## Growing Opposition to Covert Consolidation

The FCC's Future of Media report shined a spotlight on these agreements just as the agency turns its attention to its Quadrennial Review of Media Ownership Rules. Comments filed in that proceeding demonstrate that there is substantial opposition to these agreements. A diverse range of companies and organizations oppose the agreements, including, Time Warner Cable; the United Church of Christ, Office of Communication, Inc.; Hubbard Broadcasting; Communications Workers of America; American Cable Association; and Free Press, among others.

Stakeholders on both sides of the issue agree that the agency ought to provide guidance on the legality of these deals. Hubbard Broadcasting, for example, wrote that it "would support any equitable determination by the Commission, rather than ad hoc actions lacking the full record and findings of a rulemaking proceeding."[59] A major concern among all groups opposed to covert consolidation is the potential that these agreements have to impede the FCC's ability to enforce its media ownership rules. "The ability of the ownership limits to promote diversity of local news and information is significantly eroded if contractual arrangements can be used as end-runs around the rules," Free Press wrote in its comments. Similarly, the Office of Communication of the United Church of Christ (UCC) wrote, "[i]t appears that Shared Services Agreements are being used to evade either the restriction on mergers of two top four stations or prohibitions on mergers where fewer than eight independent voices remain[]."[60]

The American Cable Association (ACA) has likewise raised concerns about Shared Services Agreements and Local Marketing Agreements, but for different reasons. The ACA argued that because these agreements lead to the practical consolidation of control of multiple stations in the hands of a single company, they unfairly advantage broadcasters' by giving them the ability to jointly negotiate cable carriage. With this increased bargaining power, the broadcasters can charge smaller cable providers more for carrying their broadcast channels, ultimately raising cable rates for consumers.[61]

In order to stem the tide of covert consolidation, the FCC must reexamine its current rules. Covert consolidation is perhaps the biggest loophole in the FCC's media ownership laws, and the agency's lack of action on current citizen complaints in this area raises real concerns about the FCC's commitment to holding broadcasters accountable. As the agency looks to complete its review of media ownership rules, it must address the impact covert consolidation is having on the local news ecosystem across the country.

[59] Comments of Hubbard Broadcasting, Inc, MB Docket No. 09-182 at 4 (filed with the FCC July 12, 2010).

[60] Comments of Office of Communications, of United Church of Christ Inc, et al., MB Docket No. 09-182 at 8 (filed with the FCC July 12, 2010).

[61] Comments of American Cable Association, MB Docket No. 09-18, at 2 (filed with the FCC July 12, 2010).