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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY  
EXPECTED AT 10:30 a.m. EST  
WEDNESDAY, APRIL 23, 1980

*Baltas*  
STATEMENT OF  
B. E. BIRKLE, DEPUTY DIRECTOR  
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION  
BEFORE THE  
SUBCOMMITTEE ON COMMUNICATIONS  
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE  
HOUSE OF REPRESENTATIVES

ON  
[*Comments*  
*ON* H.R. 6228]

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MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE WELCOME YOUR INVITATION TO BE HERE TODAY TO DISCUSS H.R. 6228, A BILL TO AMEND THE COMMUNICATIONS ACT OF 1934 TO PROVIDE THAT THE FEDERAL COMMUNICATIONS COMMISSION, IN CONSIDERING APPLICATIONS FOR THE RENEWAL OF BROADCAST STATION LICENSES, SHALL NOT TAKE INTO ACCOUNT ANY OWNERSHIP INTEREST OF THE APPLICANT IN OTHER BROADCASTING STATIONS OR IN OTHER COMMUNICATIONS MEDIA, AND FOR OTHER PURPOSES.

IN OUR JUNE 1979 REPORT ON SELECTED REGULATORY POLICIES FOR RADIO AND TV (CED-79-62), WE STATED THAT SINCE THERE IS NO CONCLUSIVE EVIDENCE THAT NEWSPAPER-BROADCAST, TV-RADIO, AND AM-FM CO-OWNERSHIPS PROVIDE BETTER SERVICE OR THAT THEIR DIVESTITURE WOULD CAUSE PUBLIC HARM THAT THE CONGRESS SHOULD DECIDE AS A MATTER OF POLICY



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- (1) THE RELATIVE IMPORTANCE TO BE PLACED ON OWNERSHIP DIVERSIFICATION AND INDUSTRY STABILITY IN FORMULATING BROADCAST STATION OWNERSHIP RULES AND
- (2) THE CIRCUMSTANCES UNDER WHICH DIVESTITURE BY ESTABLISHED BROADCAST LICENSEES WOULD BE APPROPRIATE FOR FOSTERING COMPETITION AND DIVERSITY.

H.R. 6228, BY CODIFYING THE COMMISSION'S CROSS-OWNERSHIP RULES AND ELIMINATING CONSIDERATION OF OWNERSHIP DIVERSIFICATION AND OWNER PARTICIPATION IN STATION MANAGEMENT FOR LICENSE RENEWALS, IS CONSISTENT WITH OUR RECOMMENDATIONS AND WE THEREFORE AGREE WITH THIS BILL.

REGARDING THE QUESTIONS BEFORE THIS PANEL WE OFFER THE FOLLOWING.

THE PROPER DEGREE OF OWNERSHIP DIVERSIFICATION HAS LONG BEEN A CONTROVERSIAL ISSUE IN BROADCAST REGULATION. THE COMMISSION AND THE COURTS HAVE SAID THAT NOTHING CAN BE MORE IMPORTANT THAN INSURING THAT THERE IS A FREE FLOW OF INFORMATION FROM AS MANY DIVERGENT SOURCES AS POSSIBLE. FOR THIS REASON, THE COMMISSION'S FIRST CONSIDERATION IN GRANTING NEW BROADCAST LICENSES IS DIVERSIFICATION OF OWNERSHIP CONTROL. IN THE CONTEXT OF LICENSE RENEWALS, HOWEVER, THE COMMISSION HAS FOUND THAT STATION OWNERSHIP AND MANAGEMENT INTEGRATION ARE NOT NECESSARILY COMPLEMENTARY WITH DIVERSIFICATION OF MEDIA CONTROL. AS A RESULT, RENEWAL DECISIONS GENERALLY HAVE BEEN BASED ON THE DESIRE TO MAINTAIN STABILITY OF BROADCAST OPERATIONS AND THE ADEQUACY OF THE INCUMBENT

LICENSEE'S PAST PROGRAM SERVICE, WITH THE COMMISSION DISCOUNTING THE IMPORTANCE OF OWNERSHIP DIVERSIFICATION AND INTEGRATION. GIVEN THESE CIRCUMSTANCES:

--WE DO NOT SEE THE DEVELOPMENT OF NEW TELECOMMUNICATIONS TECHNOLOGY CHANGING THE COMMISSION'S TREATMENT OF CROSS-OWNERSHIP AND INTEGRATION IN COMPARATIVE RENEWALS. WITHIN THE CONTEXT OF DEVELOPING TECHNOLOGIES, THE BALANCING OF STATION OWNERSHIP AND MANAGEMENT INTEGRATION WITH DIVERSIFICATION OF MEDIA CONTROL WILL REMAIN A MATTER OF JUDGMENT. IN THE PAST, THE COMMISSION HAS DISCOUNTED THE FACTORS OF STATION OWNERSHIP AND MANAGEMENT INTEGRATION DURING LICENSE RENEWAL;

--WE SEE LITTLE, IF ANY, IMPACT THIS LEGISLATION WOULD HAVE ON THE COMMISSION'S ABILITY TO DETERMINE WHETHER A RENEWAL WOULD SERVE THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY. RATHER, WE SEE THIS LEGISLATION CLARIFYING THE RELATIVE IMPORTANCE TO BE PLACED ON OWNERSHIP DIVERSITY AND PARTICIPATION OF OWNERS IN STATION MANAGEMENT;

--WE HOLD NO OPINION ON WHETHER RADIO AND TELEVISION LICENSES SHOULD BE TREATED DIFFERENTLY WITHIN THE CONTEXT OF THIS BILL; AND

--WE BELIEVE THAT, BY CODIFYING THE COMMISSION'S NEWSPAPER-BROADCAST CROSS-OWNERSHIP RULES, H.R. 6228 WILL RESOLVE UNCERTAINTY SURROUNDING THE DIVERSIFICATION ISSUE.

IN APPENDIX I WE HAVE ALSO INCLUDED FOR YOUR CONSIDERATION,  
QUESTIONS ON SPECIFIC PROVISIONS OF H.R. 6228.

THIS CONCLUDES MY PREPARED STATEMENT.

QUESTIONS FOR CONSIDERATION ON  
SPECIFIC PROVISIONS OF H.R. 6228

1. DOES H.R. 6228 RESCIND THE COMMISSION'S NATIONAL AND REGIONAL OWNERSHIP RULES?

IN ITS SILENCE, THE BILL COULD BE CONSTRUED AS EFFECTIVELY RESCINDING THE COMMISSION'S NATIONAL RULES CONCERNING OWNERSHIP OF MORE THAN SEVEN AM STATIONS, SEVEN FM STATIONS, AND SEVEN TV STATIONS; OR THE COMMISSION'S REGIONAL OWNERSHIP RULES CONCERNING DISTANCE BETWEEN STATIONS. WE BELIEVE THE BILL SHOULD BE EXPLICIT IN STATING WHETHER OR NOT THESE RULES ARE RESCINDED.

2. ARE THE PROVISIONS OF PARAGRAPH 2 INCONSISTENT WITH OTHER PARTS OF THE BILL?

On PAGE 2, PARAGRAPH 2 PRECLUDES THE COMMISSION FROM CONSIDERING ANY OWNERSHIP INTEREST IN BROADCAST OR NON-BROADCAST COMMUNICATIONS MEDIA WHICH IS HELD BY THE RENEWAL APPLICANT. IT MAY BE POSSIBLE TO CONSTRUE THIS PROVISION AS BEING IN CONFLICT WITH SUBPARAGRAPH 3(C), PAGE 3, INASMUCH AS THIS PARAGRAPH PRECLUDES THE COMMISSION FROM RENEWING A BROADCAST LICENSE WHERE THE LICENSEE HAS CERTAIN OWNERSHIP INTERESTS IN OTHER COMMUNICATIONS MEDIA. THIS PROVISION COULD BE INTERPRETED AS REQUIRING THE COMMISSION TO CONSIDER OWNERSHIP INTERESTS FOR LICENSE RENEWALS THAT IT WAS PRECLUDED FROM CONSIDERING IN PARAGRAPH 2. THE BILL INTENDS THAT LICENSEES THAT HAVE OWNERSHIP INTERESTS PRECLUDED BY

PARAGRAPH 3(C) WOULD NOT BE AUTHORIZED TO APPLY FOR RENEWAL. WE BELIEVE THE POSSIBLE AMBIGUITY COULD BE RESOLVED BY ADDING ON LINE 5, PAGE 2, AFTER THE WORD "LICENSE" THE CLAUSE:

(WHICH UNDER THE TERMS OF THIS BILL MAY BE RENEWED)

3. DO THE PROVISIONS OF SUBPARAGRAPH 3(A) INCLUDE RENEWALS?

ON PAGE 2 LINE 14, WE READ THE USE OF THE WORD ANY TO INCLUDE ALL COMMERCIAL BROADCASTING STATION LICENSES OTHER THAN RENEWALS. WE BELIEVE, HOWEVER, THAT IT IS POSSIBLE TO READ THIS PROVISION AS INCLUDING THE GRANTING OF ALL LICENSES, INCLUDING RENEWALS. THIS CONSTRUCTION COULD RESULT IN FAR BROADER DIVESTITURE, A RESULT WHICH MAY NOT HAVE BEEN INTENDED BY THE DRAFTERS OF THE BILL. THEREFORE, WE BELIEVE THE LANGUAGE OF THIS PROVISION SHOULD BE EXPLICIT AS TO ITS COVERAGE.

4. WHAT IS MEANT BY THE PHRASE COMMUNITY OF PUBLICATION?

ON PAGE 2 LINE 21, AND IN OTHER PARTS OF THE BILL, THE TERM COMMUNITY IN WHICH THE DAILY NEWSPAPER IS PUBLISHED IS NOT DEFINED. IT CONCEIVABLY COULD BE CONSTRUED AS INCLUDING THE AREA OF CIRCULATION, A RESULT WHICH MAY NOT HAVE BEEN INTENDED. DEFINING THE TERM "COMMUNITY" AS THE AREA ENCOMPASSED BY ITS MUNICIPAL BOUNDARIES WOULD CLARIFY THIS PROVISION.

5. DOES OBTAINING MINIMAL INTEREST IN A NEWSPAPER TRIGGER DIVESTITURE?

ON PAGE 3 LINE 1, BY USING THE PHRASE "OBTAINS ANY INTEREST IN" IT WOULD APPEAR THAT THE DIVESTITURE PROVISIONS OF SUBPARAGRAPH (B)(i) COULD BE SET IN MOTION BY A COMMERCIAL BROADCAST STATION OWNER OBTAINING A SINGLE SHARE OF STOCK IN A DAILY NEWSPAPER THROUGH A BEQUEST. EVEN IF THIS SINGLE SHARE OF STOCK WERE SOLD, IT DOES NOT APPEAR TO ELIMINATE THE REQUIREMENT TO DIVEST THE BROADCAST PROPERTY. TO AVOID SUCH A CIRCUMSTANCE, THE PHRASE "OBTAINS ANY INTEREST IN" SHOULD BE CLARIFIED AND A PERIOD OF TIME ESTABLISHED TO ALLOW THE OWNER THE OPTION OF DIVESTING HIS NEWSPAPER INTEREST WITHOUT SETTING IN MOTION SUBPARAGRAPH (B)(i).