



Gray Television Statement on Wrongly Decided FCC Order

Atlanta, Georgia – November 1, 2022... Gray Television, Inc. (“Gray” or the “Company”) (NYSE: GTN) responded to the FCC’s adoption today of a Forfeiture Order imposing an unprecedented penalty on Gray for its 2020 acquisition of assets in Alaska that allowed Gray to expand local news in the state, save local jobs, and advance the public interest, all while fully complying with Commission requirements. Gray intends to challenge the FCC’s decision and expects a complete reversal by an impartial federal court.

The FCC’s Forfeiture Order erroneously concludes that Gray violated an FCC rule adopted in 2016 that prohibits the “swap” of television station assets that “result in” one licensee owning two of the top-ranked television stations in the same market. In the transaction at issue, Gray acquired non-licensed programming and local news assets from another broadcaster in the Anchorage market who was unable to find a buyer for its station and consequently intended to shut it down, including its local news operation. Gray invested in these acquired assets to place new programming on KYES-TV, Gray’s second full-power television station in the Anchorage market, which Gray had previously acquired with the Commission’s consent. At the time of Gray’s acquisition of the additional programming assets, both KYES-TV and Gray’s KTUU-TV in Anchorage were ranked among the top four local stations in ratings. Consequently, contrary to the FCC’s finding, the disputed acquisition did not involve a “swap” and did not “result in” Gray suddenly owning two top-four ranked stations. Moreover, this transaction adhered precisely to the structure of other non-licensed programming acquisitions approved, authorized, and (in some cases) required by the FCC itself in other markets. Following Gray’s development of the local news channel on KYES-TV, Gray invested in the first-ever permanent local television news bureau in the Juneau television market (located hundreds of miles from Anchorage) and expanded local news programming in the Anchorage market to time periods where local news was not previously available.

Gray appreciates Commissioner Simington’s strong and cogent dissent, which points out some of the many flaws in the FCC’s order. As Commissioner Simington observed, the FCC’s decision “goes beyond precedent and the text of [its] rules.” Because Gray already owned two top-4 rated stations in the market, “its behavior was not prohibited under a plain reading of the Rule.”

As Gray explained last year in its response to the FCC’s proposed finding on Gray’s Anchorage transaction ([available here](#)), federal law, including U.S. Supreme Court precedent, simply does not allow the FCC to rewrite its rules to prohibit a transaction structure that it previously approved. Nor does federal law permit the FCC to impose penalties on those who followed the rules as they were written at the time.

Gray’s upcoming challenge of today’s Forfeiture Order will be the first opportunity in two decades where an FCC broadcast ownership rule will be considered in a federal court other than the U.S. Court of Appeals for the Third Circuit. In 2021, the Supreme Court finally ended the Third

Circuit's unprecedented action seizing for itself exclusive jurisdiction over the FCC's rules, a power that the Third Circuit used repeatedly over 17 years to block the agency's efforts to modernize its outdated broadcast ownership rules, some of which date to the 1940s. Gray Television actively participated in that Supreme Court proceeding at both the petition and merits stages, an effort that was vindicated by a unanimous Court decision.

Gray anticipates that its challenge of today's Forfeiture Order will likewise end in another strong judicial vindication of its position and another strong judicial repudiation of a federal agency overstepping its authority and failing to adhere to the rule of law and protect the public interest.

About Gray:

Gray Television, Inc. is a multimedia company headquartered in Atlanta, Georgia. Gray is the nation's largest owner of top-rated local television stations and digital assets in the United States. Its television stations serve 113 television markets that collectively reach approximately 36 percent of US television households. This portfolio includes 80 markets with the top-rated television station and 100 markets with the first and/or second highest rated television station. It also owns video program companies Raycom Sports, Tupelo Media Group, and PowerNation Studios, as well as the studio production facilities Assembly Atlanta and Third Rail Studios. For more information, please visit www.gray.tv.

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