkhart, IN Audience Share
Data January 2021

REDACTED IN ITS ENTIRETY

Exhibit 2

Fort Wayne, IN Audience Share Data
January 2021

REDACTED IN ITS ENTIRETY

Exhibit 3

Duluth, MN – Superior, WI Audience Share
Data January 2021

REDACTED IN ITS ENTIRETY