

April 2, 2002  
Media Access Project

## Sinclair Case Shows FCC May Protect Public, Powell Cannot Hide Behind the D.C. Circuit

### Background

The U.S. Court of Appeals for the D.C. Circuit issued its decision in *Sinclair Broadcast Group v. Federal Communications Commission* today, April 2, 2002.

Sinclair challenged the FCC's rules that limit the number of television stations a single owner can possess in a local area. The rule allows a single owner to possess two television stations only if: 1) one of the television stations is not one of the four top-ranked stations and 2) there remain eight independent media voices in the local area.

The Court rejected the industry's contentions that the rules violated the First Amendment, the Telecommunications Act and the Fifth Amendment's takings clause. The Court found that the FCC did not adequately explain its definition of which media voices should be counted in the eight voice standard.

### Media Access Project Statement

While today's decision is a temporary setback, it actually underscores the FCC's power to promote media diversity. MAP is confident that, in the end, existing ownership rules will be retained. The decision today forcefully demonstrates that when the Supreme Court's precedent is accurately applied, the FCC possesses full freedom to protect the public and promote diversity of viewpoints. The decision also demonstrates the impact of the D.C. Circuit's recent *Fox* case, which misinterpreted the 1996 Telecommunications Act to impose a significant burden on the FCC's attempts to protect the public. But for that misinterpretation, the rules may well have been upheld. This decision shows that the Chairman Powell cannot lay blame for scaling back media ownership rules at the feet of the D.C. Circuit, he will be responsible.

Notably, this decision undermines industry arguments that the FCC must relax or repeal the newspaper broadcast cross ownership rule. The Court clearly and forcefully upheld the FCC's conclusion that ownership matters, and that the FCC may regulate ownership to promote viewpoint diversity. The court relied heavily on a Supreme Court case that upheld the FCC's newspaper broadcast cross ownership rule, which the FCC is currently reviewing.