

Family Broadcasters, Pay Attention: Sons and Daughters; Strike Out On Your Own

Family Attribution Under the FCC Ownership Attribution Rules

A recent FCC decision on Titan Broadcasting held that John T. Pritchard's (John Sr.) controlling interest in Pritchard Broadcasting is not attributable to John C. Pritchard's (John Jr.) interest in Titan Broadcasting, and permits father and son to own dual station clusters in the same market. So can you.

Here's the big question: If sons and daughters of broadcasters buy stations in their own home market, won't the FCC's local multiple ownership and attribution of ownership rules prevent it? The answer, as shown by the Pritchard family, is: not if they are bought thoughtfully, with advance planning and run independently. Let's look at the facts.

Pritchard Broadcasting, wholly owned by John Sr., has four stations in Burlington, Iowa. His adult son, John Jr., formed Titan Broadcasting, to buy four other stations in the same market. A competitor, John Dunnegan ("Dunnegan") filed an opposition to the assignment, claiming that it "seems like a clever way to elude the FCC and bypass multiple ownership laws," asserting the familial relationship between father and son demonstrated that John Sr. really controls the business of his son, John Jr.

Titan responded that familial relationship, alone, does not create an attributable interest under the Local Radio Ownership Rule. Specifically it submitted that: (1) that two companies will not be subject to common influence or control; (2) there are no commingled interests in other media businesses; (3) there will be no participation in the financial affairs or business of each other; (4) John Jr. has plenty of prior broadcast experience and can run his own shop; (5) that each company is financially independent, even though John Jr.'s grandfather guaranteed Titan's bank loan; and (6) although they will share some technical facilities and the same lawyer, the technical facilities will be separated within a year.

The FCC concluded that Dunnegan's opposition was mere speculation. In issuing its decision, it gave us good guidance on the issue of family attribution. Here it is:

Familial relationship, standing alone, does not create an attributable interest, even though the son and new owner, John Jr. gained his broadcast experience at dad's family-run stations, and his grandfather guaranteed the loan that made it possible to for John Jr. to buy the Titan stations. Clear separation of management and financial independence defeat a presumption of ownership attribution based merely on familial relationship. That's true for spouses, parents and children. The fact that the stations were using common studios and technical facilities did not change the result, although it's worth noting that this sharing arrangement pre-dated Titan's purchase and John Jr. promised to separate the studio and technical facilities within a year.

The bottom line? It appears that if you want to own radio stations in the same town as mom or dad, or that crazy uncle who always seems to be over served at family functions, you can -- as

long as it's done without any financial help from mom, dad, or uncle Waldo, the family liquor cabinet. Where familial relationships are involved, all issues should be thought out beforehand and the deal structured to assure compliance with FCC policies. Properly planned and structured transactions will permit broadcasting's next generation to buy in -- even in the same communities they grew up in and where they learned the business from mom and dad.

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