

For Immediate Release

September 15, 2003



THIRD CIRCUIT KEEPS MEDIA OWNERSHIP CASE

Late on Monday, September 15, 2003, the U.S. Court of Appeals for the Third Circuit ruled that it would retain jurisdiction over pending challenges to the FCC's June 2, 2000 media ownership order. The court, which is located in Philadelphia, also adopted an extremely rapid briefing schedule, contemplating that opening briefs will be filed on September 30 and oral argument will be held on November 5.

The ruling came in a decision denying a motion filed by three TV networks (Fox, Viacom and NBC) seeking to have the case transferred to the District of Columbia Circuit.

"I am delighted," said Andrew Jay Schwartzman, President and CEO of Media Access Project. "We successfully argued that Congress did not intend that the D.C. Circuit should have the exclusive control over all media ownership issues." He expressed surprise at the extremely rapid briefing schedule, observing that "our brief would ordinarily take two months to write; completing it in two weeks will be quite a challenge. Given the sheer number of parties and positions, it will be difficult to coordinate the filings in such a short time."

Media Access Project represents the Prometheus Radio Project of Philadelphia, which is the lead Petitioner in the appeal.

Judge Julio M. Fuentes wrote the 2-1 decision, from which Chief Judge Anthony J. Scirica dissented. Judge Fuentes' opinion stated that the issues were not closely enough related to prior cases heard by the D.C. Circuit. He wrote that if this case must be transferred to the D.C. Circuit, then all media ownership cases must be transferred to the D.C. Circuit, and Congress had not enacted such exclusive jurisdiction. In his dissent, Judge Scirica worried that, because of the prior decisions by the D.C. Circuit, Third Circuit review could put the FCC at the mercy of conflicting directives. He also felt the D.C. Circuit's expertise and principles of comity militated in favor of transfer.

Briefing Schedule

Petitioners' Briefs	September 30, 2003
Respondent's Briefs	October 15, 2003
Petitioners Reply Briefs	October 22, 2003

Intervenors will file on the same day as the parties they support. Parties were directed to file joint briefs to the extent they "have common issues."

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