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# Senators Move to Restore F.C.C. Limits on the Media



Paul Hosefros/The New York Times

The chairman of the F.C.C., Michael K. Powell, defended the easing of caps on media ownership before a Senate committee on Wednesday, while a fellow commissioner, Jonathan S. Adelstein, spoke against the change.

By **STEPHEN LABATON**

**W**ASHINGTON, June 4 — A bipartisan majority of an important Senate committee indicated today that it would vote to overturn some of the media ownership rules adopted two days ago, reversing one of the most significant deregulatory steps undertaken during the Bush administration.

The battle over the new rules, which were narrowly adopted by the Federal Communications Commission along partisan lines, spilled into Congress where the Republican commissioners who voted for them faced hostile questions from both Democrats and Republicans on the Senate Commerce Committee.

Its chairman, Senator John McCain of Arizona, said the committee would begin a markup of new legislation this month even though he did not directly take issue with the changes adopted by the commission. Mr. McCain said he would introduce legislation giving the F.C.C. the authority to impose tighter regulations if the agency found such regulations were in the public interest.

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The efforts to overturn the decision face an uphill battle, particularly in the House of Representatives, where there is more support for the commission than there appears to be in the Senate. But the political furor, as evidenced by hundreds of thousands of negative comments sent from across the country, on top of criticism from a spectrum of organizations ranging from the National Organization for Women to the National Rifle Association, have given critics momentum on Capitol Hill, which could ultimately lead to a reversal of some elements of the new rules.

"While Monday's decision promising further media deregulation may well be celebrated in a few New York and Hollywood boardrooms, it will be remembered as a dark day in thousands of American communities who look to the F.C.C. to ensure that the use of the public airwaves serves the interests of all Americans, not the economic self-interest of a chosen few," said Senator Ernest F. Hollings of South Carolina, the ranking Democrat on the committee.

Even without the strong support of Mr. McCain, lawmakers today were discussing the possibility of using a rare parliamentary maneuver that would permit them to overturn the commission's decision by simple majority in both houses of Congress and without requiring the approval of President Bush, whose aides have praised the commission's decision.

The architect of the deregulation, the F.C.C. chairman, Michael K. Powell, responded to questions by saying he was only doing what Congress and the courts had directed the agency to do. A 1996 law requires the agency to review the broadcast rules every two years. More recently, a series of court opinions have criticized the agency for failing to adequately justify the restrictions.

"The D.C. Circuit held, 'the Congress set in motion a process to deregulate the structure of the broadcast and cable television industries,' " Mr. Powell testified. "The F.C.C. is an administrative agency and it is constitutionally bound to comply — willingly or not — with Congress's direction, as expressed by the text of the statute. The commission does not have the luxury of always doing what is popular."

But with so many comments criticizing the changes flooding the offices of lawmakers and the F.C.C., Mr. Powell's position had little political traction.

Only 5 members of the 23-member Senate committee offered any support for the commission; most of the rest, Democrats and Republicans alike, expressed deep dissatisfaction with at least some aspect of the new rules. While a majority of the Democrats on the committee criticized most of the package adopted by the commission, elements of it were also challenged by such Republicans as Ted Stevens, Conrad Burns, Kay Bailey Hutchison, Olympia J. Snowe and Trent Lott.

Senator Snowe, of Maine, said she shared "profound disappointment in the way the F.C.C. has reached its decision and in the way that it paves the way for consolidation of power in the hands of a few."

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"It is a victory for free enterprise," she said, "but it is not a victory for free speech."

Senator Byron L. Dorgan, Democrat of North Dakota, called the commission's decision "wrongheaded and destructive" and said it would lead to "an orgy of mergers and acquisitions." He added, "The majority of the commission did not have the strength to stand up against corporate interests."

Senator Burns, of Montana, himself a former television broadcaster, said the old rules had worked well.

"We've all said we've seen a growth in the number of voices and a growth in outlets," he said. "We have seen that under existing rules. So my first reaction is, why change?"

Only a small minority of the lawmakers came to the defense of the commission.

"I think the dangers of what your rulings may lead to have been somewhat overstated," said Senator Peter G. Fitzgerald, Republican of Illinois.

Senator John E. Sununu, Republican of New Hampshire, said the changing nature of the broadcast and newspaper industries required modifications of the old rules.

"Times have changed," he said. "It doesn't mean we don't need any regulations. But if times have changed, we ought to make sure that the regulations are keeping pace with those changes."

The strongest criticism came over the decision to give the television networks the authority to buy more affiliate stations. But there was also criticism from many Democrats and some Republicans over the repeal of the rule that had restricted a company from owning both newspapers and broadcast stations in the same city.

While there is more support for the commission's deregulatory moves in the House, supporters of the old rules have several procedural options that may make it easier than usual to overturn the new rules.

One avenue is the adoption of a "resolution of disapproval," an arcane parliamentary move that would automatically repeal the F.C.C.'s decision without requiring the signature of the president.

Congress's ability to overturn agency decisions without the approval of the president was adopted in the Congressional Review Act of 1996. It was used two years ago when Republican lawmakers, acting after intense lobbying from many major corporations, and over the objections of labor groups, overturned the workplace ergonomic rules written by the Clinton administration.

Some lawmakers were also discussing the possibility of attaching any revisions to the new media ownership rules to appropriations measures that would more easily pass through Congress.

Such a parliamentary maneuver has more currency than usual because Mr. Stevens, one of the most vocal critics of the commission's decision, heads the Senate Appropriations Committee. He has sponsored legislation to roll back the national network ownership cap to its old limit. The old rule, prohibiting a network from acquiring stations that reach more than 35 percent of the nation's viewers, was increased to 45 percent on Monday.



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