

to show cause why the stay – entered by this Court in Nos. 03-3388, *et al.* and continued in *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004) – should not be lifted. On May 5, 2009, the Commission informed the Court that the *2008 Order* did not reflect the views of a majority of the members of the Commission and that the agency therefore supported keeping the stay of the newspaper/broadcast cross-ownership rule in place.

On June 12, the Court ordered the stay to remain in effect and asked the parties to file status reports on October 1, 2009, “including whether the stay should be lifted.”

Two weeks after this Court issued its June 12 order respecting the stay, Julius Genachowski was sworn in as the new Chairman of the FCC; at the beginning of August two new Commissioners, Mignon Clyburn and Meredith Atwell Baker, joined the agency.

The Commission is statutorily required to revisit its media ownership rules every four years, 47 U.S.C. § 303 note, and the next such review is scheduled for 2010. The newly-constituted Commission has begun designing that proceeding. On September 29, 2009, the Commission’s Media Bureau issued a *Public Notice* announcing “a series of workshops as a first step in beginning the Federal Communication Commission’s 2010 quadrennial review of its media ownership rules.” *See* Attachment. The *Public Notice* explained that “[t]he purpose of the

workshops” is to “receive public input” on the “appropriate scope and methodology” of the upcoming proceeding and that the sessions would “cover a wide variety of topics that the Commission expects to consider in its review, including the state of the current media marketplace and the role of the media ownership rules in that marketplace.” *Id.* The *Public Notice* announced that the first such workshop will take place in early November 2009 and will include “academics, industry stakeholders, and the public interest community,” who will “present their views on the framework the Commission should use for conducting its ownership review.”

As we informed the Court in May, the *2008 Order* did not then reflect the views of a majority of the members of the Commission. Since that time, a new Chairman and two new Commissioners have joined the agency. Of necessity, the *2008 Order* does not incorporate their views. The Common Cause petition for reconsideration, however, is under consideration by the agency. As important, the new Commission is under a statutory obligation to review its media ownership rules this coming year, and to repeal or modify any ownership rules that it finds are no longer in the public interest. 47 U.S.C. § 303 note. The Commission’s Media Bureau has announced that it is initiating that review process with the first workshop to be held in early November of this year.

Under these unusual circumstances, the Commission supports keeping the

current stay in place.

CONCLUSION

For the foregoing reasons, the stay should not be lifted.

Respectfully submitted,

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Date: October 1, 2009

ATTACHMENT



PUBLIC NOTICE

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News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 09-2139

September 29, 2009

MEDIA BUREAU ANNOUNCES WORKSHOPS TO BEGIN THE 2010 QUADRENNIAL REVIEW OF THE FCC'S MEDIA OWNERSHIP RULES

The Media Bureau will initiate a series of workshops as a first step in beginning the Federal Communication Commission's 2010 quadrennial review of its media ownership rules. Section 202(h) of the Telecommunications Act of 1996 requires the Commission to review its ownership rules every four years and "determine whether any of such rules are necessary in the public interest as the result of competition." Under Section 202(h), the Commission "shall repeal or modify any regulation it determines to be no longer in the public interest."

The purpose of the workshops initially will be to receive public input on the appropriate scope and methodology of the proceeding and later to help build an analytical and empirical foundation for a Commission decision. The forums will cover a wide variety of topics that the Commission expects to consider in its review, including the state of the current media marketplace and the role of the media ownership rules in that marketplace. The Commission will seek viewpoints and information from a broad range of experts; consumers; public interest and trade associations; labor unions; media industry representatives, both traditional and new; and other interested persons.

The Bureau will hold its first workshop in the series in early November 2009. This initial forum will provide an opportunity for academics, industry stakeholders, and the public interest community to present their views on the framework the Commission should use for conducting its ownership review. Their insights will help determine the questions the Commission should address and how best to gather the data needed to answer those questions. More details will follow shortly on the issues to be discussed and the date, location, and participants for this first workshop.

For further information, contact Mania Baghdadi or Amy Brett, Industry Analysis Division, Media Bureau (202) 418-2330. Please direct press inquiries to Janice Wise (202) 418-8165.

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08-3078, et al.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

Prometheus Radio Project, et al., Petitioner

v.

Federal Communications Commission and United States of America, Respondents.

CERTIFICATE OF SERVICE

I, Jacob M. Lewis, hereby certify that on October 1, 2009, I electronically filed the foregoing Status Report with the Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, to the non-CM/ECF participants. Non CM/ECF Users are denoted with an asterisk below.

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