

Before the  
Federal Communications Commission  
Washington, DC 20554

**Accepted/Files**

In the Matter of	)	
	)	
Application for Renew of Broadcast Station	)	
Licenses of	)	
	)	
KHNL/KGMB License Subsidiary, LLC	)	
For Renewal of Station License KHNL	)	File No. BRCDT - 20141001CEM
Honolulu, HI	)	(Facility ID: 36917)
	)	
KHNL/KGMB License Subsidiary, LLC	)	
For Renewal of Station License KGMB	)	File No. BRCDT - 20141001CDU
Honolulu, HI	)	(Facility ID: 34445)
	)	
HITV License Subsidiary, Inc.	)	
For Renewal of Station License KFVE	)	File No. BRCDT - 20140930AFX
Honolulu, HI	)	(Facility ID: 36917)

To: The Commission

**PETITION TO DENY LICENSE RENEWALS**

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## SUMMARY

In this Petition to Deny, Media Council Hawai'i ("MCH") demonstrates that renewing the licenses of Honolulu television stations KHNL, KGMB and KFVE would violate the Commission's local television ownership rule (also known as the TV duopoly rule), and would not serve the public interest. MCH asks the Commission to dismiss the licensee renewal applications, or in the alternative, 1) to require Raycom to divest at least one station and 2) to require KFVE to resume independent operation within six months. MCH's petition is supported by a large number of organizations and individuals in Hawai'i including Common Cause Hawai'i, labor unions UNITE HERE Local 5, SAG-AFTRA, and Hawai'i State AFL-CIO, and Americans for Democratic Action/Hawai'i.

It has been more than five years since MCH first brought to the Commission's attention Raycom's violation of the Commission's local television rule, which limits ownership of more than one television station in a market unless certain conditions are met. Through a series of agreements, including a shared services agreement, Raycom obtained direct control over KHNL and KGMB, two top-ranked network affiliates, and indirect control over a third television station, KFVE.

As MCH has detailed in its many filings including this one, the public interest harms caused by this transaction are substantial. Because Raycom's Hawai'i News Now produces identical local news programs for the two network affiliates, produces a substantially similar local news program broadcast on KFVE, and has a partnership with Honolulu's sole daily newspaper, there is little competition and diversity in local news. As a result, fewer issues are covered, very little time is devoted to state and local political races and issues, enterprise reporting has declined, and residents of Honolulu are not getting the information they need.

MCH first filed a complaint with the Commission about this situation in October 2009. In a November 2011 order, the Media Bureau agreed "with Media Council insofar as it suggests

that the net effect of the transactions in this case – an extensive exchange of critical programming and branding assets with an existing in-market, top-four, network affiliate – is clearly at odds with the purpose and intent of the duopoly rule.” The Bureau denied the relief requested by MCH because there was no license application before it, but made clear that its action did not preclude consideration of MCH’s claims in a license renewal proceeding. MCH filed an application for review of this decision which remains pending.

In April 2014, the Commission tentatively concluded in the 2014 Quadrennial Review Notice that affiliation swaps or other transactions not requiring Commission approval that gave a licensee control over two top four stations in a market, such as in Honolulu, should be subject to the top-four prohibition because they circumvent the intent of the local television rule and are not in the public interest. While proposing a new rule, the Commission agreed with the Bureau that existing affiliation swaps, such as in Honolulu, could still be considered in the context of individual licensing proceedings.

Now that the issues are before the Commission in the context of individual license renewal proceedings, the Commission must either dismiss the applications, thus making the frequencies available to others, or at a minimum, require that the licensees come into compliance with the local television rule in no more than six months. In so doing, the Commission would not only promote diversity and competition in Hawai`i, but send the important message that using affiliation swaps or shared services agreements to evade its ownership limits is not in the public interest and will not be tolerated.

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Media Council Hawai'i ("MCH"), by its attorneys, the Institute for Public Representation,<sup>1</sup> and pursuant to Section 309 of the Communications Act, 47 U.S.C. § 309 and Section 73.3584 of the FCC Rules, 47 CFR § 73.3584, hereby petition to deny the above-captioned license renewals for Honolulu television stations KHNL, KGMB, and KFVE. MCH is a non-partisan, non-profit organization that seeks to improve public access to information, broaden public understanding of the role of the media, and promote accurate and fair journalism in Hawai'i. Declarations in support of this petition by MCH President Christopher R. Conybeare and MCH member Gerald Kato are attached.

## **I. Background**

This petition to deny represents MCH's third attempt to get the Commission to enforce its ownership rules and to diversify the sources of media available to the residents of Honolulu. MCH asks that all of its previous filings be incorporated by reference, but provides a brief summary of the relevant background below.

### **A. MCH's initial complaint**

MCH's initial complaint was prompted by an announcement that Raycom<sup>2</sup> and HITV<sup>3</sup> planned to enter into a Shared Services Agreement ("SSA") without seeking prior FCC approval. Under that agreement, Raycom, then-licensee of Honolulu television stations KHNL, an NBC affiliate, and KFVE, a MyNetworkTV affiliate, would take over the operation of KGMB, a CBS affiliate, licensed to HITV. The Complaint alleged that permitting this SSA to take effect would violate the local television rule by giving Raycom control over three television stations in the Honolulu DMA, including two top-four network affiliates. Further, Raycom's plan to combine

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<sup>1</sup> Institute for Public Representation and MCH were assisted in drafting this petition by Keir Lamont, a third year law student at Georgetown Law.

<sup>2</sup> Raycom Media, headquartered in Montgomery, AL, through various subsidiaries, "owns and/or provides services for 53 television stations in 37 markets and 18 states." About Raycom, <http://www.raycommedia.com/about> (last visited Dec. 30, 2014).

<sup>3</sup> HITV's parent company is MCG Capital Corp., a venture capital firm based in Arlington, VA.

the news operation of all three stations into a single operation called Hawai'i News Now ("HNN"), and to lay off about one-third of the stations' combined workforce, would harm the MCH members and the public generally because it would reduce the number of independent voices providing local news from four to three and substantially reduce competition in the provision of local news and the sale of advertising time. MCH requested that the FCC issue a "standstill" order to prevent the execution of the SSA and an order directing Raycom and HITV to show cause why a cease and desist order should not be issued to enjoin the implementation of the SSA and/or revoke their licenses.

The Commission took no action on the request for a "standstill" order and thus Raycom and HITV executed the SSA and several other related agreements in October 2009. Pursuant to these agreements, KGMB and KFVE swapped network affiliations and call signs, thus giving Raycom *direct* control over two top-four ranked stations – KHNL, the NBC affiliate, and KGMB, the CBS affiliate. The agreements also gave Raycom *de facto* control over KFVE, the MyNetwork affiliate nominally licensed to HITV. All three stations began operating from a single studio and airing local news programming produced by HNN. Approximately 60 employees were laid off and the General Manager of Raycom's stations became General Manager of HITV's KFVE, which had only one other employee.

MCH's complaint prompted the Media Bureau to seek additional information. In spring 2010, the following agreements were made available for public inspection.

(1) Shared Services Agreement – Raycom provides HITV with virtually all the services associated with running a television station. HITV pays Raycom a service fee equivalent to 75% of the station's monthly cash flow (revenue minus expenses). Although HITV is responsible for paying certain expenses including utility costs, insurance, its employee salaries, and FCC license fees, Raycom is obligated to reimburse HITV for these expenses.

(2) Term Loan Note – HITV receives a note from Raycom for \$22 million payable over approximately seven years at 5% interest.

(3) Studio Lease – Gives HITV employees nonexclusive access to Raycom’s studio and additional space to keep the station’s public inspection file. For this access, HITV pays a monthly fee equivalent to 15% of its cash flow.

(4) Purchase Option Agreement – Although Raycom initially held the option right to purchase the HITV station, the Purchase Option Agreement was amended to give to Ottumwa Media Holdings the right to acquire the HITV-licensed station for seven years. The exercise price is the difference between \$22 million (the amount of the Note), plus \$100, plus Excess Decommissioning Costs, if any, and the amount of principal Raycom already paid on the Note plus any profits HITV retained in excess of \$250,000 per year.

(5) Asset Exchange Agreement – KGMB and KFVE swap network affiliation agreements, program contracts, employment contracts, and all other assets and intangibles used to operate the stations, except for the FCC licenses.

After reviewing the mostly unredacted agreements, MCH concluded that Raycom had acquired *de facto* control over the station licensed to HITV and that, as a practical matter, HITV had “sold” its station to Raycom for \$22 million.<sup>4</sup> Raycom and HITV denied that an unauthorized transfer of control had taken place, but failed to rebut MCH’s fundamental contention that HITV neither benefited from KFVE’s financial success nor did it bear the risk of KFVE’s losses. KFVE’s profits were essentially capped at a fixed amount, and if the station’s cash flow was less than a certain amount, Raycom was obligated to make a fixed payment to HITV. Furthermore, if cash flow was negative, Raycom—not HITV—would be responsible for covering all of the station’s operating costs.<sup>5</sup>

On September 28, 2010, after meeting with the Bureau staff, Raycom and HITV informed the Bureau that they would renegotiate and modify certain aspects of their arrangement.<sup>6</sup> On October 8, 2010, they submitted copies of the amended contracts, which, among other things, eliminated Raycom’s obligation to pay all of HITV’s expenses and required HITV to pay Raycom a monthly flat fee plus 15% of its cash flow.<sup>7</sup> After reviewing these

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<sup>4</sup> MCH Supplement, at i (May 10, 2010).

<sup>5</sup> MCH Reply to Joint Response to Supplement, at 2 (June 30, 2010).

<sup>6</sup> Letter from John S. Logan to Marlene Dortch (Sept. 28, 2010).

<sup>7</sup> Letter from John S. Logan to Marlene Dortch (Oct. 8, 2010).

modifications, MCH responded that the fundamental public interest problems remained unchanged. News programming from all three stations would still come from a single newsroom. All three stations would still use the “Hawai`i News Now” brand, the same reporters, staff, video, and anchors. Raycom would still provide KFVE with prepackaged local news programs. KFVE would still have only two employees, no tower and no studio of its own. In short, HITV would still have no incentive to control the core operations of KFVE.<sup>8</sup>

The Bureau then sought additional information from the licensees regarding their programming and financial arrangements. MCH’s analysis of the stations’ 2010 issues-programs lists showed that all three stations were providing essentially the same issue-responsive programming.<sup>9</sup> MCH’s analysis of the new financial information found that Raycom reaped virtually all of the economic benefits and bore all of the risks associated with KFVE, thus leaving little incentive for HITV to control the station’s core operations.<sup>10</sup>

#### **B. The Bureau decision**

Ultimately, the Bureau denied MCH’s complaint in an order released November 25, 2011.<sup>11</sup> The Bureau concluded that:

the exchange of network affiliations and other assets did not violate the duopoly rule, notwithstanding that at the time of execution of the agreements, it gave Raycom control over two of the top four stations in the Honolulu, HI market. Under the duopoly rule, one party may “own ... two television stations licensed in the same Designated Market Area (DMA) ... only [if] at the time of application to acquire ... the station, at least one of the stations is not ranked among the top four stations in the DMA....” Because no application was involved in these transactions, and none was required, the applicability of the

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<sup>8</sup> MCH Response, at 4, (Nov. 8, 2010).

<sup>9</sup> Letter from Adrienne T. Biddings to Marlene Dortch, at 3-4 (May 23, 2011).

<sup>10</sup> MCH Response, at 3 (June 7, 2011).

<sup>11</sup> *KHNL/KGMB License Subsidiary, LLC, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture*, 26 FCC Rcd 16087, 16091, ¶ 14 (Med. Bur. 2011), *application for review pending*.



duopoly rule to these circumstances is problematic and finding a violation of that rule in this case would be similarly problematic.<sup>12</sup>

At the same time, the Bureau found that “further action on our part is warranted with respect to this and analogous cases. . . . [O]ur decision here does not preclude us from considering in the context of licensing proceedings whether the actions taken by the licensees in this case, or analogous actions by other licensees, are consistent with the public interest.”<sup>13</sup> It added that “consideration of the impact such agreements have on competition and diversity may be relevant in determining whether license renewal for one or either of the stations that are the subject of the transaction would be consistent with the public interest, a finding required under Section 309(k)(1)(A) of the Act.”<sup>14</sup>

The Bureau further noted that when the Commission adopted the current TV duopoly rule in 1999, including the top-four prohibition, it was “attempting to assist ‘weaker’ stations, while avoiding the adverse effects on diversity and competition that combinations of already strong, top-four ranked stations could produce.”<sup>15</sup> However, it found that

Because the local television ownership rule specifically refers to “at the time of application,” . . . the applicability of the top-four prohibition in the case presented here, where no application was required, is unclear. Nonetheless, *we agree with Media Council insofar as it suggests that the net effect of the transactions in this case – an extensive exchange of critical programming and branding assets with an existing in-market, top-four, network affiliate – is clearly at odds with the purpose and intent of the duopoly rule.*<sup>16</sup>

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<sup>12</sup> *Id.* at 16091, ¶ 14.

<sup>13</sup> *Id.* at 16091-92, ¶ 14.

<sup>14</sup> *Id.* at 16092, ¶ 15.

<sup>15</sup> *Id.* at 16094-95, ¶ 22.

<sup>16</sup> *Id.* at 16095, ¶ 23 (footnotes omitted, emphasis added). And again, the Bureau noted that “our decision here does not preclude us from considering whether this or similar transactions are consistent with the public interest within the context of individual licensing proceedings.” *Id.*

Thus, the Bureau stated that it would include the “duopoly rule issues that this and similar cases raise” in the in the ongoing 2010 Quadrennial Review.<sup>17</sup> MCH filed an application for review of the Bureau decision on December 27, 2011. However, the Commission has not yet acted on it.

### C. 2010 Quadrennial Review

The Notice of Proposed Rulemaking in the 2010 Quadrennial Review released December 22, 2011, did in fact seek comment on the duopoly issue. Noting that applying the top-four prohibition at the time of an application created a potential for evading the intent of the duopoly rule, it asked

whether and, if so, how we should address circumstances in which a licensee obtains two in-market stations, both of which are ranked among the top-four stations in the market through agreements that may be considered the functional equivalent of a transfer of control or assignment of license in the context of this rule, but that do not require an application or prior Commission approval. For example, an existing licensee with two stations, one of which is among the top four stations in the market, purchases the network affiliation of another top-four-ranked market station and airs that network’s programming on its second, lower-ranked station.<sup>18</sup>

In a Further Notice of Proposed Rulemaking released in April 2014, the Commission tentatively concluded that affiliation swaps or other transaction not requiring Commission approval that gave a licensee control over two top four stations in a market “should be subject to the top-four prohibition because we believe they circumvent the intent of our rule and are not in

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<sup>17</sup> *Id.*

<sup>18</sup> 2010 *Quadrennial Regulatory Review, Notice of Proposed Rulemaking*, 26 FCC Rcd 17489, 17505, ¶ 45 (2011). MCH and others supported the attribution of SSAs in its comments filed in this proceeding. They noted that television stations had been entering into these agreements with increasing frequency to evade the local television ownership limits and that attributing ownership where one station exercises substantial influence over the operation of another station in the same market would further the Commission’s goals of competition, localism, and diversity. Comments of UCC, et al., Docket No. 09-182 (Mar. 5, 2012).

the public interest.”<sup>19</sup> In fact, it even cited the situation in Honolulu as an example of how parties could use an affiliation swap to “achieve a top-four station combination that would otherwise have been prohibited by the Commission’s rules.”<sup>20</sup> The Further Notice proposed to clarify that all transaction must comply with the top-four prohibition at the time of the agreement and that violators would be subject to enforcement action.<sup>21</sup> It added that although application of this rule would be prospective, “[c]onsistent with *KHNL/KGMB License Subsidiary*, such transactions that would not be subject to such a rule could still be considered in the context of individual licensing proceedings.”<sup>22</sup> Thus, the fact that the Commission has not yet issued a final order in the 2010 Quadrennial Review is no bar to considering the issue in this license renewal proceeding.

**D. MCH’s petition to deny KFVE’s transfer to American Spirit**

MCH’s second attempt to urge the Commission to address evasion of its local television rules arose in the context of an application to transfer control of television station KFVE.

The original series of agreements between Raycom and HITV gave Raycom the right to purchase KFVE if and when the FCC ownership rules were changed to permit Raycom to acquire the station outright. However, soon after MCH filed its complaint, Raycom notified the Commission by email that it intended to assign its purchase option to “non-Raycom entity” Ottumwa Media Holdings, LLC. Ottumwa later changed its name to American Spirit Media.

On October 24, 2013, American Spirit exercised the option to purchase HITV’s KFVE, and the parties filed an application for consent to transfer control in November 2013. On February 12, 2014, MCH filed a petition to deny asking the full Commission to deny the transfer

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<sup>19</sup> *2014 Quadrennial Regulatory Review, Further Notice of Proposed Rulemaking*, 29 FCC Rcd 4371, 4390, ¶ 45 (2014).

<sup>20</sup> *Id.* at 4391, ¶ 47-48.

<sup>21</sup> *Id.* at 4392, ¶ 49.

<sup>22</sup> *Id.* at n.124.

because the application explicitly presented the question reserved in the Bureau decision in *KHNL/KGMB License Subsidiary*, i.e., whether this transaction was consistent with the public interest in the context of a license application. MCH explained that the

same public interest concerns that previously worried the Bureau are present here because the transfer application perpetuates Raycom's control over three local stations--KFVE, KGMB, and KHNL--including two top-four stations. The change in the entity that holds KFVE's license from HITV to American Spirit does not change how the market functions or the fact that Raycom will continue to provide virtually identical news to three stations."<sup>23</sup>

In its Reply, MCH responded to the licensees' claims that the news programming was not virtually identical. MCH recorded and transcribed all local news programming on KGMB, KHNL and KFVE for two full days in February 2014. MCH's analysis of the transcripts and recordings showed that KHNL, KGMB, and KFVE all have morning news programs titled "Sunrise," and the opening graphic shows the call signs for all three stations. At 4:30am, KGMB begins airing "Sunrise." From 5am through 7am, KGMB and KHNL simulcast "Sunrise." Then from 7am to 8am, KGMB alone broadcasts "Sunrise." At 8am, KFVE starts airing "Sunrise," and KHNL and KGMB broadcast different programming. Essentially, the same morning news program moves to different channels at different times. A similar phenomenon occurs with the evening news.<sup>24</sup>

MCH attached a side-by-side comparison of morning and evening newscasts on these two days that showed extensive sharing between KFVE and KGMB/KHNL. For example, the same journalists, weather forecasters, sports reporters, and/or traffic reporters appeared on all three stations in both the morning and evening news programs. All three stations presented the same

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<sup>23</sup> Pet. to Deny Application for Consent to Transfer Control of HITV License Subsidiary, Inc. to Southeastern Media Holdings, Inc., File No. BTCCDT – 20131120AEP (Feb. 12, 2014), at 5 ("Pet. to Deny KFVE Transfer").

<sup>24</sup> Reply to Oppositions, Application for Consent to Transfer Control of HITV License Subsidiary, Inc. to Southeastern Media Holdings, Inc., File No. BTCCDT – 20131120AEP, at 2-5 (Mar. 7, 2014).

stories with identical or nearly-identical scripts, video footage, interviews, and graphics. MCH also pointed out that even if the channels were not sharing news stories word-for-word, Raycom was still exercising editorial control over the newscasts on all three stations.<sup>25</sup>

The petition to deny also asked the Commission to investigate whether Raycom remained qualified to hold broadcast licenses in light of a material misstatement to the Commission. Specifically, Raycom told the Commission in 2009 that it would assign its purchase option to “*non-Raycom entity* Ottumwa Media Holdings, LLC.” MCH alleged that Raycom’s characterization of Ottumwa as unrelated to Raycom was misleading because Ottumwa, which changed its name to American Spirit Media, owns six other stations operated by Raycom and appears to have no other business purpose but to hold those licenses.<sup>26</sup> The Bureau sought further information from the applicants regarding American Spirit’s ability to finance the acquisition and the relationship between Raycom and American Spirit,<sup>27</sup> but has not acted on the transfer application.

**E. Questions regarding the character qualifications of the licensees**

This was not the first time that MCH questioned the character qualifications of Raycom and HITV. For example, in a letter dated May 23, 2011, MCH described problems experienced by its members and others in obtaining access to the stations’ public files,<sup>28</sup> and the Bureau found “HITV apparently liable for the base forfeiture of \$10,000 for the failure to include three issues/programs lists and to provide adequate access to its station’s public inspection files.”<sup>29</sup>

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<sup>25</sup> *Id.* at 4-5 & App. A.

<sup>26</sup> Pet. to Deny KFVE Transfer at 8.

<sup>27</sup> Letter from Barbara A. Kreisman to Robert J. Folliard, III, (Sept. 9, 2014). In that letter, the Bureau also afforded MCH an opportunity to respond to this new information, which it did. *See* Response of MCH, File No. BTCCDT-20131120AEP (Oct. 2, 2014).

<sup>28</sup> Letter from Adrienne T. Biddings, to MCH to Marlene Dortch, at 2-3 (May 23, 2011) (“May 23, 2011 Letter”).

<sup>29</sup> *KHNL/KGMB License Subsidiary, LLC, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture*, 26 FCC Rcd 16087, 16095-96, ¶¶ 24-27 (Med. Bur. 2011),

The same letter analyzed the sufficiency of the issues-programs lists from 2010 for all three stations and concluded that the

failure to include program descriptions, inclusion of programming that is not responsive to the claimed issues, and inclusion of programming not aired, at the very least show that the licensees failed to exercise care in the preparation of the I/P lists. However, taken together with other rule violations and questionable assertions discussed below, they raise serious questions about the licensees' qualifications to remain licensees.<sup>30</sup>

The letter further pointed out that

Broadcast Parties' creation of "reconstructed" and "revised" I/P lists after the Media Bureau requested copies of their I/P lists is not the first time that the Broadcast Parties have revised critical documents after their practices have been questioned. For example, the parties amended their Asset Exchange Agreement on October 16, 2009, a week after MCH filed its Complaint and request for investigation. Subsequently, the Media Bureau asked the Broadcast Parties to clarify certain provisions of the Management Services and LLC agreements. In response, the Broadcast Parties amended these agreements, explaining that the changes were necessary because of a "scrivener's error." Finally, on October 8, 2010, after MCH had demonstrated that the financial arrangements were inconsistent with FCC precedent, the Broadcast Parties amended the contracts to reduce the appearance of HITV's financial dependency on Raycom. *These activities evidence a lack of forthrightness in dealing with the Commission.*<sup>31</sup>

The Bureau Order denying MCH's complaint did not address these allegations, which MCH reiterated in its pending Application for Review.<sup>32</sup>

#### **F. Applications for license renewals**

HITV filed an application with the Commission to renew the license of the KFVE broadcast station on September 30, 2014, and Raycom filed applications renew the licenses of

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*application for review pending.* It also admonished Raycom for failing to provide timely access to its public inspection files. *Id.*

<sup>30</sup> May 23, 2011 Letter, at 6.

<sup>31</sup> *Id.* at 9 (emphasis added).

<sup>32</sup> Application for Review, at 8 (Dec. 27, 2011).

KHNL and KGMB on October 1, 2014. In response to Section II, Legal, Question 2(b), Character Issues, HITV and Raycom both certified that “neither the licensee nor any party to the application has any pending broadcast application in which character issues have been raised.”

**II. Renewal of the licensees for KHNL, KGMB and KFVE would not serve the public interest**

Section 309(a) of the Communications Act provides that when considering whether to renew a broadcast license, the Commission shall determine “whether the public interest, convenience, and necessity will be served” by granting the application.<sup>33</sup> Section 309(k) provides that the Commission may grant a license renewal application only if, upon consideration of the application and pleadings, it finds that: (1) the station has served the public interest, convenience, and necessity; and (2) there have been no serious violations of the Communications Act and the Commission rules, or (3) there have been no other violations by the licensee of the Communications Act or Commission rule which, taken together, would constitute a pattern of abuse.<sup>34</sup> Raycom and HITV fail to meet these criteria.

**A. The Commission should dismiss these renewal applications because they violate the TV duopoly rule**

Raycom’s ownership of two top four stations and indirect control over a third station in the Honolulu DMA constitutes two *prima facie* violations of the Commission’s duopoly rule.

The duopoly rule states that

An entity may directly or indirectly own, operate, or control two television stations licensed in the same Designated Market Area (DMA) . . . only under one or more of the following conditions:

(1) The Grade B contours of the stations (as determined by § 73.684) do not overlap; or

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<sup>33</sup> 47 U.S.C. § 309(a).

<sup>34</sup> 47 U.S.C. § 309(k).

(i) At the time the application to acquire or construct the station(s) is filed, at least one of the stations is not ranked among the top four stations in the DMA, based on the most recent all-day (9 a.m.-midnight) audience share . . . ; and

(ii) At least 8 independently owned and operating, full-power commercial and noncommercial TV stations would remain post-merger in the DMA in which the communities of license of the TV stations in question are located. . . .<sup>35</sup>

Neither condition is met here. There is no question that the stations' contours overlap. And while the DMA has at least eight independent voices, the requirement that only one station be ranked among the top-four condition is not met. Thus, renewing Raycom's applications for two top-four ranked stations would plainly violate the TV duopoly rule.

Further, if, as MCH argued in its pending application for review,<sup>36</sup> the Commission finds that Raycom exercises *de facto* control over KFVE, renewing KFVE's license would violate the TV duopoly rule's prohibition against owning more than two television stations under any circumstances. Where the renewal of a license would violate a Commission ownership rule, the application should be dismissed as defective on their face."<sup>37</sup>

**B. Raycom's ownership of KHNL and KGMB and control of KFVE is contrary to the public interest**

Even if Raycom's common ownership of KHNL and KGMB and operation of KFVE were not a direct violation of the TV duopoly rule, license renewals may only be granted when it would serve the public interest.<sup>38</sup> The Commission's public interest standard is based on the

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<sup>35</sup> 47 C.F.R. § 73.3555.

<sup>36</sup> MCH respectively request that prior to acting on these renewal applications that it act on the application for review that has been pending for three years.

<sup>37</sup> *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 793 (1978) (stating that if "a license applicant does not qualify under standards set forth in [FCC] regulations, and does not proffer sufficient grounds for waiver or change of those standards, the Commission may deny the application without further inquiry.") *See also United States v. Storer Broadcasting Co.*, 351 U.S. 192, 205-06 (1956).

<sup>38</sup> 47 U.S.C. § 309. *See Applications for Consent to Transfer of Control from Shareholders of Belo Corp. to Gannett Co.*, 28 FCC Rcd 16867, 16879, ¶¶ 29-30 (2013), *application for review*



basic tenet that “the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.”<sup>39</sup> The public interest is served when numerous independent voices compete for audience share through the production of distinct journalism in a local media markets. The public interest is not served here because Raycom’s control over three television stations has reduced competition in the production of local news, competition in the sale of advertising, and the diversity of viewpoints available to the public.

This harm is described in the attached Declarations and letters from local organizations, as well as supported by studies. For example, a letter from UNITE HERE Local 5, which represents approximately 10,000 workers throughout Hawai`i, observes that

[t]he immediate result [of Raycom’s takeover of 3 television stations in 2009] was the layoff of significant staff and the closing of one newsroom, causing a loss of diversity of opinion, less coverage of significant local issues, reduction of enterprise reporting and a general homogenization of information. Raycom now produces, “Hawaii News Now “and simultaneously presents the same local newscast on both NBC and CBS channels and presents essentially the same newscast at different times on KFVE. One editorial voice is presented throughout.<sup>40</sup>

Local 5 goes on to identify numerous ways in which it members are harmed by the lack of diversity and competition, including:

1) As a labor union representing “workers in Hawai`i’s visitor industry, the biggest contributor to Hawai`i’s economy . . . we face a significantly diminished ability to have our story told” due to Ryacom’s control of three stations..

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*pending.* (the public interest standard requires a case-by-case approach and it is not sufficient that a transaction merely does not violate Commission rules).

<sup>39</sup> *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 663 (1994) (internal citations and quotations omitted).

<sup>40</sup> Letter from UNITED HERE Local 5 to FCC (Nov. 5, 2014).

2) “Our members are more likely to receive information about election issue and voting concerns from local TV and print media than the Internet, yet there is only bland and superficial coverage of issues and news from Hawaii News Now.”

3) “We also perceive that Hawaii News Now has substantially less reporting of the State legislature and city and [county] council activities.”

4) “[T]he Hawaii News Now stations dominate the local advertising market. Since we buy advertising in support of candidates and also the illumination of local issues, we are aware that the Raycom sales pitch is that ads will be more cost effective and can reach a wider audience than the competition if placed on three broadcast platforms.”

5) “There is also a troubling pressure to have the ads produced in house by Raycom. We insist on having our productions done by trusted independent producers, but know that the Raycom monopoly has helped marginalize the ability of independent producers to remain profitable, perhaps in violation of anti-trust law.”<sup>41</sup>

A letter from former political reporter in Hawai`i also describes the negative effects of consolidation on local news.

When I began working as political bureau chief for the Honolulu Star Bulletin in 1968, we had two major independent newspapers and three independent television stations, all locally owned and competing with one another. Each was fully staffed and the competition for both breaking news and enterprise journalism was intense. The Star Bulletin had a five-person bureau at the State Capitol during the legislative session, and the television stations likewise maintained bureau operations with fulltime and backup “beat” reporters who were knowledgeable and aggressive.<sup>42</sup>

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<sup>41</sup> *Id.* at 1-2. See also Letter from SAG-AFTRA to FCC (Nov. 25, 2014); Letter from Hawai`i State AFL-CIO to FCC (Dec. 1, 2014) (both stating that since Raycom took over the three stations, the community has suffered in that there is less coverage of local news stories, loss of diversity of opinion, reduction of enterprise reporting, a general homogenization of information, a lack of competition, and fewer employment opportunities for their members).

<sup>42</sup> Letter from Tom Coffman to Marlene H. Dortch (Nov. 22, 2014).

But, he explains that over time, “the process of chain ownership and media consolidation began to weaken our previously robust practice of journalism.”

The latest blow is the consolidation by Raycom Media of the three television stations I am addressing in this letter, KFVE, KHNL and KGMB. They produce a single news program, Hawaii News Now, that is offered across the three platforms. In an earlier day, KGMB alone was the leading television news broadcaster and kept up a strong pace of political news, commentary, and the periodic production of long-form documentaries as well. A journalist and author, Scott C.S. Stone, oversaw documentary production. With consolidation, political stories are “rip and read.” In an occasional on-location story, a passably knowledgeable reporter may emerge, but that same reporter’s work is diluted by handling numerous other assignments, most predictably traffic and crime-blotter stories.

If you were to do a content study, you would find that the single biggest time-fillers on KGMB/KHNL/KFVE are weather reports and police-blotter reports. I find it astonishing there are three long weather stories within a single news show, when weather used to be a 15- to 30-second afterword.<sup>43</sup>

The Americans for Democratic Action/Hawai`i, an organization that promotes individual liberty, economic justice, and civil rights, writes that consolidation of news media in Hawai`i over the past several years has had a negative impact on its activities.

Although our state is very diverse ethnically and geographically, the resulting homogenization of information ignores the richness of Hawaii’s culture. Local issues and events receive less coverage than would be the case with three competing TV stations, and the diversity of opinion arising from this ethnic diversity is nearly absent from the public airwaves. There is little investigative reporting as well. Raycom Media’s domination of the market, and this state of diminished competition, weakens the ability of minorities, women, and local interests to acquire station ownership or even to aspire to become media owners.

For example, [ADA/Hawai`i] is especially concerned with the poor coverage of issues before the State Legislature and County Councils and of election campaigns. For example, our organization

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<sup>43</sup> *Id.*

is concerned about the welfare of low-income individuals. However, in the 2014 legislative session, TV news on these stations provided some coverage of the discussion on raising the minimum wage, but failed to cover the package of bills that would have cut taxes on the poorest people in our state. As a result, legislators were able to ignore these bills without substantial accountability to the community they represent.<sup>44</sup>

ADA/Hawai`i, along with Common Cause Hawai`i (“CCHI”) and James T. Shon, note that Hawai`i has one of the lowest voter turnouts of all states.<sup>45</sup> CCHI believes that “what has been termed ‘voter apathy’ is in fact, lack of voter knowledge about the political decisions that impact our daily lives. We believe that our efforts to increase voter participation are hampered by the failure of these three stations to adequately report on political news.”<sup>46</sup>

CCHI and ADA/Hawai`i are particularly concerned about the lack of information on political issues and the positions of candidates, both prior to and during election campaigns. Both discuss a study of the TV coverage of campaigns and issues during the last weeks of the 2012 election cycle, in which their members participated.

The study found that the merged news program, Hawaii News Now, rarely, with one exception, addressed issues in the races for the State legislature or City/County Councils. The issue of whether to build a rail system on Oahu received coverage, but the enormous range of other issues facing the County and the State were largely ignored. Indeed, the amount of time spent on political advertising equaled or surpassed that spent on political reporting in the final weeks of the election period—even when any mention of any politician, local, national or international, and whether running for

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<sup>44</sup> Letter from ADA/Hawai`i to Marlene H. Dortch (Nov. 30, 2014) (“ADA Letter”).

<sup>45</sup> *Id.*; Letter from Common Cause Hawai`i to Marlene H. Dortch (“CCHI Letter”); Letter from James T. Shon to Marlene H. Dortch (Dec. 1, 2014). Although writing as an individual, Mr. Shon is a former Hawai`i state legislator and currently directs the University of Hawaii’s Hawaii Education Policy Center.

<sup>46</sup> CCHI Letter at 2. CCHI has 4,000 members and supporters, including persons on all islands. It “focuses on increasing voter participation and civic participation in government, reducing the influence of money in politics, and advocating for openness and transparency in government. With these foci, it is essential that we and our membership have substantive and timely information on public issues.” CCHI Letter at 1.

office or not, was included in the category of “political news,” as was the extensive coverage of the brief hospitalization of one of the candidates for Governor. Although we did not repeat the study, we believe that the same trends continued in the 2014 elections. In between, we saw little coverage of issues before the State legislature and county councils.<sup>47</sup>

A different study by Danilo Yanich and Paul Ruiz at the University of Delaware, released in late 2013, also found that Honolulu television stations did a poor job of election coverage.<sup>48</sup> It found during in the nine weeks prior to the November 2012 general election, local news broadcasts had far more campaign ads (584) compared to political news stories (139). It also found that 62% of political news stories failing to mention any campaign issue. Furthermore, the study found that local news programs did not fact-check any political ads.

An earlier study by Professor Yanich investigated the impact of Raycom’s dominance more broadly on local television news.<sup>49</sup> MCH first brought this study to the attention of the Commission in an *ex parte* letter on February 18, 2011, explaining that

Significantly, the study found that the SSA between Raycom and MCG Capital, the parent company of HITV, has had a negative impact on diversity, competition, and localism in the Honolulu market.

Moreover, the study found that the SSA has led to a diminution of the quality of local news in Honolulu. This change was measured by comparing the distribution of story topics, coverage of local stories, and duration of stories before and after the implementation of the SSA. For example, the number of stories devoted to public

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<sup>47</sup> CCHI Letter at 1-2. *See also* ADA Letter at 2 (“With the exception of the Honolulu mayoral race, Hawai`i News Now rarely mentioned races for the legislature or city and county offices. Even the reporting on the Honolulu mayoral race was devoted primarily to the emergency hospitalization of one of the candidates! Issues were rarely mentioned at all, let alone discussed in depth.”).

<sup>48</sup> Danilo Yanich & Paul Ruiz, Political Ads & Local TV News: The Honolulu Case (Nov. 2013), *available at* <http://www.ccrs.udel.edu/sites/ccrs.udel.edu/files/YanichRuiz%20Political%20Ads%20&%20News%20Content%2011-22-2013.pdf>.

<sup>49</sup> Danilo Yanich, Local TV & Shared Services Agreements: Examining News Content in Honolulu, MB Dkt. No. 09-182, filed Feb. 10, 2011.

issues dropped significantly post-SSA for stations involved in the agreement. In addition, the median length of stories covering public issues fell from 48 to 37 seconds.

Another indication of the diminution of news quality in Honolulu is the use of less sophisticated reporting techniques post-SSA. For example, the stations turned to less expensive presentation modes, such as the use of voice-over by anchor. By contrast, use of the more expensive “package presentation mode,” in which a news crew actually goes to the scene of the story to shoot video and investigate, was cut in half by the three stations involved in the SSA. Given the trend toward shorter and less expensive stories, the study concluded that the “hypothetical” benefit that combined news stations would provide more enterprising news content has not materialized.<sup>50</sup>

Not only does HNN provide news for three television stations in Honolulu, but it also has a news sharing arrangement with Honolulu’s sole daily newspaper. MCH first brought this issue to the Commission’s attention in its February 18, 2011, *ex parte* letter, describing

a news and resource sharing agreement between Hawaii News Now, the news production brand of KHNL, KFVE, and KGMB, and the Honolulu Star-Advertiser, Honolulu’s sole newspaper. Honolulu became a one-newspaper city in May 2010 when the Honolulu Advertiser was sold to the Honolulu Star-Bulletin. Now it appears that further consolidation of the market is taking place as Hawaii News Now and the Star-Advertiser have fostered a working relationship. The newspaper’s website has recently removed links to Hawai`i stations KITV and KHON, and now only links to Hawaii News Now, which it lists as its “Media Partner.” Further, Star-Advertiser staff have begun to make regular appearances on Hawaii News Now, and Hawaii News Now video is featured on the Star-Advertiser’s website. The cooperation between Hawaii News Now and the state’s only statewide, mass circulation newspaper further undermines diversity and competition in the Honolulu market.<sup>51</sup>

ADA/Hawai`i shares MCH’s concern, stating that it is “deeply troubled that the only mass circulation print media, the Honolulu Star Advertiser, and Hawaii News Now list each

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<sup>50</sup> Letter from Adrienne T. Biddings to Marlene H. Dortch at 1-2 (Feb. 18, 2011) (citations omitted).

<sup>51</sup> Letter from Adrienne T. Biddings to Marlene H. Dortch at 3 (Feb. 18, 2011) (citation omitted).

other as ‘media partners,’” and asks that “the substance of this partnership to be made public to understand if it violates the rule against cross ownership.”<sup>52</sup>

Because KHNL, KGMB, and KFVE have failed to serve the needs of their community, renewal of their licenses would not serve the public interest.

### **III. Request for relief**

For the foregoing reasons, MCH respectfully requests that the Commission dismiss all three applications. Renewing these licenses would violate the local television ownership rule and be contrary to the public interest. Dismissing the applications would make these stations available for new owners that would better serve the needs of the community.

As a somewhat less desirable alternative, the Commission could direct Raycom to come into compliance with the local TV rule by divesting either KHNL or KGMB and terminating its agreements with KFVE. In this case, the Commission should make clear that failure to divest within a specific timeframe of no more than six months, will result in the automatic loss of one or both licenses. It should also allow HITV six months to take back full editorial control over all programming on the station and obtain the necessary facilities and employ sufficient staff so that it can operate independently of Raycom or any other station. In so doing, the Commission would send the message that using affiliating swaps or SSAs to evade its ownership limits is not in the public interest and will not be tolerated.

Although MCH believes that the facts in this case justify dismissal and/or divestiture, if the Commission finds otherwise, it must designate these applications for a hearing pursuant to Section 309(e) of the Communications Act. The issues to be resolved at such a hearing should include, at a minimum,

1) whether each station has served the public interest through its issue-responsive programming over the past license term;

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<sup>52</sup> ADA Letter at 3.

2) whether Raycom has *de facto* control over KFVE;

3) what is the impact of the media partnership between HNN and the *Honolulu Star Advertiser* on competition and diversity in local news, and whether it violates the Commission's newspaper-broadcast cross-ownership rule; and

4) whether Raycom or HITV have engaged in misrepresentation of lack of candor in their dealings with the Commission, and if so, whether they meet the basic qualifications to be broadcast licensee. Both Raycom and HITV certified in their renewal application that that were no any pending broadcast applications in which character issues had been raised, when in fact, character issues remain pending in connection with the KFVE application for transfer of control. This lack of candor, the forfeiture and admonishment already assessed by the Bureau for public file violations, and the additional allegations not addressed by the Bureau and reiterated by MCH in the pending Application for Review,<sup>53</sup> raise serious questions as to the applicants' qualifications. The FCC has the responsibility under Section 308(b) of the Communication's Act to ensure that licensees have the requisite "character," by which it means that a licensee "will deal truthfully with the Commission and comply with the Communications Act and our rules and policies."<sup>54</sup> Because the Commission "has an affirmative obligation to license more than 10,000 radio and television stations in the public interest, . . . the Commission must rely heavily on the completeness and accuracy of the submissions made to it, and its applicants in turn have an affirmative duty to inform the Commission of the facts it needs in order to fulfill its statutory mandate."<sup>55</sup>

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<sup>53</sup> *KHNL/KGMB License Subsidiary, LLC, Application for Review*, Dec. 27, 2011, at 8.

<sup>54</sup> *Policy Regarding Character Qualifications*, 102 FCC 2d 1179, 1183 (1986).

<sup>55</sup> *RKO General, Inc. v. FCC*, 670 F.2d 215, 232 (D.C. Cir. 1981). *See also Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000); *Sea Island Broadcasting Corp.*, 60 FCC 2d 146, 148 (1976); *Commercial Radio Serv., Inc.*, 21 FCC Rcd 9983, 9986 (2006).



Finally, MCH respectfully requests that the Commission grant its pending Application for Review of the Bureau decision, deny the application seeking to transfer control of KFVE to American Spirit, and grant any other appropriate relief.

Respectfully submitted,



Angela J. Campbell

Eric G. Null

Andrew Jay Schwartzman

Institute for Public Representation

600 New Jersey Avenue, NW

Washington, DC 20001

(202) 662-9535

*Counsel for Media Council Hawai`i*

January 2, 2015

## DECLARATION OF CHRISTOPHER R. CONYBEARE

1. My name is Christopher R. Conybeare. I am president of the Media Council Hawai'i (MCH). This Declaration has been prepared in support of the foregoing Petition to Deny.
2. Founded as the Honolulu Community Media Council in 1970. The Council is composed of individuals from the community and the media and is a non-partisan, non-profit, non-governmental independent group, which seeks to improve public access to information, strengthen public support for First Amendment rights and freedoms, broaden public understanding of the role of the media, and promote accurate and fair journalism in Hawai'i.
3. MCH members and participants represent the diversity of the Hawai'i community and are drawn from all walks of life. Many of the members, including myself, reside within the service area of television stations KHNL, KMGB, and KFVE and regularly view these stations.
4. On October 7, 2009, MCH filed a "Complaint and Request for Emergency Relief Regarding Shared Services Agreement between Raycom Media and MCG Capital for Joint Operation of Television Stations KHNL, KFVE, and KGMB, Honolulu, Hawai'i." It asked the FCC to issue an order compelling Raycom Media and MCG Capital to cease and desist from executing their proposed shared services agreement. It explained that under the unprecedented shared services agreement (SSA), announced on August 18, 2009, Raycom, the licensee of television stations KHNL, an NBC affiliate, and KFVE, a MyNetworkTV affiliate, would acquire control over KGMB, a CBS affiliate, owned by MCG. All three stations would be housed in Raycom's new facility in Kalihi and the then-KGMB general manager, Richard "Rick" Blangiardi, would run both KGMB and KHNL, the network affiliates, while then-KHNL general manager Jon Fink would run KFVE. The stations would merge their local news productions to produce news programming shown on all three stations. The Complaint alleged that this arrangement violated the FCC's local television ownership rule prohibiting an entity from controlling two top-four stations or controlling more than two stations serving the same area. The Complaint also alleged that the agreement was contrary to the public interest because it would reduce diversity and competition. Under

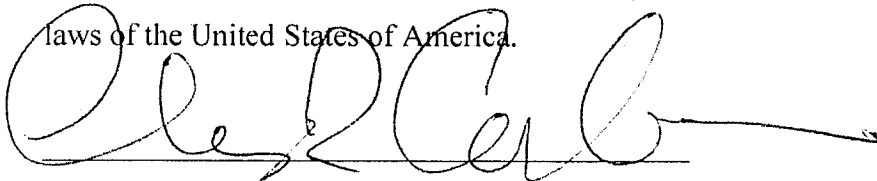
the agreements, citizens of Honolulu would have access to only three (instead of four) independent sources for local television news. This agreement would also result in Raycom's control of approximately 44% of the market, thereby decreasing competition for both the sale of advertising time and the production of local news.

5. The agreements were executed in October 2009. Pursuant to these agreements, KGMB and KFVE swapped call signs, network affiliation agreements, and other assets so that Raycom became the owner of two top four network affiliates, KHNL and KGMB. Raycom also produces news programming and provides other services to KFVE, which is licensed to HITV.
6. The Media Bureau issued multiple requests for additional information to both Raycom and HITV. As more information about the SSA and other agreements became available, MCH filed supplemental comments reiterating its opposition.
7. On November 25, 2011, the Media Bureau released a "Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture," denying the relief requested by MCH.
8. On December 27, 2011, MCH asked the full Commission to reverse the Media Bureau's order on the ground that it involved an important question of law or policy that had not previously been resolved by the Commission, that is, whether the local television ownership rule's prohibition against common control of more than one top-four ranked television station applied where the second top-four ranked station was acquired by means of a network affiliation and asset swap instead of by outright acquisition. The Bureau order found that not applying the rule was inconsistent with the intent of the rule, but because the duopoly rule referred to the creation of duopolies "at the time of application," it was "unclear" whether the prohibition applied here where no transfer application has been filed. The Application for Review argued that when the meaning of a regulation was unclear and/or presented a novel question, the Bureau should have referred the issue to the full Commission. The Application also pointed out that the issue was nationally important because stations were utilizing

similar agreements to circumvent the local television ownership rules and create "virtual duopolies" in many markets. This Application remains pending before the Commission.

9. On February 12, 2014, MCH filed a Petition to Deny the transfer of license for television station KFVE from HITV to American Spirit Media, asking the full Commission to deny the transfer application because the facts and issues presented were the same as in MCH's pending application for review. It alleged that approval of the transfer would not serve the public interest because it was at odds with the purpose of the duopoly rule, and because it allowed Raycom to continue to provide virtually identical news programs to three Honolulu stations. In addition, it asked the Commission to investigate whether Raycom lacked candor in its representations to the Commission.
  
10. I and other members of MCH have been harmed by Raycom's ownership of KHNL and KGMB, and by its provision of news and other services KFVE. We will continue to suffer harm if the Commission were to renew the licenses of these stations. Before 2009, residents of Honolulu had a choice of four different television stations that produced their own news programming and two daily newspapers. Today, KGMB and KHNL simulcast the exact same local news program produced under the name Hawai'i News Now (HNN). HNN, which is owned by Raycom, also produces the local news programming aired on KFVE. In addition, Honolulu's two daily newspapers merged, becoming the *Honolulu Star-Advertiser*, Hawai'i's only mass market daily newspaper. HNN has an exclusive content sharing agreement with the *Honolulu Star-Advertiser*. As a result of these transactions, the diversity, coverage, depth and quality of local news in Honolulu has significantly diminished.

This statement is true to my personal knowledge and is made under penalty of perjury of the laws of the United States of America.

A handwritten signature in black ink, appearing to read "Chris Conybeare", written over a horizontal line.

Christopher R. Conybeare, President  
Media Council Hawai'i

December 31, 2014

## DECLARATION OF GERALD KATO

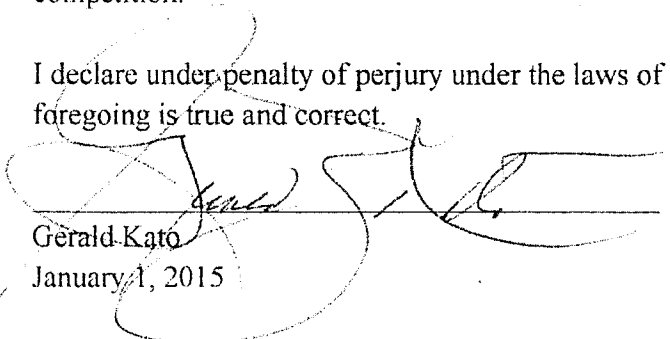
1. My name is Gerald Kato. I was born and raised in Hawai'i. I am a graduate of the University of Hawai'i and the University of Missouri School of Journalism.
2. I have taught broadcast journalism and media law at the University of Hawai'i since 1991. I was a government and courts reporter at *The Honolulu Advertiser*, Hawai'i's largest daily newspaper, for eleven years. I also worked for three years as a Political Editor at KITV News, the ABC affiliate, and for two years as chief political reporter for KGMB News, the CBS affiliate.
3. I am a long-time member of the Media Council Hawai'i (MCH). In October 2009, I filed a declaration in support of MCH's "Complaint and Request for Emergency Relief Regarding Shared Services Agreement between Raycom Media and MCG Capital for Joint Operation of Television Stations KHNL, KFVE, and KGMB, Honolulu, Hawai'i."
4. I reside in Honolulu, Hawai'i and am a regular viewer of TV stations serving Honolulu including KHNL, KGMB, and KFVE. Since the 2010 merger of Honolulu's two daily newspapers, *The Honolulu Advertiser* and the *Honolulu Star-Bulletin*, I have become a regular reader of Honolulu's only daily newspaper, *The Honolulu Star-Advertiser*.
4. I have reviewed MCH's Petition to Deny the license renewals of television stations KHNL, KGMB, and KFVE. As described in the foregoing Petition, I have been harmed by the loss of diverse local news sources resulting from a series of agreements between the Raycom and HITV, the licensees of those stations. These agreements include a shared services agreement, a term loan note, studio lease, a purchase option agreement, and an asset exchange agreement. Pursuant to these agreements, Raycom became outright owner both KHNL, the NBC affiliate, and KGMB, the CBS affiliate, in violation of the FCC's rule prohibiting common control of two top four stations in the same market. These agreements also gave Raycom substantial influence over KFVE, in violation of the Communication's Act and the FCC's prohibition on having an ownership interests in more than two television stations in the same market. Among other things, I am harmed because:
  - a) The NBC and CBS network affiliates now simulcast the same newscasts produced by Raycom's Hawai'i News Now. Before these agreements took effect, each network affiliate had separate, competing news operations;
  - b) Hawai'i News Now also produces substantially similar local newscasts for television station KFVE. KFVE shares the same studio with Raycom's NBC and CBS affiliates and has very few of its own employees, because most services are provided by Raycom. This

arrangement deprives viewers such as me of the possibility of different program choices that would result from a truly independent licensee with its own studio and personnel;

c) My access to diverse sources of local news is further reduced by the news sharing arrangement between Hawai'i News Now and the *The Honolulu Star-Advertiser*; and

d) As a result of these agreements and mergers, many journalists have lost their jobs and the quality and diversity of local news programming has declined as the result of reduced competition.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Gerald Kato

January 1, 2015



AMERICANS FOR DEMOCRATIC ACTION

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November 30, 2014

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: Renewal numbers:  
KFVE: BRC DT - 20140930AFX  
KHNL: BRC DT - 20141001CEM  
KGMB: BRC DT - 20141001CDU

Americans for Democratic Action/Hawaii is writing to challenge the renewal of the licenses for TV stations KHNL (NBS), and KGMB (CBS) and KFVE.

Americans for Democratic Action (ADA), founded in 1947, is a national independent liberal political organization dedicated to promoting individual liberty and economic justice, working toward civil rights at home and human rights abroad, and for the promotion of the general welfare in a world of peace. As the local chapter of that organization, Americans for Democratic Action /Hawaii shares in this mission and seeks to implement it primarily on a local, Hawaii level. A major focus of our activity is providing testimony at the state legislature supporting or opposing bills that impact the wellbeing of the general public. As such, the availability of public information on issues is essential.

We depend heavily on the news media to keep our membership informed about issues, such that we have a basis for prioritizing issues on which to act. The consolidation of news media in Hawaii over the past several years has had a negative impact on our activities. Lacking diversity of outlooks and especially investigative reporting, much that happens reaches our attention only after it is too late to respond.

In 2009 Raycom Media was allowed to take over three television stations in Hawaii—outright ownership of both the NBC (KHNL) and CBS (KGMB) stations in addition to exerting total control over a third station, KFVE. Americans for Democratic Action Hawaii was one of the many organizations in the community served by these stations that supported the effort by Media Council Hawaii to stop the merged operations.

We believe that the immediate layoff of more than sixty staff and the closing of one newsroom seriously impacted the public's ability to understand and follow public issues. Raycom now produces, *Hawaii News Now*, which simultaneously presents the identical local newscast on both NBC and CBS channels and presents essentially the same newscast at different times on KFVE, which lacks its own news staff.

Although our state is very diverse ethnically and geographically, the resulting homogenization of information ignores the richness of Hawaii's culture. Local issues and events receive less coverage than would be the case with three competing TV stations, and the diversity of opinion arising from this ethnic diversity is nearly absent from the public airwaves. There is little investigative reporting as well. Raycom Media's domination of the market, and this state of diminished competition, weakens the ability of minorities, women, and local interests to acquire station ownership or even to aspire to become media owners.

For example, Americans for Democratic Action/Hawaii is especially concerned with the poor coverage of issues before the State Legislature and County Councils and of election campaigns. For example, our organization is concerned about the welfare of low-income individuals. However, in the 2014 legislative session, TV news on these stations provided some coverage of the discussion on raising the minimum wage, but failed to cover the package of bills that would have cut taxes on the poorest people in our state. As a result, legislators were able to ignore these bills without substantial accountability to the community they represent.

Hawaii has the lowest or one of the lowest rates of voter turnout in the country. We believe this is in large part due to lack of information on political issues and the positions of candidates, both prior to and during election campaigns. With respect to coverage of political campaigns, one of our members participated in a local study on the TV coverage of campaigns and issues during the last weeks of the 2012 election cycle. With the exception of the Honolulu mayoral race, *Hawaii News Now* rarely mentioned races for the legislature or city and county offices. Even the reporting on the Honolulu mayoral race was devoted primarily to the emergency hospitalization of one of the candidates! Issues were rarely mentioned at all, let alone discussed in depth.

Further, the study found that paid political advertising on *Hawaii News Now* during newscasts equaled or surpassed political reporting, even when political reporting was defined as any mention of a political figure—local, state, national or international—whether or not they were currently running for election.

With respect to lack of investigative or in-depth reporting, this week's news included reports of the City of Honolulu evicting Micronesians from a park and the State of Hawaii being granted the right to refuse Medicaid to Micronesians, but without any background on why Micronesians are here in the first place and why they are poor. Such a lack in reporting raises inter-ethnic tensions, prevents the public from looking for alternative solutions, and only contributes to the woes of Micronesians.

Other omissions by the Raycom's news include stories about the lawsuit against Calvin Say for not living in his district, alternatives to military jobs for Hawaii, and weak coverage of the constitutional amendments on the most recent ballot.

Given our concern about lack of robust news coverage of our community, and general lack of diverse editorial viewpoints, we are deeply troubled that the only mass circulation print media, the *Honolulu Star Advertiser*, and Hawaii News Now list each other as "media partners". We



would like the substance of this partnership to be made public to understand if it violates the rule against cross ownership.

We live in a community where monopoly forces exert tremendous control over the free flow of information. Raycom media unfairly dominates the television broadcast market, and *The Honolulu Star Advertiser*, as the State's only statewide daily newspaper, dominates print media. There is a lack of genuine competition. Although there are a few Internet based information sources, each of them reaches only a small portion of the general public and results in segmented understanding of public issues. The very concept of a public understanding and consideration of issues is undermined by the lack of in depth reporting and discussion of issues.

We believe that Raycom, while using the public airwaves, has failed in its responsibility to the public, as indicated above. For that reason, we ask the FCC to deny renewal of the licenses of KGMB, KHNL, and KFVE.

John Bickel  
President, ADA Hawaii



# HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Randy Perreira  
President

Telephone: (808) 597-1441  
Fax: (808) 593-2149

December 1, 2014

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Renewal numbers:

KHNL: BRC DT – 20141001CEM

KGMB: BRC DT – 20141001CDU

KFVE: BRC DT – 20140930AFX

Dear Secretary Dortch:

The Hawaii State AFL-CIO is comprised of 76 local affiliate unions and councils with 90,000 plus members in the State whose parent international unions are affiliated at the national level with the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO). We are one of 51 state federations operating under a charter granted by the AFL-CIO. It is important that our members receive timely and pertinent information about public issues.

We are writing in opposition to the license renewals for the above referenced stations: KHNL, KGMB and KFVE. Monopoly media has stunted the flow of information. One newsroom, Raycom Media's Hawaii News Now produces identical news for all three stations.

In 2009 Raycom Media took over the three television stations and are the outright owners of KHNL (NBC affiliate), KGMB (CBS affiliate) and KFVE, an independent station. Since then our community has suffered in that there is less coverage of local stories, loss of diversity of opinion, reduction of enterprise reporting and a general homogenization of information and lack of competition.

Diversity and competition are vital for our community; therefore we ask that you deny the license renewals for KHNL, KGMB and KFVE.

Sincerely,

Randy Perreira  
President

Tom Coffman  
Writer/Producer  
44 114 Bayview Haven Place  
Kane'ohe, Hawai'i 96744

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: Renewal numbers:  
KFVE: BRC DT - 20140930AFX  
KHNL: BRC DT - 20141001CEM  
KGMB: BRC DT - 20141001CDU

Dear Madame Secretary,

I am writing from my perspective as a former political reporter in Hawai'i and my ongoing work as an independent writer and historian. When I began working as political bureau chief for the *Honolulu Star Bulletin* in 1968, we had two major independent newspapers and three independent television stations, all locally owned and competing with one another. Each was fully staffed and the competition for both breaking news and enterprise journalism was intense. The *Star Bulletin* had a five-person bureau at the State Capitol during the legislative session, and the television stations likewise maintained bureau operations with fulltime and backup "beat" reporters who were knowledgeable and aggressive. One went on to be a State Senator and another a longtime State Representative.

Beginning in 1971, with the arrival of Gannett Corporation, the process of chain ownership and media consolidation began to weaken our previously robust practice of journalism. Without deep attachment (but no lack of professed enthusiasm) to the complex Hawai'i community, decision-making became ever more a commodity. The latest blow is the consolidation by Raycom Media of the three television stations I am addressing in this letter, KFVE, KHNL and KGMB. They produce a single news program, Hawaii News Now, that is offered across the three platforms. In an earlier day, KGMB alone was the leading television news broadcaster and kept up a strong pace of political news, commentary, and the periodic production of long-form documentaries as well. A journalist and author, Scott C.S. Stone, oversaw documentary production. With consolidation, political stories are "rip and read." In an occasional on-location story, a passably knowledgeable reporter may emerge, but that same reporter's work is diluted by handling numerous other assignments, most predictably traffic and crime-blotter stories.

If you were to do a content study, you would find that the single biggest time-fillers on KGMB/KHNL/KFVE are weather reports and police-blotter reports. I find it astonishing there are three long weather stories within a single news show, when weather used to be a 15- to 30-second afterword.

Public life has suffered concomitantly. During this period, Hawai'i has gone from having the highest to the lowest voter turnout of any State.

Contrary to the images of paradise, Hawai'i faces serious challenges. The size and demands of government are straining our economic base, which translates to rapid or excessive development as a revenue-generator.

We are besieged by environmental threats such as warming, rising seas, shoreline erosion and the degradations resulting from invasions of alien species.

A large Native Hawaiians are increasingly disaffected with American life and of a mind to seek a return to the kingdom of Hawai'i.

These require a renewed vigor in journalism. You can help by denying the application for renewal of license in such a way as to force a return to greater competition.

Sincerely,

Tom Coffman

11/22/14



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Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: Renewal numbers:  
KFVE: BRC DT - 20140930AFX  
KHNL: BRC DT - 20141001CEM  
KGMB: BRC DT - 20141001CDU

Dear Ms. Dortch and members of the FCC:

Common Cause Hawaii (CCHI) is writing to object to the license renewal for TV stations KHNL, KGMB, and KFVE, located in Honolulu, on grounds that these stations have failed to adequately serve the community. In exchange of their right to use the public airwaves, media has a civic responsibility to report on and raise awareness of pressing local issues. However, the consolidation of local news across the three stations has severely restricted competition between newsrooms, and has resulted in depleted news coverage of local events and issues.

Common Cause Hawaii (CCHI) is the State chapter of Common Cause, a national non-partisan organization founded in 1970 as a citizens' lobby. CCHI has been active in Hawaii since the mid-1970s and has 4,000 members and supporters, including persons on all islands. Both at the national and the local level, the organization focuses on increasing voter participation and civic participation in government, reducing the influence of money in politics, and advocating for openness and transparency in government. With these foci, it is essential that we and our membership have substantive and timely information on public issues.

CCHI was one of the organizations that objected in 2009 to the merger of two Raycom Media stations (KHNL and KGMB) and the broadcast of the same news on a third station, KFVE, which does not have any news staff of its own. We feared at that time that the merger would reduce news coverage in Hawaii, and indeed it has, with the immediate layoff of more than 60 staff and closing of one newsroom. Given that each independent news staff would have made its own decisions about what news to cover and how to cover it, the consolidation of news across three TV stations greatly decreases that variability—a variability that is essential to having thorough coverage and a comprehensive picture of events. Without it, there is a homogenization of the news that does not serve the public interest. A University of Delaware study (*Local TV & Shared Service Agreements: Examining News Content in Honolulu*, D. Yanovich, February 2011) documented that the number of local news stories dropped significantly after the merger of the three TV news programs. Stories on local issues dropped by 19%, while the time devoted to them dropped by 43%. While news stories related to government and politics increased from 11% to 16% of the total, the time spent on them dropped by 44%.

The weakness of news reporting also became evident in a study CCHI members participated in after the 2012 elections. The study found that the merged news program, *Hawaii News Now*, rarely, with one exception, addressed issues in the races for the State legislature or City/County Councils. The issue of whether to build a rail system on Oahu received coverage, but the



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enormous range of other issues facing the County and the State were largely ignored. Indeed, the amount of time spent on political advertising equaled or surpassed that spent on political reporting in the final weeks of the election period—even when *any* mention of *any* politician, local, national or international, and whether running for office or not, was included in the category of “political news,” as was the extensive coverage of the brief hospitalization of one of the candidates for Governor. Although we did not repeat the study, we believe that the same trends continued in the 2014 elections. In between, we saw little coverage of issues before the State legislature and county councils.

Hawaii chronically has one of the lowest voter participation rates in the nation. We believe that what has been termed “voter apathy” is in fact, lack of voter knowledge about the political decisions that impact our daily lives. We believe that our efforts to increase voter participation are hampered by the failure of these three stations to adequately report on political news:

Although some people now depend on local online blogs and electronic news from online news platforms such as Civil Beat, none of these sources has the extensive viewership that television has. And even if these other sources were adequate, we do not believe that it excuses these TV stations from their civic responsibility—which they are pledged to serve in recognition of their right to use the public airwaves.

For these reasons, we believe that KGMB, KHNL and KFVE are not adequately serving our communities and ask the FCC to deny renewal of their licenses. Hawaii needs a diverse and competitive news environment that focuses attention on local issues, which these stations have not delivered on.

Sincerely,

Carmille Lim, Executive Director  
Common Cause Hawaii

cc: Media Council Hawaii



November 25, 2014

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: Renewal numbers:  
KHNL: BRC DT - 20141001CEM  
KGMB: BRC DT - 20141001CDU  
KFVE: BRC DT - 20140930AFX

Dear Secretary Dortch:

SAG-AFTRA Hawaii Local represents over 1,000 film, entertainment and broadcast industry professionals in the state of Hawaii. It is important that our members receive timely and pertinent information about public issues in our community.

We are writing in opposition to the license renewals for the above referenced stations: KHNL, KGMB and KFVE. Monopoly media has stunted the flow of information in our State. Raycom Media's *Hawaii News Now* produces identical news for all three stations and as a result, has chilled diversity of news.

In 2009 Raycom Media took over the three television stations; KHNL (NBC affiliate), KGMB (CBS affiliate) and KFVE, an independent station. Since then our community has suffered in that there is less coverage of local new stories, loss of diversity of opinion, reduction of enterprise reporting and a general homogenization of information and lack of competition. The combined station operation also means fewer employment opportunities for our members.

Diversity and competition are vital for our community; therefore we ASK that you DENY the license renewals for KHNL, KGMB, and KFVE. Thank you.

Sincerely,

Brenda Ching  
Executive Director

Brenda Ching, Executive Director  
[brenda.ching@sagaftra.org](mailto:brenda.ching@sagaftra.org) • SAGAFTRA.org • 808.596.0388 / 808.593.2636  
SCREEN ACTORS GUILD - AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS  
949 KAPIOLANI BLVD., SUITE 105, HONOLULU, HI 96814  
Associated Actors & Artistes of America / AFL-CIO

December 1, 2014

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Renewal numbers:  
KHNL: BRCDT - 20141001CEM; KGMB: BRCDT - 2014 1001CDU  
KFVE: BRDT - 20140930AFX

Secretary Dortch,

Hawaii, like many communities, can no longer count on publically licensed television stations for meaningful levels of information and news.

The Media Council of Hawaii reports that during a scheduled thirty minute news production, we are fortunate to receive six minutes of actual news. Most of the remaining time is devoted to teasers, lead ins, self promotions, and a light review of weather graphics three times.

It should be kept in mind that Hawaii has one of the lowest voter turnouts of all states. Certainly, keeping citizens informed is not only a legitimate task for television news, but arguably an obligation. A recent review of election coverage indicated that there were no reports on any of our legislative contests.

For these reasons, there is a legitimate concern that Hawaii's opportunity to receive news has been diminished when one corporation owns two separate stations, and has significant control over a third. The number of independent news operations, reporters, and investigative resources are very limited. We do not have the diversity of opinion nor the depth of coverage that the community needs.

I strongly urge the Federal Communications Commission to seriously evaluate whether this consolidation of ownership is consistent with the spirit and letter of the law and rules. Certainly the creation of monopolies is not in the public interest.

Sincerely,

James T. Shon  
162 Forest Ridge Way  
Honolulu, Hawaii 96822

Cc: Media Council Hawaii  
625 Iolani Avenue #504, Honolulu, Hawaii



**Media, Money & Democracy:**  
**Political Campaign Advertising and Hawaii Television News in the 2012 Elections**

March 20, 2014

*A study by Common Cause Hawaii and Media Council Hawaii*

**Introduction**

2012 was a big election year in Hawaii and around the country. Hawaii voters were presented with choice for President, U.S. Senate, U.S. House of Representatives, mayors of Honolulu and Hawaii County, and newly redistricted state legislature and county council seats. 2012 was also the first major election with the influence of SuperPACs, following the U.S. Supreme Court decision in *Citizens United v. Federal Elections Commission* in 2010.

As a result, enormous quantities of money have been spent by corporations, PACs, SuperPACs, and wealthy individuals to influence voters, especially with television advertising. Nationwide, a total of \$2.9 billion was spent on political advertising in local TV in 2012 – nearly double the \$1.5 billion spent during the last presidential election cycle in 2008.<sup>1</sup>

Meanwhile, substantive news coverage on television is on the decline, with cutbacks in newsrooms and laid-off journalists. According to the Pew Research Center's Project for Excellence in Journalism, "the amount of time devoted to edited story packages has decreased and average story lengths have shortened, signs that there is less in-depth journalism being produced. Traffic, weather and sports [...] seems to be making up an ever-larger component of the local news menu, according to the stations studied in 2005 and 2012. Coverage of politics and government, meanwhile, was down by more than 50%."<sup>2</sup>

This leaves us in a new era with huge increases in political advertising, and reduced news coverage of politics and elections. Although Americans are increasingly getting news content from the Internet, it is important to note that television is still the most common medium for U.S. adults to obtain political news.<sup>3</sup> Media advocacy group Free Press explains the critical implications: *This means that even though a substantial majority of Americans rely on local TV news for political information, they will likely 'learn' far more about candidates and issues from*

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<sup>1</sup> According to a TVB analysis of data from Kantar/Campaign Media Analysis Group. See Deborah Potter of NewsLab, Katerina-Eva Matsa and Amy Mitchell of the Pew Research Center. *Local TV: By the Numbers*. <http://stateofthemedialab.org/2013/local-tv-audience-declines-as-revenue-bounces-back/local-tv-by-the-numbers/>. Accessed February 26, 2014.

<sup>2</sup> Mark Jurkowitz, Paul Hitlin, Amy Mitchell, Laura Santhanam, Steve Adams, Monica Anderson and Nancy Vogt of Pew Research Center. *The Changing TV News Landscape*. <http://stateofthemedialab.org/2013/the-changing-tv-news-landscape/>. Accessed February 26, 2014.

<sup>3</sup> Pew Research Center's Journalism Project Staff. *Internet Gains Most as Campaign News Source but Cable TV Still Leads*. <http://www.journalism.org/commentary/backgrounders/social-media-doubles-remains-limited>. October 25, 2012. Accessed February 26, 2014.

*watching the noxious ads that dominate television viewing during commercial breaks.*<sup>4</sup>

Hawaii appears to be no exception to these larger trends, with major cutbacks in local news rooms and big money in political advertisements. Here in Hawaii in 2012, viewers were exposed to political advertising totaling \$13.8 million on local TV stations, according to Civil Beat.<sup>5</sup>

Given these trends, Common Cause Hawaii and Media Council Hawaii initiated this study to explore various questions about political news and political advertising on TV in Hawaii. What kind of information are Hawaii residents getting from watching the TV news? Are they getting substantive reporting on our Hawaii candidates and issues? Or are they simply barraged by political commercials taking over the airwaves? This study analyzes political news coverage and political commercials shown during Hawaii's local television newscasts just prior to the 2012 primary and general elections.

### **Methodology**

Staff, interns, and volunteers from Common Cause Hawaii and Media Council Hawaii reviewed transcripts and video clips of local television evening newscasts on KHON, KITV, KFVE, KGMB, and KHNL during the days just prior to the primary and general elections. Reviewers recorded information about the length and content of all political news stories and political ads.

Part 1 of the study covered all 72 evening newscasts during the five days before the primary election: Monday, August 6, 2012 through Friday, August 10, 2012. Part 2 covered all 92 evening newscasts during the seven days before the general election: Tuesday, October 30, 2012 through Monday, November 5, 2012.

A "political news story" was defined as any political or election-related news story in the newscast, including stories about the elections, any candidates, or any elected officials at the local, state, or federal levels, whether or not that official was a candidate in the election. A "political commercial" was defined as a paid commercial mentioning any political candidate or political issue (e.g., rail).

In Part 2 of the study, political commercials were evaluated as being positive, negative, or mixed. A "mixed" commercial was one that began or ended by attacking one candidate while supporting another. Because the negative and mixed categories were used differently by different evaluators, they are combined as negative in the analysis.

### **About the Sponsors**

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<sup>4</sup> Free Press. *Citizens Inundated*. Page 7. [http://www.freepress.net/sites/default/files/fp-legacy/Citizens Inundated final doc for release 01 26 12.pdf](http://www.freepress.net/sites/default/files/fp-legacy/Citizens%20Inundated%20final%20doc%20for%20release%2001%2026%2012.pdf). Accessed February 26, 2014.

<sup>5</sup> Alia Wong. "Hawaii TV Stations Cashed In Big On Political Advertising This Year." *Honolulu Civil Beat*. <http://www.civilbeat.com/articles/2012/11/21/17649-hawaii-tv-stations-cashed-in-big-on-political-advertising-this-election-season>. November 21, 2012. Accessed February 26, 2014.

Common Cause Hawaii is a nonpartisan, nonprofit organization that aims to promote citizen participation in the political process and hold government accountable to the public interest. For more information, visit [www.commoncause.org/HI](http://www.commoncause.org/HI).

Media Council Hawaii is a nonpartisan, nonprofit, nongovernmental independent group that seeks to improve public access to information, strengthen public support for First Amendment rights and freedoms, broaden public understanding of the role of the media, and promote accurate and fair journalism in Hawaii. For more information, visit [www.mediacouncil.org](http://www.mediacouncil.org).

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### **Part 1: Primary Election 2012**

Part 1 of our study focused on the days just prior to the 2012 primary election in August 2012. Our study found that Hawaii voters saw much more political advertising than political news. Four newscasts had no political news at all, and there was virtually no coverage of state legislature or county council candidates. Our study also found that nearly a quarter of all political commercials were paid for by outside groups.

**Finding #1 – The total number of political commercials exceeded the number of political news stories.** In the evening newscasts during the period, there were 519 political commercials, compared to only 206 political news stories. In total time, this equates to 269 minutes of commercials, compared to 232 minutes of political news.

**Finding #2 – On average, viewers saw 7.2 political commercials per newscast, compared to only 2.9 political news stories per newscast.** In minutes, this equates to 3.7 minutes of political commercials per newscast, compared to only 3.2 minutes of political news.

**Finding #3 – Four newscasts had NO political news coverage at all.** But those four newscasts did have 7 to 10 political commercials each.

**Finding #4 -- Nearly a quarter of all political commercials were paid for by non-candidate committees (i.e., PACs and SuperPACs).** These groups included Pacific Resource Partnership, University of Hawaii Professional Assembly, U.S. Chamber of Commerce, Hawaii Building & Construction Trades Council, and Hawaii Operating Engineers Stabilization Fund.

**Finding #5 -- There was virtually no local TV news coverage of any candidates for state legislature or county council.**

**Finding #6 -- Nearly a fifth of all political news stories were focused on Honolulu mayoral candidate Ben Cayetano's ulcer.**

## Part 2: General Election 2012

Our study continued with analysis of the newscasts just prior to the general election in November 2012. We found that viewers saw just as much political advertising as political news. Viewers saw more than 8 political commercials in an average newscast, and 40% of the political commercials were paid for by PACs and other outside groups.

**Finding #1: During the week before the General Election, viewers saw almost 3 times (2.8) as many political commercials as political stories. Although the time devoted to each category was equal, many of these stories did not address critical issues.** The count was 759 commercials versus 273 news stories. In total time, newscasts included 380 minutes of political news, and also 380 minutes of political commercials during the week before the general election.

**Finding #2: As in the pre-primary period, there was virtually no local TV news coverage of candidates for state legislature or county council.** The exception was a presentation of the differing views of Laura Thielen and Fred Hemmings, two State Senate candidates in East Honolulu.

**Finding #3: Few political news stories dealt with local issues.** Of those that did, the overwhelming majority focused on the Honolulu rail project, many of those reporting on candidate reactions to a court ruling that week.

**Finding #4: During the average newscast, viewers saw more than 8 political commercials.** The average newscast during the period included 8.3 political commercials versus 3.0 political news stories. Viewers saw an average of 4 minutes 8 seconds in political commercials as well as 4 minutes 8 seconds in political news.

**Finding #5: Forty percent (40%) of political commercials were paid for by SuperPACs, PACs, and other noncandidate groups.** These groups included the U.S. Chamber of Commerce and Fund for Freedom (supporting Lingle), Pacific Resource Partnership and Workers for a Better Hawaii (supporting Caldwell), Save Our Honolulu (supporting Cayetano), and Majority PAC and the Democratic Party of Hawaii (supporting Hirono).

**Finding #6: Commercials paid for by PACs, SuperPACs, and political parties were much more likely to be negative than those paid for by the candidates themselves.** While the distribution of ads during evening news broadcasts in the final week before the election may not be representative of the distribution during other periods, 84% of those placed by PACs during that period were negative, while 78% of the ads placed by candidates were positive. Overall, nearly half (48%) of the ads were negative. Workers for a Better Hawaii placed only positive ads during that period and Pacific Resource Partnership placed three positive ads, while all of the ads placed by other PACs were negative.

### Comparing the Primary vs. General

Comparing our findings from Part 1 (primary election) and Part 2 (general election), we found that the newscasts just prior to the general election included more political news coverage but also more political advertising. Our study also found that PACs and other outside groups had a bigger presence just prior to the general election.

- **Viewers saw more political news coverage just before the general election.** In the days just prior to the primary election, viewers saw 3 minutes 13 seconds of political news per newscast. In the days prior to the general election, this increased to 4 min 8 seconds per newscast, though few dealt with Hawaii political issues other than rail.
- **While news coverage increased, there were also more political commercials just prior to the general election.** Prior to the primary, viewers saw 7.2 political commercials, or 3 minutes 44 seconds of political commercials per newscast. Prior to the general, this increased to 8.3 political commercials, or 4 minutes 8 seconds per newscast.
- **PACs and other outside groups had a significant presence in the political commercials of the 2012 elections, with an even bigger presence in the general election.** In the days prior to the primary, 24% of all political commercials were paid for by PACs and other outside groups. Prior to the general, 40% of all political commercials were paid for by PACs and other outside groups, and these commercials were overwhelmingly negative.

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### Conclusion

Our study finds that in the periods just prior to the 2012 elections, Hawaii's television viewers were shortchanged on political news and instead exposed to significant quantities of paid political commercials. Furthermore, the limited political news rarely dealt with substantive political issues, and almost completely ignored the races for state legislature and county council. Meanwhile, viewers saw a large quantity of commercials funded by local and national PACs and SuperPACs, much of which was clearly negative in tone.

Concerns about Hawaii's political news coverage are bolstered by a recent study<sup>6</sup> by Danilo Yanich and Paul Ruiz at the University of Delaware, released in late 2013 and covered by Honolulu Civil Beat. That study found during in the nine weeks prior to the November 2012 general election, local news broadcasts had 584 campaign ads and 139 political news stories. There was little substantive coverage of issues, with 62% of political news stories failing to mention any campaign issue. Furthermore, the study found that local news programs did not fact-check any political ads.<sup>7</sup>

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<sup>6</sup> Danilo Yanich and Paul Ruiz. *Political Ads & Local TV News: The Honolulu Case*. <http://www.ccrs.udel.edu/sites/ccrs.udel.edu/files/YanichRuiz%20Political%20Ads%20&%20News%20Content%2011-22-2013.pdf>. November 2013. Accessed February 26, 2014.

<sup>7</sup> Patti Epler. "Editor's Desk: Honolulu TV News Falls Short in Study of Political Coverage." *Honolulu Civil Beat*.

Ultimately we reach a sad conclusion about our local news and its implications for voters and viewers in our democracy. While Hawaii's local television stations were taking in large quantities of campaign advertising dollars, they failed to provide enough substantive political news for Hawaii's voters at the time they needed it most.

For more information, contact:

Chris Conybeare, [Conybeare@msn.com](mailto:Conybeare@msn.com)

or

Barbara Polk, [barbarapolk@hawaiiantel.net](mailto:barbarapolk@hawaiiantel.net)

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<http://www.civilbeat.com/posts/2013/11/25/20502-editors-desk-honolulu-tv-news-falls-short-in-study-of-political-coverage/>. November 25, 2013. Accessed February 26, 2014.

## CERTIFICATE OF SERVICE

I, Angela Campbell, hereby certify that copies of the Petition to Deny License Renewals by Media Council Hawai'i, through its attorneys, the Institute for Public Representation, have been served by first-class mail and courtesy copy by e-mail, this January 2, 2015, on the following persons at the addresses shown below.

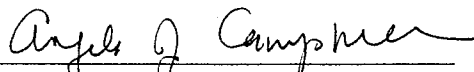
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*Counsel for Raycom Media, Inc.*

  
\_\_\_\_\_  
Angela J. Campbell