

Court restores ban on newspaper, TV ownership

July 7 2011, By JOELLE TESSLER , AP Technology Writer

(AP) -- A federal appeals court has restored a longstanding ban that prevents media companies from owning both a newspaper and a television station in the same market.

The 3rd U.S. Circuit Court of Appeals in Philadelphia said Thursday that the [Federal Communications Commission](#) didn't give the public adequate opportunity to comment on new rules that lifted the ban in the 20 largest media markets. The appeals court sent the rules back to the FCC to be rewritten.

The so-called cross-ownership ban dates back to 1975 - a time when newspapers dominated the media industry. In 2007, then-FCC Chairman Kevin Martin, a Bush administration appointee, moved to ease those restrictions in the biggest media markets. He argued that the ban no longer made sense in a media landscape where the Internet had left many daily newspapers struggling for survival.

Public-interest groups challenged the changes and warned that too many media outlets falling under the ownership of a handful of [large corporations](#) could be detrimental to democracy, which relies on a vibrant press with many voices.

Andrew Jay Schwartzman, head of the nonprofit law firm Media Access Project, which led the challenge, hailed Thursday's ruling. "We're extremely pleased that the court recognized that the public has a right to a diverse media environment," he said.

Michael Copps, one of the three Democrats on the four-member FCC and a vocal critic of media consolidation, called the ruling "a huge victory for the millions of Americans who have gone on record demanding a richer and more diverse media."

The decision is a setback for media conglomerates, which argue that consumers have more sources of information than ever in an age of 24-hour cable television and an endless supply of online news outlets.

"We're back to a regulatory scheme from 1975 in spite of the most enormous explosion in communications and competition in the history of man," said John Sturm, president and chief executive of the Newspaper Association of America.

Dennis Wharton, a spokesman for the National Association of Broadcasters, said that "with the future of newspapers under threat, it seems hard to justify the continuation of a rule barring a newspaper-broadcast combination."

The FCC's media ownership rules, which exist to ensure that communities have choices for local news, include limits on the number of television and radio stations that one company can own in a market and cross-ownership restrictions. Holdings in some markets, such as Chicago, where Tribune Co. owns WGN radio and TV and the Chicago Tribune, are grandfathered in.

Congress requires the FCC to review its media ownership rules every four years. Thursday's ruling comes as the current FCC, now under Democratic control, is seeking to wrap up its latest review, which began last year.

In a statement Thursday, the FCC said the current review will allow it to take "appropriate steps to ensure that the nation's media marketplace

remains healthy and vibrant."

The court case goes back to the FCC's 2002 review. Then-FCC Chairman Michael Powell tried to increase the number of TV and radio stations that a company could own in a market. He also tried to relax the ban on the same company owning both a newspaper and a TV station in the same market.

The plan drew legal challenges from public-interest groups, which said Powell had gone too far, and from media companies, which thought he didn't go far enough. The 3rd Circuit sent the matter back to FCC, telling it to rewrite the rules.

That led Martin, Powell's successor, to try to ease the cross-ownership ban in the biggest media markets even as he left more restrictive broadcast ownership caps in place. His actions drew more challenges from both sides.

The current [FCC chairman](#), Julius Genachowski, had urged the 3rd Circuit to hold off on considering the case because Martin's rules would soon be superseded by the 2010 review. And for a time, the court complied and prevented those rules from going into effect. But in March 2010, the court got tired of waiting for the agency to act and allowed Martin's rules to take effect.

Although that opened the door for the same company to own newspapers and TV stations, it did not usher in a wave of deals.

Now that window has closed again. Thursday's ruling tosses out Martin's cross-ownership rules on procedural grounds, meaning the ban goes back into effect. The decision also upholds existing limits on the number of stations companies can own, although the court said the agency failed to consider the impact of its rules on [media](#) ownership by minorities.

Still, FCC lawyer Jacob Lewis said the agency considers Thursday's ruling a victory because the [court](#) affirmed the commission's authority to write media-ownership rules.

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