

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of                    )  
  )  
Broadcast Localism                )  
  )  
  )

MB Docket No. 04-233

**COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

**NATIONAL ASSOCIATION OF  
BROADCASTERS**  
1771 N Street, NW  
Washington, DC 20036  
(202) 429-5430

Marsha J. MacBride  
Jane E. Mago  
Jerianne Timmerman  
Larry A. Walke  
Erin L. Dozier  
Scott A. Goodwin

April 28, 2008

## Executive Summary

The National Association of Broadcasters (“NAB”) hereby submits its comments in response to the Commission’s *Report on Broadcast Localism and Notice of Proposed Rulemaking* (“*Notice*” or “*Localism Report*”). NAB respectfully disagrees with the statements in the *Localism Report* suggesting that radio and television broadcasters are out of touch with their communities and are failing to provide sufficient community-responsive programming.

A closer examination of the record in this and in other proceedings shows that local stations recognize and embrace their obligation to serve the public interest. Local broadcasters offer a wealth of national and local news and other informational programming, vital emergency information and entertainment to the American public free of charge, and provide additional, unique community service, including giving a voice to local organizations and entities and raising monies for charities, local groups and causes and needy individuals. Broadcasters participate in their local communities – they understand the needs of their audiences and work every day to provide programming to address those needs. Indeed, serving the needs of their communities is the cornerstone of the broadcasting business. Without local programming and services, broadcasters will lose viewers and listeners and thus the advertisers that are the lifeblood of their business, especially in today’s highly competitive media marketplace. The record contains no evidence that responsive programming and other services are not widely available to viewers and listeners on a market basis.

In light of the record, the Commission has no factual or legal basis to turn back the clock to reinstate a myriad of regulations that the agency found ineffective and unnecessary in the less competitive media marketplace of the 1980s. Today, with the media market changing rapidly and fresh competition from multiple digital sources increasing continuously, there is no reason to maintain the current level of regulation on broadcasters, let alone *increase* regulation on an industry that remains the most heavily-regulated in the market. A number of the proposals in the *Notice* would impair broadcasters' abilities to serve their local communities by imposing significant costs and diverting resources away from programming and services that directly serve their local markets. Overturning Commission precedent on the rules regarding main studio and unattended operation, for example, would saddle many broadcasters with significant, possibly economically devastating, new costs. Small broadcasters and station groups and those in more rural areas, in particular, would be adversely impacted in their ability to serve their local audiences.

Furthermore, an inflexible, one-size-fits-all approach fails to consider the vast differences between the communities that broadcasters serve. What may be appropriate for a television station in Portland, Maine may not be appropriate for a radio station in Portland, Oregon. Requiring all broadcast stations in the country to form community boards for the purpose of ascertaining the needs and interests of their communities, for example, is an impractical solution in search of a problem that ignores the many diverse ways broadcasters currently determine what their local audiences want to see and hear.

Moreover, the legal basis for several of the proposals appears questionable at best. The courts have directly questioned the agency's statutory authority to adopt regulations affecting program content without express congressional directive, and any such regulations of the content aired on broadcast stations raises significant First Amendment concerns. These concerns are only heightened by proposals that would apply to all radio and television stations across the nation, regardless of the level of service being provided by any individual station and regardless of the level of service available to consumers in their local markets. For example, proposed content-based license renewal processing "guidelines," which were eliminated as an unnecessary and burdensome in the 1980s, would operate as *de facto* programming quotas that would infringe upon broadcasters' editorial discretion and interfere with the rights of viewers and listeners. Basing radio stations' license renewals, at least in part, on mandatorily-supplied data about their compilation of playlists and their airing of particular content raises similar legal and constitutional concerns.

In sum, instead of achieving the Commission's stated goal of promoting closer contact between broadcasters and their communities, the proposed rule changes will, in many cases, produce the opposite effect, resulting in a broadcasting industry less able to serve the public interest. Especially in light of broadcasters' and other outlets' increasing service to local markets made possible by technological developments, NAB urges the FCC not to return to a regulatory regime from the analog era that would harm rather than help promote our common goal of providing service to our local communities.

# Table of Contents

<b>EXECUTIVE SUMMARY .....</b>	<b>i</b>
<b>I. INTRODUCTION .....</b>	<b>1</b>
<b>II. MANDATORY PERMANENT ADVISORY BOARDS ARE UNNECESSARY, IMPRACTICAL AND LIKELY COUNTER-PRODUCTIVE TO THE GOAL OF PROMOTING MORE LOCALLY RESPONSIVE PROGRAMMING .....</b>	<b>13</b>
A. THE RECORD DOES NOT SUPPORT A RETURN TO THE DISCREDITED POLICIES OF THE PAST .....	14
B. PERMANENT MANDATORY ADVISORY BOARDS SHOULD NOT BE IMPOSED ON ALL STATIONS, REGARDLESS OF SIZE AND UNIQUE MARKET CONDITIONS .....	21
<b>III. THE PROPOSED RETURN OF LICENSE RENEWAL PROCESSING “GUIDELINES” IS UNWARRANTED, UNNECESSARY AND CONTRARY TO LAW .....</b>	<b>24</b>
A. PROGRAMMING-BASED PROCESSING “GUIDELINES” HAVE PREVIOUSLY BEEN ELIMINATED BY THE COMMISSION AS UNNECESSARY AND BURDENSOME, AND THE RECORD DOES NOT SUPPORT REVERSAL OF COURSE.....	26
B. IN LIGHT OF DEVELOPMENTS IN THE MEDIA MARKETPLACE, THERE IS EVEN LESS REASON TODAY FOR THE COMMISSION TO IMPOSE CONTENT-BASED PROGRAMMING REQUIREMENTS .....	35
C. THE ONE-SIZE-FITS-ALL APPROACH TO REGULATION PROPOSED BY THE COMMISSION IS INAPPROPRIATE IN THE MODERN MEDIA MARKET .....	39
D. THE COMMISSION LACKS AUTHORITY TO IMPOSE CONTENT-BASED PROGRAMMING REQUIREMENTS .....	41
<b>IV. LIMITING BROADCASTERS’ ABILITY TO ENGAGE IN REMOTE OPERATIONS WILL UNJUSTIFIABLY HARM PUBLIC ACCESS TO LOCAL PROGRAMMING AND EMERGENCY INFORMATION .....</b>	<b>45</b>
A. THE COMMISSION’S ELIMINATION OF THE REQUIREMENT TO MAINTAIN A PHYSICAL PRESENCE AT A BROADCAST STATION WAS FIRMLY GROUNDED UPON RECORD EVIDENCE AND CONGRESSIONAL INTENT .....	46
B. THERE IS NO RECORD EVIDENCE SUPPORTING THE PROPOSAL FOR CHANGE .....	48

C. BECAUSE OF TECHNOLOGICAL DEVELOPMENTS AND EFFICIENCIES THAT HAVE IMPROVED SERVICE TO THE PUBLIC, THE RECORD IN RESPONSE TO THE NOTICE WILL NOT SUPPORT A CHANGE TO THE UNATTENDED OPERATIONS RULES.....	52
<b>V. ADDITIONAL RESTRICTIONS ON MAIN STUDIO LOCATION WILL UNDERMINE STATIONS' ABILITY TO SERVE THE PUBLIC INTEREST .....</b>	<b>56</b>
A. THE COMMISSION'S "CONCERN" ABOUT MAIN STUDIO LOCATION IS NOT GROUNDED IN THE RECORD OR THE HISTORY OF THE RULES.....	56
B. THE COMMISSION'S PAST RATIONALES FOR RELAXING THE MAIN STUDIO RULE HAVE ONLY BEEN REINFORCED BY TECHNOLOGICAL ADVANCEMENTS.....	62
C. ENCOURAGING "LOCALLY ORIGINATED" PROGRAMMING IN LIEU OF PROGRAMMING THAT IS RESPONSIVE TO COMMUNITY NEEDS FAILS TO SERVE THE PUBLIC INTEREST.....	64
D. CHANGES TO THE MAIN STUDIO RULE WOULD BE COUNTERPRODUCTIVE.....	66
<b>VI. THE COMMISSION SHOULD REJECT THE PROPOSAL TO CONSIDER STATIONS' AIRING OF LOCAL MUSIC AND THEIR METHODS OF COMPILING PLAYLISTS FOR PURPOSES OF LICENSE RENEWAL.....</b>	<b>70</b>
A. THE RECORD DOES NOT ESTABLISH AN EVIDENTIARY BASIS TO ADOPT REQUIREMENTS RELATING TO PLAYLISTS AND THE AIRING OF PARTICULAR CONTENT.....	71
B. AVAILABLE EVIDENCE DEMONSTRATES THAT RADIO STATIONS PROVIDE DIVERSE PROGRAMMING THAT SERVES LISTENERS IN LOCAL MARKETS.....	75
C. THE COMMISSION LACKS AUTHORITY TO REGULATE RADIO CONTENT, DIRECTLY OR INDIRECTLY.....	81
<b>VII. RESTRICTIONS ON THE USE OF VOICE-TRACKING ARE UNWARRANTED AND SHOULD NOT BE ADOPTED.....</b>	<b>84</b>
<b>VIII. CONCLUSION .....</b>	<b>89</b>



## I. Introduction

Broadcasters agree that localism is a core value for both the radio and television over-the-air mediums. Since the inception of the service, broadcasting has been defined by localism. As we have explained in earlier phases of this proceeding, broadcasters that do not strive to serve their local audiences will be left without an audience to serve.<sup>3</sup> Viewers and listeners naturally migrate to those stations that provide news, information, and entertainment that directly impacts their lives. Localism is more than a Washington D.C. ideal. For broadcasters across the country, it is a matter of business survival.<sup>4</sup> With this in mind, NAB's comments on the *Notice* start with observations that go to the document as a whole, then turn to the proposed rules.

To support any regulation, it is axiomatic that the Commission must supply a reasoned analysis supported by an adequate factual basis.<sup>5</sup> Where, as here, the Commission has already experimented with nearly all the rules proposed in this *Notice*, and has previously dismissed each of them as ineffective, burdensome, unnecessary,

---

<sup>3</sup> See, e.g., Comments of NAB in MM Docket No. 04-233 at 4-10 (Nov. 1, 2004) ("NAB Localism Comments").

<sup>4</sup> See, e.g., Comments of WLTZ-NBC 38 in MB Docket No. 04-233 (March 25, 2008) ("We know full well how important it is to address the needs and interests of the people in our communities. If we don't address the needs and interests, we know that market forces will drive listeners and viewers elsewhere. Government mandates will not change that equation, except to make it far more difficult and expensive to be a good broadcaster.").

<sup>5</sup> See, e.g., *Cincinnati Bell Telephone Co. v. FCC*, 69 F.3d 752, 763 (6<sup>th</sup> Cir. 1995) (FCC rules restricting participants in spectrum auctions were arbitrary because agency had no factual support for them); *Bechtel v. FCC*, 10 F.3d 875, 880 (D.C. Cir. 1993) (FCC's criterion for licensing broadcast applicants was invalidated as arbitrary and capricious due to lack of evidence that the agency's policy "achieve[d] even one of the benefits ... attribute[d] to it"); *ALLTEL Corp. v. FCC*, 838 F.2d 551, 559 (D.C. Cir. 1988) (FCC rule affecting costs of local exchange carriers found arbitrary and capricious because agency's decision had "no relationship to the underlying regulatory problem").



and/or as a likely violation of the First Amendment, the burden is even higher. As the Supreme Court has expressly held, “an agency changing its course . . . is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance.”<sup>6</sup> As NAB will show, the analysis in the *Notice* does not meet this evidentiary and legal burden.<sup>7</sup>

Since the early 1980s, when the Commission reformed several of the more onerous rules for radio and television stations, the Commission’s deregulatory policies have recognized that market forces are best suited to shape a broadcast industry that serves the public interest.<sup>8</sup> These free market principles have been a boon to the public interest. For example, radio listeners today enjoy a greater diversity of radio station formats, including hundreds more foreign-language formats,<sup>9</sup> a greater total quantity of local news,<sup>10</sup> and technological delivery advancements as both television and radio

---

<sup>6</sup> *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29, 42 (1983). See also *ACT v. FCC*, 821 F.3d 741, 746 (D.C. Cir. 1987) (FCC had failed to establish “the requisite ‘reasoned basis’ for altering its long-established policy” on certain television commercial limits).

<sup>7</sup> Returning to outdated localism regulations would also contradict Congress’s stated purpose for the 1996 Telecommunications Act, namely, to: “provide for a pro-competitive, de-regulatory national policy framework... .H.R. Conf. Rep. No. 104-458, at 113 (1996), reprinted in 1996 U.S.C.C.A.N. (100 Stat. 5) 124.

<sup>8</sup> See, e.g., *Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Report and Order, 98 FCC 2d 1076 (1984) (“*TV Deregulation Order*”); *Deregulation of Radio*, Report and Order, 84 FCC 2d 968 (1981) (“*Radio Deregulation Order*”).

<sup>9</sup> See Comments of NAB in MB Docket No. 06-121, Attachment G, BIA Financial Network, *Over-the-Air Radio Service to Diverse Audiences* (Oct. 23, 2006).

<sup>10</sup> See *2002 Biennial Regulatory Review*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13664-65 (2003).

broadcasters make the leap to digital transmission systems.<sup>11</sup> Reversing field and reimposing burdensome localism regulations would, of necessity, cause broadcasters to alter their business practices and priorities. Resources currently focused on satisfying the needs and interests of their local communities and completing the digital transition would instead be focused on satisfying the arbitrary needs of the government.

Unnecessary regulation could also lead to a decrease in the number of stations serving the public. Despite an influx of new competitors in both video and audio services that have cut into market share and advertising dollars, the total number of full power broadcasters has increased by more than 55 percent since 1981.<sup>12</sup> This is due, in large part, to the flexibility the Commission has afforded stations that need to, for example, co-locate stations, or rely on technology to maintain nighttime broadcasts. Without that flexibility, many stations undoubtedly will reduce services and some will likely not be able to survive, leaving the public with fewer broadcast options.

Burdensome and intrusive regulation on all radio and television stations cannot be justified by unquantified and unproven suggestions that not all broadcasters are providing some “appropriate” level of service or a feeling that some members of the public are dissatisfied with the media industry as a whole. Although the *Notice* suggests that the record overwhelmingly shows concerns by citizens with the service provided by

---

<sup>11</sup> See, e.g., John R. Quain, *Local Radio is Cutting the Static and Going Digital, Finally*, The New York Times (March 25, 2007) (available at <http://query.nytimes.com/gst/fullpage.html?res=9C03E0D61430F936A15750C0A9619C8B63&scp=13&sq=digital+transition&st=nyt>)

<sup>12</sup> See FCC News Release, *Broadcast Station Totals as of December 31, 2007* (released March 18, 2008).

their local radio and television stations,<sup>13</sup> that is not the case. For example, at the Portland, Maine localism hearing, an area with a population of 994,000,<sup>14</sup> approximately 114 individuals spoke from the audience. Of those, 51 described positive coverage by and relationships with local broadcasters. In contrast, only around a dozen had fairly specific comments about local stations' coverage of certain segments of the local community and about the coverage of certain issues. Similarly, at the Rapid City, South Dakota localism hearing, an area with a population of 243,000,<sup>15</sup> approximately 75 individuals spoke from the audience. Of those, 33 described in positive terms the coverage of local broadcasters and their relationships with local stations. About 13 had specific complaints relating to coverage of local issues and segments of the community.<sup>16</sup> In sum, there were about a dozen complaints from the public at both of these hearings that directly related to the actual service provided by their local television

---

<sup>13</sup> See *Notice* at ¶ 142 (noting that the FCC had “received over 83,000 comments and heard from hundreds of participants at the six field hearings,” which “eloquently demonstrates the importance with which the public views the concept of localism: the obligation of stations to provide service to their communities”).

<sup>14</sup> 2006 population figure for Portland-Auburn, ME Designated Market Area (DMA), BIA TV Market #2 Report (2007).

<sup>15</sup> 2006 population figure for Rapid City, SD DMA, BIA TV Market #2 Report (2007).

<sup>16</sup> At both of these hearings, the remainder of the public commenters did not address issues relating to their local radio and television stations. For example, there were a number of generic complaints about “big” media and media consolidation (including by people from outside the local community), general statements about bias in media, and general complaints about violence and indecency. Still others complained specifically about the FCC itself or addressed other particular issues, such as support for PEG access channels; obtaining help in licensing a new noncommercial station or in getting a particular station back on the air; complaints about the digital television transition; and complaints about lack of good reception for certain television stations that were not available via satellite.

and radio stations – a considerably fewer number than those commenting positively about the coverage of and their relationships with local stations.

This same pattern is true of the record as a whole. Few commenters presented data or real-world information with which the Commission could inform their decision to overturn FCC precedent, and this dearth of quality comments is reflected in the *Localism Report*.<sup>17</sup>

In Section III, subsection A of the *Notice* (“Communication Between Licensees and their Communities”), for example, not one of the comments cited as “critical testimony” supports the position that a widespread communication problem between broadcasters and their communities exists. Indeed, the cited comments at ¶13 show that the state of broadcaster communication with local communities as it exists today is positive, highlighting a broadcast industry actively involved with local communities. And these comments represent only a fraction of the hundreds, maybe thousands, of comments from local broadcasters, community officials, and community organizations that show a close connection between broadcasters and their communities. Indeed, the *Notice* makes no reference to clear record evidence that a problem exists, only a leap to proposed solutions, based on a thin rationale that “many commenters see a need for additional efforts by broadcasters.” See *Notice* at ¶ 14.

---

<sup>17</sup> See, e.g., *Localism Report*, FN 2, citing the testimony of Martin Kaplan to support this statement: “the record indicates that many stations do not engage in the necessary public dialogue as to community needs and interests and that members of the public are not fully aware of the local issue-responsive programming that their local stations have aired.” Mr. Kaplan’s statement, however, only addresses the issue of campaign coverage, and says nothing about the types and levels of ascertainment done by broadcasters. Nor does his testimony suggest that members of the public are not aware of the kinds of issue-responsive programming that local broadcasters air.

Obviously, such a record does not meet the legal standard necessary to support Commission proposals to impose restrictions on all television and radio stations across the nation, regardless of the level of service being provided by any individual stations and regardless of the level of service available to consumers in their local markets. As the Commission has previously acknowledged, its policies should ensure adequate service to consumers across markets as a whole.<sup>18</sup> Given the vast amount of national and local news and other informational and entertainment programming offered by broadcast stations (and by numerous multichannel and Internet-based outlets as well), no one can seriously contend that consumers lack access to responsive programming on a market basis. Given this fact, it makes little sense to conclude that the public interest requires a return to a “one size fits all” regulatory regime from the analog era when every television and radio station in the country was expected to offer programming in the same particular categories.

The *Notice* fails to make an adequate case that a problem exists that requires more regulation or governmental oversight. As NAB noted in its initial comments in this proceeding four years ago, “[t]he Commission will need to generate an overwhelming record of broadcaster failures to justify reversing its deregulatory course.” See NAB Localism Comments at 11. The law, we noted, “requires real evidence to demonstrate a pattern of broadcaster failure,” and that without such a record, “the Commission’s

---

<sup>18</sup> See, e.g., *Radio Deregulation Order* at 977-79; *TV Deregulation Order* at 1088.

inquiry [will] amount to little more than a fix in search of a problem.” *Id.* Nearly four years hence, the record provides no real evidence of a problem.<sup>19</sup>

The *Notice* raises serious Constitutional concerns as well. It is well-established that, “broadcasters are entitled under the First Amendment to exercise the widest journalistic freedom consistent with their public duties,”<sup>20</sup> and the Supreme Court has specifically held that the “FCC’s oversight responsibilities do not grant it the power to ordain any particular type of programming that must be offered by broadcast stations.”<sup>21</sup> Proposals to impose content-based programming requirements as part of the license renewal process appear contrary to these precepts.

Yet another flaw of the *Notice* is that it refers repeatedly to “local programming” or “locally-oriented” programming, or “locally produced” programming, or “community-responsive” programming, but fails to supply a specific definition for any of these terms, or to provide any clear definitional difference between the terms as they are uniquely applied. In NAB’s initial comments responding to the *Notice of Inquiry* in this proceeding, we noted that whatever the Commission means by “local” or “locally-oriented,” it cannot mean that only “locally produced” or “locally originated” programming serves the needs of the community. NAB Localism Comments at 24-25. It

---

<sup>19</sup> To the extent that some believe that changes to localism rules are required because of changes made to the ownership rules in 1996 (in effect to “correct” perceived ills from the ownership changes), we posit that such a reaction is inappropriate and against the specific will of Congress as expressed in the 1996 Telecommunications Act. The Commission itself noted that the localism proceeding “specifically excluded from consideration in this inquiry the subject of the Commission’s structural broadcast rules.” See *Notice* at FN3.

<sup>20</sup> *FCC v. League of Women Voters*, 468 U.S. 364, 378 (1984).

<sup>21</sup> *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 650 (1994).

is long-standing policy that programming does not have to be originated locally to qualify as “issue-responsive” for purposes of a licensee’s public service obligations.<sup>22</sup> The D.C. Circuit endorsed this view when it decided, over the specific objections of certain parties, that Section 307(b) of the Communications Act governing the allocation of broadcast facilities requires only “that the Commission act to ensure a fair, efficient, and equitable distribution of radio service throughout the country,”<sup>23</sup> and that “as long as the Commission requires licensees to provide programming – *whatever its source* – that is responsive to their communities, § 307(b) is satisfied.”<sup>24</sup>

Moreover, it is more realistic and practical to treat programming as locally relevant regardless of where it is produced. News and public affairs programming of importance to the entire nation also can be important to the citizens of a particular community, especially concerning such issues as national security, terrorism, the war in Iraq, global warming, the economy or the Presidential election. Programming and public service campaigns focusing on a range of issues, such as AIDS, anti-smoking, drug abuse, breast cancer awareness, drunk driving or crime prevention, can obviously be responsive to the needs of local communities. It is irrelevant to a local station’s audience where these campaigns are produced; the messages can still resonate locally.

---

<sup>22</sup> See *Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd 12425, 12431 (2004) (“*Localism NOI*”).

<sup>23</sup> *Office of Communications of the United Church of Christ v. FCC, et al.*, 707 F.2d 1413, 1430 n.54 (D.C. Cir. 1983) citing *Loyola University v. FCC*, 670 F.2d 1222, 1226 (D.C. Cir. 1982).

<sup>24</sup> *Id.* at 1430 n.54 citing 47 U.S.C. § 307(b) (emphasis added).

Additionally, there seems to be some confusion on exactly *who* qualifies as a local audience under the Commission's new regulatory framework. For example, in the *Notice* (¶ 8), the Commission notes that it has "consistently held that ... broadcasters are obligated" to serve the needs and interests of "their community of license." In the next sentence, however, the *Notice* says that the "broadcast regulatory framework is designed to foster a system of local stations that respond to the unique concerns and interests of the audiences within the stations' *respective service areas*." *Id.* (emphasis added). The "respective service area" is, of course, often much larger than the "community of license." In the *Notice of Inquiry* in this proceeding, the Commission noted the "[d]ifficulties associated with defining 'local' programming present geographic questions." *Localism NOI* at 12431. Nowhere does *Notice* address this crucial question, however.

This issue is particularly problematic if the Commission decides, as it proposes, to revert back to the pre-1987 main studio rule, or to impose new ascertainment requirements in the form of community boards. Broadcasters across the country serve areas that are vastly different geographically, culturally, topographically and economically. What works or is appropriate for a television station in Portland, Maine may not work or be appropriate for a radio station in Portland, Oregon. As NAB has noted throughout these comments, a single mandate approach to regulation is fraught with difficulties and impracticalities.

The lack of a workable and consistent definition for "local" in this proceeding undermines the entire regulatory regime that the Commission is attempting to implement. The uncertainty created by this failure will leave the agency, the public and



broadcasters mired in regulatory uncertainty for years. Such concerns have obvious constitutional implications, as vague and measureless definitions could sweep in more speech than necessary.<sup>25</sup>

As a final general point on the *Notice*, NAB submits the Commission cannot ignore the economic realities of the broadcast industry when crafting localism rules. The Commission is responsible for ensuring a useful broadcast system. That result can best be achieved through a healthy broadcast industry. In this regard, it is important to recognize that despite a three decade trend of deregulation, broadcasters remain the most heavily regulated segment of the media industry. For this reason, the Commission must be particularly cautious when it considers new regulatory burdens. Cumbersome regulations with no demonstrable benefit are antithetical to Commission's duty to ensure a competitive media marketplace and a level regulatory playing field.

In our current competitive environment, neither the Commission nor broadcasters can afford burdensome regulation based on speculative assertions. Only competitively viable broadcast stations sustained by adequate advertising revenues can serve the public interest effectively and provide a significant local presence. Reasonable regulation will foster that service, unnecessary regulation will stifle it. As the Commission found more than 15 years ago, the broadcast "industry's ability to function

---

<sup>25</sup> See, e.g., *Colten v. Kentucky*, 407 U.S. 104, 110 (1972) ("The vagueness may be from uncertainty in regard to persons within the scope of the act . . . or in regard to the applicable test to ascertain guilt."). See also *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) ("[I]f arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them.").

in the 'public interest, convenience and necessity' is fundamentally premised on its economic viability."<sup>26</sup>

These rule changes could have a significant economic impact on broadcasters of every size and stripe, but especially on smaller broadcasters that have been hit particularly hard by a shrinking advertising market.<sup>27</sup> Any rule change that will substantially increase the administrative costs of running a station, or worse, cause stations to relocate facilities would have a disproportionate impact on stations that struggle to turn a profit.<sup>28</sup> Without adequate reason or a supportive record, it would be arbitrary and capricious for the Commission to re-establish these rules in light of the real world burden they would place on broadcasters across the country.

In contrast to some of the burdensome and unnecessary regulations proposed in the *Notice*, the pending proceeding directed at allowing AM radio licensees to use FM translators is an excellent example of the Commission's efforts to advance broadcast

---

<sup>26</sup> *Revision of Radio Rules and Policies*, Report and Order, 7 FCC Rcd 2755, 2760 (1992) ("1992 Radio Ownership Order").

<sup>27</sup> The financial pressures facing smaller market television broadcasters have been especially well documented. See, e.g., *2002 Biennial Regulatory Review*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13698 (2003); Reply Comments of NAB in MB Docket No. 06-121 (Jan. 16, 2007) at Attachment, *The Declining Financial Position of Television Stations in Medium and Small Markets* (Dec. 2006); NAB *Ex Parte* in MB Docket No. 06-121 (Nov. 1, 2007) at Attachment A.

<sup>28</sup> See, e.g., Comments of John W. Hoscheidt in MB Docket 04-233 (filed April 3, 2008) ("From what I have been able to gather from reading about the "localism" rule making, I feel it would cause tremendous harm to small market radio stations like mine.")

localism in a meaningful manner.<sup>29</sup> This simple rule change will help AM broadcasters overcome many of the interference obstacles that have plagued AM radio service for years. AM radio is a primary source for local news, weather and traffic, local public affairs and current events, local religious programming, and niche community-responsive entertainment such as regional music, jazz, gospel, and high school sports.<sup>30</sup> The use of FM translators will enable AM radio stations to provide a clearer, more consistent signal, and thereby improve or expand their delivery of these kinds of locally-relevant content, to the benefit of listeners. Moreover, this rule change will enable AM broadcasters to leverage their creativity and experience to better serve local audiences, rather than expend resources responding to inflexible government mandates. NAB submits that practical, technical solutions such as this would better serve the Commission's goal of fostering localism than some of the potentially counter-productive proposals offered in the *Notice*. We now turn to these specific proposals.

## **II. Mandatory Permanent Advisory Boards Are Unnecessary, Impractical and Likely Counter-Productive to the Goal of Promoting More Locally Responsive Programming**

The *Notice* expresses concern that all broadcasters may not be effectively communicating with their audiences to identify the needs and interests of their communities, and in turn, not airing community-responsive programming aimed at meeting those needs and interests. *Notice* at ¶ 13. The Commission concludes that

---

<sup>29</sup> Notice of Proposal Rulemaking, *Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, MB Docket No. 07-172, RM-11338, 22 FCC Rcd 15890 (2007).

<sup>30</sup> See, e.g., Reply Comments of the National Association of Broadcasters, MB Docket No. 07-172 (Feb. 4, 2008).

the record of broadcasters' efforts in this regard is "decidedly mixed," and therefore additional methods of improving communication between broadcasters and their local communities are necessary. *Id.* at ¶¶ 13 and 16. Among other things, the Commission proposes that all broadcasters convene a permanent advisory board consisting of officials and other local leaders, and meet with these boards regularly to discuss the important local issues of the day that may warrant on-air coverage. *Id.* at ¶ 26.

As noted above, NAB respectfully disagrees with the premise of the Commission's tentative conclusion. The full picture of the record in the localism proceeding demonstrates a substantial, consistent commitment by broadcasters to communicate and interact with their local audiences to identify the topics and programming of interest to community members. The record therefore does not support the imposition of unnecessary and burdensome new ascertainment rules. Moreover, given the breadth and variety of radio and television broadcasters in terms of market characteristics and station resources, among other factors, a federally mandated obligation on all stations to create a permanent advisory board would be impractical to implement. More importantly, such a mandate would be potentially counterproductive to the Commission's underlying goal of fostering more locally-oriented programming, as it would force licensees to devote their limited resources to fulfilling this obligation at the expense of other more effective and established methods of communicating with their local audiences.

**A. The Record Does Not Support a Return to the Discredited Policies of the Past**

As discussed in the *Notice*, the Commission previously imposed comprehensive ascertainment requirements on radio and television licensees over 20 years ago. *Notice* at ¶ 11. Under these procedures, broadcasters were required to conduct ascertainment studies designed to identify the needs and interests of their communities, log and report how much programming they aired within government-defined classifications, and air specific minimum amounts of particular categories of programming. *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 F.C.C.2d 650, 682 (1971). These requirements were burdensome, paperwork-intensive, and time-consuming.

In the early 1980s, the Commission correctly recognized that federal mandates were no longer needed to guarantee that licensees would fulfill the programming needs of their local communities. *See, e.g., Radio Deregulation Order* at 971. The Commission found that marketplace incentives would ensure that broadcasters continued to educate themselves on the interests of their local audiences, and serve those interests, thereby rendering federal regulation unnecessary.<sup>31</sup> The Commission held that “marketplace and competitive forces are more likely to [result in community-

---

<sup>31</sup> Specifically, the Commission determined that “market incentives will ensure the presentation of programming that responds to community needs. . . .” *TV Deregulation Order* at 1077. Regarding radio, the Commission stated that “marketplace forces will assure the continued provision of news programs in amounts to be determined by the discretion of the individual broadcaster guided by the tastes, needs and interests of its listenership.” *Radio Deregulation Order* at 978. *See also* Letter dated April 11, 2008 from Representative John M. McHugh to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233; Letter dated April 11, 2008 from Representative Bob Goodlatte to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233 (“mandating how broadcasters interact with their communities” would “unfairly burden broadcasters” while competitors are “free to compete without comparable government regulation”).

responsive programming] than are regulatory guidelines and procedures.” *Radio Deregulation Order* at 1022-23.

The Commission also found no evidence that the ascertainment obligations were effective since broadcasters typically aired a greater amount of locally-oriented, non-entertainment programming than the rules required. *TV Deregulation Order* at 1080-84 and 1098. The available evidence demonstrated that broadcasters were driven by the combination of marketplace incentives and journalistic discretion to ascertain community interests, rather than the Commission’s rules. Accordingly, the Commission eliminated the ascertainment procedures for radio in 1981 and television in 1984.

The Commission’s conclusions in the early 1980s are even more valid today. Competition to broadcasting has continued to expand, probably at a much faster pace than anyone imagined at the time, which has substantially amplified broadcasters’ motivation to distinguish their product with unique, locally-relevant programming.<sup>32</sup> Broadcasters now face competition from a wide array of services and technologies. Thousands more radio and television stations exist now than in the early 1980s, cable penetration has increased exponentially, satellite television has grown into a significant option for video programming with almost 30% of all multichannel video programming subscribers.<sup>33</sup> Television licensees have also been impacted by the market acceptance

---

<sup>32</sup> The Commission identified a trend “in favor of greater and more effective competition” that lent confidence to its decision that marketplace incentives would safeguard consumer interests. *Radio Deregulation Order* at 1003.

<sup>33</sup> See Reply Comments of NAB in MM Docket No. 04-233 (filed January 3, 2005) (“NAB Reply Comments”); Federal Communications Commission, *FCC Adopts 13<sup>th</sup> Annual Report to Congress on Video Competition and Notice of Inquiry for the 14<sup>th</sup> Annual Report*, Public Notice (Nov. 27, 2007) (“13<sup>th</sup> Annual Report PN”).

of digital video recorders and VCRs, while radio stations are responding to rapidly expanding competition from satellite radio and MP3 players. See 13<sup>th</sup> Annual Report PN at 3-4. Overlaying all of these developments is the competition presented by the Internet for the attention of consumers, especially younger Americans. *Id.*

In light of this exponential increase in competition, the Commission also correctly predicted that broadcasters, in their “economic best interest,” would “stay informed about the needs and interests of [their] community.” *TV Deregulation Order* at 1101. The many alternatives to radio and television create inescapable incentives for broadcasters to independently ascertain the needs and interests of their local communities in order to offer a unique, locally-relevant product. Ascertainment-like efforts are a matter of survival for broadcasters, and would be performed regardless of whether the Commission imposes new rules.<sup>34</sup> Although the *Notice* describes the record as mixed, when examined closely, the overwhelming majority of the record reveals that broadcasters around the country engage in creative, consistent efforts to communicate with their audiences.

First, NAB has calculated that, in the *NOI* round of comments in this proceeding, at least 241 television stations and 1383 radio stations filed comments addressing

---

<sup>34</sup> See, e.g., Testimony of Eduardo Dominguez, Vice President and General Manager, KSTS-TV, San Jose, CA (Monterey Tr. 54); Testimony of Jim Keelor, President and COO, Liberty Corporation (Charlotte Tr. 30); Comments of Steve Giust, General Manager, KWEX-TV (San Antonio Tr. 76); Testimony of Bill Duhamel, President, Duhamel Broadcasting (Rapid City Tr. 52). See also Letter dated April 10, 2008 from Representatives Gene Green and Charles Gonzalez to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233 (“we are skeptical of ... requirements prescribing how broadcasters must interact with their local audience” because “broadcasters compete fiercely for their audience, a dynamic which is much more likely to produce responsive programming than regulations”).

ascertainment issues. Specifically, these commenters referenced their efforts to ascertain which local issues are most important, which other specific topics audience members would like the broadcaster to cover, and/or what kind of music or other programming is most desired. Broadcasters also provided a number of specific examples of their ascertainment efforts. NAB Reply Comments at 2-4.

Second, numerous parties offered additional examples of their ascertainment efforts during the Commission's localism hearings:

- Station KENS-TV, San Antonio, TX, regularly calls on community leaders to find out, from their vantage point, what the problems and needs are that KENS should address in its programming. KENS also conducts annual market surveys asking citizens for the local issues of importance to them, and also obtains input informally through personal involvement with a variety of community organizations.<sup>35</sup>
- Bonneville's three stations in the San Francisco Bay area combined spent more than \$290,000 in 2003 researching the attitudes and concerns of Bay Area residents. These projects examined music and non-music programming content, as well as attitudes on life issues and the needs of our community.<sup>36</sup>
- Spanish-language Station KSTV-TV, San Jose, CA, conducts multiple surveys to discern the type of information its audience seeks in order to live a better life in the United States. Striving to meet those demands is a primary method by which the station attempts to earn the trust and loyalty of its audience.<sup>37</sup>
- Station WCHH-FM, Charlotte, NC, regularly invites listeners to its offices to obtain feedback on its programming, which it then combines with other research

---

<sup>35</sup> Testimony of Robert G. McGann, President and General Manager, KENS-TV (Localism Task Force Hearing, San Antonio, TX, Jan. 28, 2004).

<sup>36</sup> Testimony of Chuck Tweedle, Senior Vice President of Bonneville (Localism Task Force Hearing, Monterey, CA, July 21, 2004).

<sup>37</sup> Testimony of Eduardo Dominguez, Vice President and General Manager, KSTV-TV (Localism Task Force Hearing, Monterey, CA, July 21, 2004).



to help it understand which music artists, whether national or local, its audience wants to hear.<sup>38</sup>

- Clear Channel's radio stations in San Antonio spent over \$200,000 in 2003 alone to identify local audience needs, as well as maintain telephone hotlines, conduct polls, conduct call-out research, and perform auditorium testing to allow their audiences input into programming.<sup>39</sup>

Indeed, the *Notice* itself recognizes that broadcasters partake in “inventive and ongoing” efforts to discern the needs and interests of their local communities. The Commission cites endeavors ranging from formal ascertainment at regularly scheduled meetings with community leaders, stations that conduct in-person interviews with community members, online and telephone solicitations of audience feedback, and one station that works with an organized minority community board, among others. *Notice* at ¶ 13.

Finally, numerous commenters have described their experiences, including:

- Independence Television Company in Louisville, Kentucky established an Editorial Advisory Board consisting of top business, political and community leaders in the Louisville, Kentucky and Southern Indiana area, and solicits comments from viewers on their editorials via email and telephone, and the President and General Manager serves on multiple community boards of directors.<sup>40</sup>
- Station WSOU-FM (Seton Hall University, South Orange, NJ) opposes mandatory advisory boards even though it already consults with a voluntary board. WSOU explains that any federal mandate would be impossible to enact consistently with the university's academic mission, and editorial discretion to

---

<sup>38</sup> Testimony of Debbie Kwei, General Manager, WCHH-FM (Localism Task Force Hearing, Charlotte, NC, Oct. 22, 2003).

<sup>39</sup> Testimony of Tom Glade, San Antonio Market Manager, Clear Channel Radio (Localism Task Force Hearing, San Antonio, TX, Jan. 28, 2004).

<sup>40</sup> Comments of Bill Lamb, MB Docket No. 04-233 (Sept. 29, 2004).

reflect the values of the Catholic Church in its programming. WSOU recommends that the creation of a advisory board should be voluntary.<sup>41</sup>

- Station WYXC-AM (Cartersville, GA) invites the public to call or email with their questions or comments on the station's programming, and posts an online survey to ascertain the community's attitudes. The station has one full-time employee and no resources to assemble and administer a mandatory community advisory board.<sup>42</sup>
- Station WMOT Radio (Middle Tennessee State University) routinely contacts community leaders in covering the local news, and therefore believes that a mandatory advisory board would be redundant.<sup>43</sup>

Although these are only a few examples, they represent the consistent, substantial efforts of all broadcasters to educate themselves on the topics of interest to their local communities, and to meet those interests. The contrary view – that the record is “decidedly mixed,” or that “there is some question as to whether these practices have been widespread” -- is not supported. *Notice* at ¶¶ 13 and 15. For example, the *Notice* cites the testimony of Charlie O'Douglas of Rushmore Radio to support its call for more community access to broadcasters. However, a close look at this testimony reveals that Mr. O'Douglas did not mention mandatory advisory boards, but instead issued a challenge to Rapid City's Native American community to open the lines of communications with broadcasters to enable Rushmore and other stations to better express the needs and concerns of the Native American population in the Rapid City area. Nowhere did Mr. O'Douglas suggest that advisory boards were the most

---

<sup>41</sup> Comments of Station WSOU-FM (South Orange, NJ), MB Docket No. 04-233 (Apr. 21, 2008).

<sup>42</sup> Comments of Charles Shifflett, MB Docket 04-233 (Feb. 13, 2008).

<sup>43</sup> Comments of John Egly, MB Docket No. 04-233 (Mar. 17, 2008).

appropriate way to accomplish this. To the contrary, Mr. O'Douglas seemed to express frustration that broadcaster efforts to reach out to the community do not receive more response from the community.<sup>44</sup>

The *Notice* also cites a candidate for a local water conservation board who would have appreciated offers of free advertising and Web space from his local broadcasters,<sup>45</sup> and the Chair of the Hispanic Chamber of Commerce in Monterey County who offers several substantive suggestions for regulating programming content, but does not describe any failures by broadcasters to reach out to their local communities for ideas on what local issues to cover.<sup>46</sup> In short, nothing in the record seems to point to advisory boards as the best option for enhancing community-broadcaster communications, or demonstrates that broadcasters are not readily open to education from community members on what locally-relevant topics to cover.

### **B. Permanent Mandatory Advisory Boards Should Not Be Imposed on All Stations, Regardless of Size and Unique Market Conditions**

The critical point demonstrated by the record is that different stations discern community attitudes in different ways, depending on their particular circumstances. For example, establishing an advisory board of minority community leaders may be suitable for a television station like WTVD-TV, which is located in a large market (Raleigh-Durham, NC) with a large minority population, but less suitable for others. Likewise, a radio station like KCOR(AM), which is part of a large station group (Univision) and

---

<sup>44</sup> Testimony of Charlie O'Douglas, Operations Manager, Rushmore Radio (Rapid City Tr. 160-161).

<sup>45</sup> Comments of Gray Newman (Char. Tr. 68-69).

<sup>46</sup> Testimony of Blanca Zarazua (Monterey Tr. 48).

located in a large market (San Antonio), may have the resources to conduct 100 formal ascertainment interviews every year, but many other stations certainly would not. On the other hand, it is perfectly suitable and sufficient for a small station such as WYXC-AM in a very small market like Cartersville, Georgia to solicit input from the public by telephone or email to determine the needs and interests of their local community, but this method may not work for larger sized stations. More generally, radio broadcasters in mid-sized and smaller markets may find it more economical to rely on listener surveys from Arbitron and other independent firms that can provide more complete, current information on audience interests. Still others in smaller markets may find it most helpful to interact with community members in less formal settings to ascertain community attitudes, such as through boards and committees of various local governmental, business, civic and volunteer organizations.

It would be erroneous to discount the ascertainment value that stations derive from on-air call-in shows. Inner City Broadcasting station WLIB (AM), in New York City, for example, host a weekly call-in show featuring former NYC mayor David Dinkins discussing issues important to station listeners. Such programming not only provides an outlet for interaction with the community, but also provides insight and information about what is most important to WLIB's listeners.<sup>47</sup>

The variety of methods is virtually endless, but in all cases, stations employ the ascertainment-like techniques that best suit their particular circumstances. A Commission decision to impose a single ascertainment requirement, such as the creation of a permanent community advisory board, on all radio and television stations

---

<sup>47</sup> See WLIB Programming Schedule, *available at* <http://wlib.com/pages/143245.php>

in every market in the country, would clearly be impractical and unrealistic for many licensees.

Indeed, the Commission's own questions concerning advisory boards reveal the inherent problems. For instance, the *Notice* (at ¶26) asks how members of such a board should be selected, which of course begs the question of how can a licensee possibly convene a board that represents every segment of its community or one that does not leave some community member or group feeling left out. Moreover, it would be a completely different endeavor for a station in a large market to create an adequate board than a station in a small market. The Commission also asks if such boards will be able to "alert each broadcaster to issues that are important to its community." *Id.* However, the *Notice* says nothing about what a broadcaster is supposed to do with the information obtained. Will a licensee still have the editorial discretion to decide what issues to cover, and if so, will this be meaningful since a broadcaster will feel pressure to cover the issues raised by any such board, lest it be accused of ignoring the concerns of certain segments of the community? Could this actually undermine the bedrock principle that the licensee is solely responsible for all programming on the station?

The inevitable result is that mandatory advisory boards will be impractical and unwieldy for many broadcasters, and in some situations, counter-productive to the Commission's goal of fostering localism. Instead of allowing broadcasters to devote their often limited resources to employing their most effective, proven methods for communicating with their local communities, broadcasters would be forced to convene a permanent community advisory board that might be ill-suited for the broadcaster's

particular market, or ineffective for any number of reasons. NAB urges the Commission not to adopt an inflexible proposal when more effective methods are available.

The wisest course of action is the one understood and undertaken by the Commission decades ago, when the agency realized that marketplace incentives would spur broadcasters to remain locally relevant and responsive, and that its ascertainment rules had little actual effect on broadcaster practices. There is certainly nothing in the current record that would allow the Commission to meet its heightened burden of reversing course now. *See State Farm*, 463 U.S. at 42, in Section I. *supra*. If anything, the record demonstrates that there is widespread interaction between broadcasters and their communities as broadcasters face more competition than ever before, and must therefore be more responsive to their local audiences than ever before. Broadcasters should be afforded the flexibility to design their own ascertainment programs, consistent with the various characteristics of their particular markets, stations, and communities. Ascertainment techniques reflecting the realities of highly divergent local radio and television markets will, by definition, be more effective than an inflexible, one-size-fits-all federal mandate.

### **III. The Proposed Return of License Renewal Processing “Guidelines” Is Unwarranted, Unnecessary and Contrary to Law**

In this *Notice*, the Commission has tentatively concluded that it should “reintroduce” license renewal application processing “guidelines” that mandate a set percentage or amount of “locally-oriented” programming. *Notice* at ¶ 40. Broadcast stations that do not meet or exceed the percentage or amount of “locally-oriented” content will be unable to have their license renewal applications routinely processed by the Media Bureau, but will require consideration by the full Commission (and perhaps

risk their loss of license). *Id.* The Commission also inquires whether these “guidelines” should cover very specific types of programming, including local news, political, public affairs and entertainment. *Id.* at ¶ 140. To implement these numerical programming quotas, the Commission would need to reverse two decisions that eliminated very similar rules for television and radio stations in the early 1980s.<sup>48</sup> This proposal to reinstate content-based renewal processing guidelines apparently stems from erroneous suggestions that the current license renewal system is a “postcard” process that saps the Commission’s ability to effectively scrutinize the public interest performance of licensees. To the contrary, as the attached white paper shows, the current license renewal process is rigorous and thorough – in fact, anything but a “postcard” process.<sup>49</sup> Beyond refuting the “postcard” myth, NAB also submits that reintroduction of content-based renewal processing guidelines is unjustifiable based on the record in this proceeding, unnecessary to ensure the provision of responsive programming to local communities, beyond the FCC’s statutory authority, and likely contrary to the First Amendment.

---

<sup>48</sup> See *TV Deregulation Order*, 98 FCC 2d 1076; *Radio Deregulation Order*, 84 FCC 2d 968. In fact, the renewal programming guidelines previously eliminated by the FCC appear less content-specific than the guidelines discussed in this *Notice*. The previous television guidelines provided that the full FCC would have to act on any commercial television station renewal application reflecting less than 5% local programming, 5% informational programming (news and public affairs), or 10% total non-entertainment programming. The previous radio guidelines had called for AM stations to offer 8% non-entertainment programming and for FM stations to offer 6% non-entertainment programming.

<sup>49</sup> See Fletcher, Heald & Hildreth, *Busting the Broadcast “Postcard” License Renewal Application Urban Legend* at Attachment A (“*Renewal White Paper*”).

**A. Programming-Based Processing “Guidelines” Have Previously Been Eliminated by the Commission as Unnecessary and Burdensome, and the Record Does Not Support Reversal of Course**

The Commission has tentatively concluded that content-based processing guidelines are necessary to satisfy “criticisms and calls for improvement to the license renewal process.” *Notice* at ¶ 117. The limited numbers of members of the public that expressed concern with the current broadcast license renewal process, however, appear to be reacting more to myths and gross generalizations about the license renewal process than reality. For example, in the *Notice* (at footnote 301), the Commission cites two witnesses at the Monterey localism hearing who call for “more teeth” to the license renewal process, and who claim that the current license renewal process is “a sham.”<sup>50</sup> Neither of these commenters suggests that a return to content-based processing guidelines is necessary or, indeed, evidences any actual knowledge of the specifics of the current license renewal process. Other commenters relied on by the *Notice*, including Martin Kaplan, Associate Dean of the Annenberg School of Communication, cite problems with a license renewal process that, they claim, is nothing more than a “returned postcard.” *Notice* at ft. 302-303. Mr. Kaplan called the “current postcard renewal process ... a joke.”<sup>51</sup>

As we show in the attached *Renewal White Paper*, however, the current license renewal process involves much more than a “returned postcard,” and it is certainly not a

---

<sup>50</sup> NAB notes that the Commission also cites the testimony of Kathy Bissi (Monterey Tr. 230-231) who does not, according to the transcript, discuss the license renewal process at all.

<sup>51</sup> See Statement of Martin Kaplan, Associate Dean, Annenberg School for Communication, University of Southern California, Monterey Localism Hearing (July 21, 2004) at 3.



“joke” to broadcasters. Nonetheless, the myth of the “postcard renewal” appears to influence not only the opinion of professional media critics, but Commission decision making as well.<sup>52</sup> As the attached examination of the license renewal process shows, however, the current demands on broadcasters seeking license renewal are indeed very real. Broadcasters are required to file potentially hundreds of pages of documents and spend many hours gathering information and completing forms, as well as complying with on-going requirements throughout the license term. At a bare minimum, the renewal application itself is 38 pages of instructions and forms, not including the additional forms the FCC requires to be filed as part of the renewal process. Even according to the government’s own conservative estimates, the total annual cost to broadcasters of completing the license renewal applications is \$7,302,951 – a rather expensive postcard. *Renewal White Paper* at 1, 11.

Furthermore, broadcast renewal applications are hardly “rubber stamped” by the FCC, as some critics have suggested. The FCC has taken, on average, six months to review the applications that it has granted (ten months for television stations) and has issued hundreds of forfeitures and admonishments. During the past renewal cycle, 8.1% of all applications (28% of television applications) either were not granted, have yet to be granted, or were granted with a forfeiture or admonishment. *Id.* at 12-13.

Clearly, the Commission cannot rely on the myth of “postcard” renewals to justify the reimposition of unnecessary and burdensome renewal requirements. The license

---

<sup>52</sup> See *Notice*, Statement of Commissioner Michael J. Copps, Concur in Part, Dissent in Part (referring to license renewal as a “postcard” and “a rubber stamp” with “no substantive review”).

renewal application and review process is rigorous, substantive and expensive. It properly and seriously reviews the performance of applicants during the preceding license term.<sup>53</sup>

Beyond the postcard license renewal urban legend, NAB notes that the record in this proceeding provides little evidentiary cover for reimposition of programming quotas that the Commission has previously eliminated as ineffective and unnecessary.<sup>54</sup> There is, for example, no evidence that stations were more responsive to local communities in the 1970s because of the FCC's renewal processing guidelines. And, there is no evidence of widespread market failure in local programming since the license renewal processing guidelines were removed in the early 1980s. To the contrary, the record provides ample evidence that local broadcasters continue to air local news, local public affairs programming, emergency information, local weather and sports information, and public service announcements that address local problems in response to their desire to serve the public interest and significant competitive pressures.

Even a brief summary of the evidence presented in a number of proceedings in recent years, including this one, refutes any claims that the broadcast industry is failing to offer non-entertainment programming, including local news, as a result of the

---

<sup>53</sup> As part of the license renewal process, the licensee, each quarter throughout the license term, must have placed in its public file the list of issues that are important to the community the station serves and the programming that was responsive to those issues. As explained in the *Renewal White Paper*, this is more than just a list – it is one of the ways the licensee declares the programming it aired that was responsive to the needs of the local community. In other words, the issues/programs list is a written, public recitation of the daily and special programming a particular station airs that serves the needs of its local audience. See *Renewal White Paper* at 8, 10.

<sup>54</sup> See *TV Deregulation Order* at 1079; *Radio Deregulation Order* at 977.

elimination of the FCC's previous renewal processing guidelines. For example, a study submitted to the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters examining the non-entertainment programming of stations affiliated with the four major networks in 17 markets showed that the average amount of non-entertainment programming offered by these stations in each of those markets was more than double the 10% benchmark that the Commission had specified in its earlier renewal processing guidelines.<sup>55</sup> A similar Belo study of major network affiliates in a range of markets found that these television stations dedicated about one-third of their total broadcast hours to non-entertainment programming.<sup>56</sup> According to CBS, the amount of news and public affairs programming it offered tripled in the period between 1979 and 1990 alone.<sup>57</sup>

Indeed, the FCC itself has found that the number of hours of news and public interest programming aired on television stations has increased over the decades. Comparing the number of hours aired of this type of programming in 1960, 1980 and 2003 in a large, medium and small markets, the Commission found that, in 1960 and

---

<sup>55</sup> See Comments of NAB in MM Docket No. 99-360 at 35 (March 27, 2000).

<sup>56</sup> See Comments of Belo in MM Docket No. 99-360 at 6-9 and Appendix A (March 27, 2000). The majority of the Belo owned stations included in this survey aired 72 or more hours per week of non-entertainment programming, while all of the Belo stations surveyed aired over 60 hours per week of non-entertainment programming (newscasts, news/information programs, public affairs shows, instructional programs, children's educational programming and religious programs). Again, this amount of non-entertainment programming is significantly above the 10% benchmark for such programming for television stations eliminated as unnecessary in 1984.

<sup>57</sup> See Comments of CBS Corporation in MM Docket No. 99-360 at 9-11 (March 27, 2000).

1980, there were on average only about one or two hours of local news programming per station, per day. However, by 2003 local news programming expanded to about two to four hours per station per day and several regional and local cable news networks had been launched. The Commission also found that public interest programming and national news had proliferated. Although television broadcast stations in 2003 were airing about the same amount of public interest programming and national news programming per station as they were in 1980, in 2003 there were more broadcast stations per market and numerous new non-broadcast networks. Thus, more such programming was available on a market basis.<sup>58</sup> Clearly, the evidence shows that, despite the elimination of the FCC's processing guidelines in the 1980s, there was not a decline -- and in fact there was an increase -- in the amounts of non-entertainment programming, especially local news, aired by television stations and available to consumers on a market basis.

The record already compiled in this proceeding also shows broadcasters' commitment to localism and to providing local non-entertainment programming, including local news. As previously discussed by NAB, parties representing more than 1,773 radio licensees and 454 television licensees have detailed their local news operations. Among these television stations commenting, approximately 139 discussed

---

<sup>58</sup> 2002 *Biennial Regulatory Review*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13664-65 (2003). Academic studies have also shown increases in the amounts of local television news aired during the 1980s and 1990s. See, e.g., Angela Powers, *Toward Monopolistic Competition in U.S. Local Television News*, 14 J. Media Econ. 77, 82 (2001) (as the number of competitors in local television news markets increased between 1989 and 1998, stations responded to the increased competition by increasing the number of newscasts they aired each day).

how many hours they devote to local news and, of these, approximately 120 stations reported airing at least 20 hours of news per week, with the majority airing between 25 to 40 hours of news per week. Local radio stations – not including the hundreds of stations with an all-news or news/talk format – broadcast many newscasts (generally of shorter length) that often focus on local events. See NAB Reply Comments at 5-10.

Many radio and television broadcasters also discussed their local news operations at the FCC's localism hearings.<sup>59</sup>

---

<sup>59</sup> See, e.g., Testimony of Steve Thaxton at Portland Localism Hearing (June 28, 2007) (network affiliated television station produces 37 hours of regularly scheduled news and other local programming every week, including editorials) (Portland Tr. 89-90); Testimony of Gordon Wark at Portland Localism Hearing (June 28, 2004) (small television station in Maine airs over three hours of local news each day) (Portland Tr. 46); Statement of Michael Ward at Charlotte Localism Hearing at 2 (Oct. 22, 2003) (network affiliated television station airs 27 hours of local news per week, as well as news specials and political debates); Statement of Joseph Heston at Monterey Localism Hearing at 1 (July 21, 2004) (local television station in California's central coast region invested in three full news bureaus and uses three live vans and three ENG receive sites to provide on-the-spot news coverage); Statement of Dr. William F. Duhamel at Rapid City Localism Hearing at 2 (May 26, 2004) (nearly 40% of each weekday schedule on South Dakota, Nebraska and Wyoming television stations devoted to news and public affairs programming, and these stations carry over seven hours a day of network news and public affairs and about two and a half hours each weekday of local news and public affairs programs); Statement of Robert G. McGann at San Antonio Localism Hearing at 2 (Jan. 28, 2004) (network affiliated television station aired 39 hours of non-entertainment programming during one surveyed week, amounting to 23.2% of its total weekly broadcast program hours); Statement of Alan Harris at Rapid City Localism Hearing at 2 (May 26, 2004) (three Wyoming radio stations broadcast 72 local newscasts every week, about 40 sportscasts, and a daily public affairs interview program); Statement of Chuck Tweedle at Monterey Localism Hearing at 3 (July 21, 2004) (three radio stations in Bay area broadcast more than four hours of locally produced newscasts every week); Statement of Jerry T. Hanszen at San Antonio Localism Hearing at 2 (Jan. 28, 2004) (on a typical day, two small market Texas radio stations broadcast five local newscasts); Statement of Terri Avery at Charlotte Localism Hearing at 2-3 (Oct. 22, 2003) (detailing local, state and national news coverage of three local radio stations, including programs with live interviews with local community leaders).

The current proceeding also includes comments from at least 1,904 radio licensees and 287 television licensees specifically stating that they air local public affairs programming. See NAB Reply Comments at 10-13 (detailing range of issues covered and setting forth specific examples). A number of broadcasters testified at the FCC's localism hearings about their provision of public affairs programming.<sup>60</sup> A recent Gannett survey finding that their stations average nearly 30 hours per week of local news and 3 hours per week of local public affairs programming shows that this trend continues.

Despite claims that broadcast stations fail to cover properly political campaigns and political issues, parties representing at least 1472 radio stations and 255 television stations specifically discussed their coverage of political issues in this proceeding. See NAB Reply Comments at 14-16 (providing numerous examples of stations' political programming).<sup>61</sup> NAB has also detailed radio and television stations' political

---

<sup>60</sup> See, e.g., Statement of Tom Glade at San Antonio Localism Hearing at 3 (Jan. 28, 2004) (listing radio stations' multiple public affairs shows); Statement of Terri Avery at Charlotte Localism Hearing at 2-3 (Oct. 22, 2003) (discussing radio stations' public affairs programming covering topics from health to education to politics); Statement of Joseph Heston at Monterey Localism Hearing at 2 (July 21, 2004) (describing television station's local, state and national public affairs programming); Statement of Chuck Tweedle at Monterey Localism Hearing at 2-3 (July 21, 2004) (describing radio stations' three weekly local public affairs programs); Statement of Steve Giust at San Antonio Localism Hearing at 1-2 (Jan. 28, 2004) (discussing local television station's weekly community and political affairs shows).

<sup>61</sup> See also Statement of James M. Keelor at Charlotte Localism Hearing at 2 (Oct. 22, 2003) (discussing free air time devoted to covering local politics, including candidate debates, interviews and profiles by local television stations); Statement of Dr. William F. Duhamel at Rapid City Localism Hearing at 2-3 (May 26, 2004) (describing extensive political debates and voter PSAs carried by television stations).

programming, especially coverage of the 2006 elections, in other FCC proceedings.<sup>62</sup>

This evidence shows that local stations serve their local communities by covering candidate debates and forums, airing “get out the vote” public service campaigns, and providing free air time to candidates. See Attachment B (including recent articles discussing free air time offered to political candidates and other political coverage efforts).

The record already established in this proceeding further demonstrates that local radio and television stations provide a variety of other locally produced programming that serves the needs and interests of their audiences, including sports, religious, arts, agricultural, weather and other community-oriented programming, as well as interviews with local leaders and coverage of local events.<sup>63</sup> Local stations are a public voice for local community and charitable organizations, allowing these organizations to speak directly to local citizens, raise their public profiles, cement connections within local communities and raise necessary funds.<sup>64</sup> Stations also air innumerable public service

---

<sup>62</sup> See NAB Comments in MB Docket No. 06-121, at 64-66 and Attachment L (Oct. 23, 2006).

<sup>63</sup> See, e.g., Statement of Robert G. McGann at San Antonio Localism Hearing at 3-4 (Jan. 28, 2004); Statement of Alan Harris at Rapid City Localism Hearing at 2-3 (May 26, 2004); Statement of Jerry T. Hanszen at San Antonio Localism Hearing at 3 (Jan. 28, 2004); Statement of Joseph Heston at Monterey Localism Hearing at 2 (July 21, 2004); Statement of Dr. William F. Duhamel at Rapid City Localism Hearing at 2-4 (May 26, 2004); Statement of Mark Antonitis at Rapid City Localism Hearing at 2 (May 26, 2004); Testimony of Gordon Wark at Portland Localism Hearing (June 28, 2007) (Portland Tr. 46-47).

<sup>64</sup> See, e.g., Statement of Jerry T. Hanszen at San Antonio Localism Hearing at 3 (Jan. 28, 2004) (“[T]he most important contributions that broadcasters make to their community has very little to do with money. We raise the level of awareness, discussion, and education in our communities. And we give a voice to local

announcements, the majority of which are about local issues.<sup>65</sup> Above all, broadcasters provide important and often life-saving weather and other emergency information to their local communities, including emergency information about child abductions through the AMBER PLAN, a program pioneered by broadcasters.<sup>66</sup>

In sum, there can be no doubt that broadcasters are continuing – as they have always done – to provide responsive programming and services, including local programming, to their local communities. Thus, the Commission would have no evidentiary basis upon which to conclude that the re-imposition of outdated programming guidelines is needed to ensure that news and other informational programs are available to local communities. Attempting to reinstate such programming requirements would constitute arbitrary and capricious decision-making. See, e.g., *Cincinnati Bell Telephone*, 69 F.3d at 763.

NAB further observes that the real complaint some parties have about broadcasters is not their failure to provide news and other informational programming

---

organizations, groups and individual citizens.”). Attachment B includes a recent sampling of broadcasters’ service to local communities across the country.

<sup>65</sup> See NAB, *National Report on Broadcasters’ Community Service* at 3 (June 2006). 61% of the PSAs aired by the average radio station in 2005 were about local issues. For the average television station, the figure was 55%.

<sup>66</sup> Broadcasters have discussed their provision of emergency information in other proceedings before the Commission. See, e.g., Comments of NAB in MB Docket No. 06-121 at 61-63 (Oct. 23, 2006). Numerous broadcasters also addressed this topic at the localism hearings. See, e.g., Statement of Dr. William F. Duhamel at Rapid City Localism Hearing at 3-4 (May 26, 2004); Statement of James M. Keelor at Charlotte Localism Hearing at 1 (Oct. 22, 2003); Statement of Mark Antonitis at Rapid City Localism Hearing at 2-4 (May 26, 2004); Statement of Jerry T. Hanszen at San Antonio Localism Hearing at 3 (Jan. 28, 2004).



but with the specific substance and perceived quality of that programming. See, e.g., *Notice* at ¶ 65 (one party asserting that the question about broadcasters' political programming is not the amount but the "quality of the programming," and another party contending that there has been a decline in news coverage of "substantive" campaign and election issues). However, opinions about the perceived quality and specific content of news and informational programming are simply not relevant to this proceeding. From the above discussion, it is clear that regulations requiring broadcasters to provide a certain minimum amount of news or non-entertainment programming are unnecessary because broadcasters already provide very substantial amounts of such programming. The Commission certainly cannot, to satisfy broadcasters' critics, adopt regulations requiring that stations make their news and public affairs programming "higher quality" or "better" or "harder." And the Commission cannot satisfy those commenters criticizing the substance of particular news stories (e.g., political stories should not cover "horse race" or fund raising aspects of political campaigns but more "substantive" aspects) without venturing into very specific – and constitutionally-suspect – content mandates.

**B. In Light of Developments in the Media Marketplace, There Is Even Less Reason Today for the Commission to Impose Content-Based Programming Requirements**

As noted above, content-based renewal processing guidelines have been previously utilized by the Commission and found wanting. Implementing the current proposal would constitute a direct reversal of well-considered prior FCC decisions. In the 1984 *TV Deregulation Order*, the Commission determined that programming guidelines were simply "not necessary" and that they presented "several inherent disadvantages." *Id.* at 1080. For example, the Commission found "potential conflicts

with Congressional policies expressed in the Regulatory Flexibility Act and the Paperwork Reduction Act, imposition of burdensome compliance costs [on broadcasters], possibly unnecessary infringement on the editorial discretion of broadcasters, and distortion of the Commission's traditional policy goals in promulgating and monitoring programming responsibilities." *Id.* The *Notice* provides no explanation or reason why these "inherent disadvantages" no longer apply or are not relevant.

When the Commission eliminated its broadcast renewal processing guidelines, it also determined that the rules were unnecessary because market conditions ensured that broadcasters would supply local programming to differentiate themselves from other media. The Commission further predicted that "the emergence of new technologies, coupled with the continued growth in the number of [broadcast] stations, will create an economic environment that is even more competitive than the existing marketplace." *TV Deregulation Order* at 1086. These predictions have proven true, as evidenced by the substantial increase in the total number of over-the-air broadcast stations,<sup>67</sup> and the explosive growth in the numbers of cable and satellite television and radio subscribers.<sup>68</sup> If it was appropriate to eliminate quantitative programming

---

<sup>67</sup> Today there are 13,977 full power radio stations and 1759 full power television stations, as well as 556 Class A television stations, 2295 low power television stations and 831 low power FM stations. FCC News Release, *Broadcast Station Totals as of December 31, 2007* (March 18, 2008). In 1975, there were only 7785 radio stations and 952 television stations licensed in the United States. *Order and Notice of Proposed Rule Making* in MM Docket Nos. 01-235 and 96-197, 16 FCC Rcd 17283, 17288 (2001).

<sup>68</sup> The Commission and other parties in numerous proceedings have previously documented the explosive growth in the number of media outlets in local markets over time. See, e.g., FCC, Scott Roberts, Jane Frenette and Dione Stearns, *A Comparison of Media Outlets and Owners for Ten Selected Markets (1960, 1980, 2000)* (Sept. 2002); David Pritchard, *A Longitudinal Study of Local Media Outlets in Five American*

requirements in 1984 given the state of media competition then, when the majority of Americans still received television programming via antenna, certainly it is difficult to justify a reversal of policy in the current media environment, where close to 90 percent of American homes subscribe to either cable or satellite television services and millions listen to satellite radio, downloaded music and podcasts.

Furthermore, in the 1980s Commission did not even contemplate the emergence of the Internet, which has already radically transformed the media marketplace. About half of all American homes have access to the Internet through high-speed broadband connections that act as a gateway to millions of Web sites, including nearly limitless online video and audio offerings.<sup>69</sup> And these numbers do not account for millions of other users that access the Internet through high speed connections at work and others who access the vast information available online through dial-up services. As a result, millions of Americans, especially younger users, are increasingly turning to the Internet as an important source of information, news, and entertainment.<sup>70</sup> And increasingly,

---

*Communities*, Appendix A, Comments of Viacom in MM Docket Nos. 01-317 and 00-244 (March 27, 2002); BIA Financial Network, *Media Outlets Availability by Markets*, Attachment A, Comments of NAB in MB Docket No. 06-121 (Oct. 23, 2006).

<sup>69</sup> See Scarborough Research, Press Release, "*THE NEED FOR INTERNET SPEED: BROADBAND PENETRATION INCREASED MORE THAN 300% SINCE 2002*," released April 15, 2008, available at [http://www.scarborough.com/press\\_releases/Broadband%20FINAL%204.15.08.pdf](http://www.scarborough.com/press_releases/Broadband%20FINAL%204.15.08.pdf) (showing a 300 percent increase in home broadband usage since 2002). Note also that these numbers do not include millions of users that "piggyback" onto other's wireless networks for free. NAB has described these vast changes in the media marketplace in more detail in other proceedings. See, e.g., NAB Comments in MB Docket No. 06-121 at 6-22 (Oct. 23, 2006); NAB Reply Comments in MB Docket No. 06-121 at 16-34 (Jan. 16, 2007).

<sup>70</sup> See, e.g., *Internet Activities*, Pew Internet & American Life Project, available at [http://www.pewinternet.org/trends/Internet\\_Activities\\_2.15.08.htm](http://www.pewinternet.org/trends/Internet_Activities_2.15.08.htm). This compilation of

they are accessing that information and entertainment through video on the Internet. According to recent research, about 75 percent of Americans with high-speed Internet access watch and/or download videos online.<sup>71</sup> As Internet video increases in both technical and editorial quality, those numbers are expected to rise dramatically every year. These technological advances and shifts in consumer behavior put increasing pressure on broadcasters to strengthen their local programming niche and differentiate themselves in this ever-expanding media market. It would be arbitrary and capricious for the Commission to ignore these altered marketplace conditions when considering the imposition of intrusive and burdensome regulations that will only apply to broadcasters, but not other competing providers of video and audio programming.

NAB also observes that the emergence of numerous competing audio and video services and outlets have profoundly affected the ability of local stations to compete for vital advertising revenues.<sup>72</sup> Thus, NAB takes issue with media critics who suggest broadcasters are somehow failing to serve the public interest because they are

---

Pew surveys shows that more than 90% of Internet users have used the Web for information gathering purposes, that more than 70% use the Internet to get news, 78% use the Web to get weather information, 66% have visited a local, state or federal government Web site, and close to half of all Internet users have utilized the Web for information about political or upcoming campaigns.

<sup>71</sup> See Mary Madden, *Online Video*, Pew Internet & American Life Project, July 25, 2007, available at [http://www.pewinternet.org/pdfs/PIP\\_Online\\_Video\\_2007.pdf](http://www.pewinternet.org/pdfs/PIP_Online_Video_2007.pdf). See also Lee Rainie, Pew Internet Project Data Memo, January 9, 2008, available at [http://www.pewinternet.org/pdfs/Pew\\_Videosharing\\_memo\\_Jan08.pdf](http://www.pewinternet.org/pdfs/Pew_Videosharing_memo_Jan08.pdf) (showing that the average number of visitors to video sharing Web sites such as YouTube had nearly doubled in one year, from the end of 2006 to the end of 2007).

<sup>72</sup> See, e.g., NAB Comments in MB Docket No. 06-121 at 29-35 and Attachment F (Oct. 23, 2006).

concerned with “ratings and revenues.” *Notice* at ¶ 37. In an advertiser-supported media environment, ratings and revenues are absolutely essential for broadcast stations to survive, let alone be able to offer the kind of resource intensive programming, such as local news and public affairs, that these critics want.<sup>73</sup> A study cited prominently in the *Notice* (at ¶ 38) expressly found that the provision of public affairs programming is “a function of station revenues.”<sup>74</sup> In other words, to the extent that stations’ limited resources are sapped by burdensome and unnecessary regulation, those are resources that cannot, by definition, be used to provide programming and other services to the public.

### **C. The One-Size-Fits-All Approach to Regulation Is Inappropriate in the Modern Media Market**

The proliferation of broadcast outlets and the rise of multichannel video and audio programming distributors and the Internet have produced an exponential increase in programming and service choices available to viewers and listeners. In such an environment, NAB reemphasizes that it is neither necessary nor economically efficient for every broadcast station to be “all things to all people,” so long as wide varieties of

---

<sup>73</sup> See *1992 Radio Ownership Order*, 7 Rcd at 2760 (the radio “industry’s ability to function in the ‘public interest, convenience and necessity’ is fundamentally premised on its economic viability”). See also *FCC v. Sanders Bros. Radio Station*, 309 U.S. 470, 474-75 (1940) (observing that the Communications Act “recognized that the field of broadcasting is one of free competition,” and that Congress intended each licensee “to survive or succumb according to his ability to make his programs attractive to the public”).

<sup>74</sup> Numerous additional studies have similarly found connections between station profitability and the provision of news and other non-entertainment programming. See, e.g., Raymond Carroll, *Market Size and TV News Values*, 66 *Journalism Quarterly* 49, 55-56 (1989); R.E. Park, Rand Corp. *Television Station Performance and Revenues*, P-4577 (Feb. 1971).

programming are available to consumers on a market basis.<sup>75</sup> In considering whether the public's interest in receiving a diversity of programming and services is being met, the Commission therefore should focus on the variety of programming offered across markets as a whole. Indeed, when the Commission eliminated program processing guidelines for radio in 1981, it explained that it was no longer necessary for the government to require "every radio station to broadcast a wide variety of different types of programming" because a "full complement of programming services" will be available through "the totality of stations" in a market.<sup>76</sup> As discussed above, the grounds for that decision in 1981 – the expansion of broadcast service and the development of other competing media – is even more valid today.

Accordingly, there is no reason for the Commission to adopt rules impelling all stations to offer the same categories of local programming, at the expense of other categories of local programming or regional or national programming that stations may wish to offer and that audiences may prefer to receive. Adopting guidelines that coerce

---

<sup>75</sup> See, e.g., *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 355-56 (D.C. Cir. 1998) (it is "understandable why the Commission would seek station to station differences," but a "goal of making a single station all things to all people makes no sense" and "clashes with the reality of the radio market"); *Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413, 1434 (D.C. Cir. 1983) (audiences "benefit by the increased diversity of programs" offered by the growing number of outlets "across the market"); Benjamin J. Bates and Todd Chambers, *The Economic Basis for Radio Deregulation*, 12 J. Media Econ. 19, 28 (1999) (observing the "expansion of the number of all-news/all-talk format stations," and noting that such expansion "tend[ed] to support the arguments of deregulation that the public's interest in news and public-affairs programming is being served, if not by every station, at least by stations in many markets").

<sup>76</sup> *Radio Deregulation Order* at 977-79. *Accord Television Deregulation Order* at 1088 (requiring television stations to "present programming in all categories" is "unnecessary and burdensome in light of overall market performance").

thousands of broadcast stations in differing markets across the country into a one-size-fits-all framework would ignore precedent and produce results contrary to the public interest.

Indeed, in light of the Commission's long-standing acknowledgement that its policies should ensure adequate service to consumers across markets as a whole, the current proposal to use regulatory pressure to incent all radio and television stations in the country to air set amounts of the same types of local programming is unwarranted. This is particularly true given the vast amount of local news and other informational and entertainment programming offered by broadcast stations (and by numerous multichannel and other outlets as well), especially on a market basis.<sup>77</sup>

#### **D. The Commission Lacks Authority to Impose Content-Based Programming Requirements**

It is also important to keep in mind in this context that the Communications Act of 1934 ("Act") forbids the FCC from engaging in "censorship" or from promulgating any "regulation" that "interfere[s] with the right of free speech by means of radio

---

<sup>77</sup> The Commission recognizes that many broadcasters take very seriously their responsibility to inform their listeners and viewers, but then suggests that regulation is needed because "not all stations do as much as they can and should ...". See, *Notice* at ¶66. This concern is unnecessary in light of the fact that, as shown above, many commenting or testifying in this proceeding expressed approval of broadcasters' programming and services and relatively few had specific complaints about the service actually being provided by their local stations. Moreover, even if every station may not air programming some individual viewers or listeners would personally regard as optimal, this does not mean that consumers in local markets are actually being harmed by any lack of service, especially given the number of other broadcasters and nonbroadcast outlets providing service within local markets.

communication.” 47 U.S.C. § 326. On its face, Section 326 precludes the Commission from regulating the content of speech on radio and television.<sup>78</sup>

The D.C. Circuit Court of Appeals has also stressed the strict limits on the Commission’s authority to adopt regulations significantly affecting the content of broadcast programming. In *Motion Picture Association of America, Inc. v. FCC*, 309 F.3d 796, 802-803 (D.C. Cir. 2002), the court found that no provision (including § 1) of the Act authorized the Commission to adopt video description requirements for television broadcasters because such regulations “significantly implicate[d] program content.” The court explained that the “very general provisions of § 1 have not been construed to go so far as to authorize the FCC to regulate program content” in order to “avoid potential First Amendment issues.” *Id.* at 805. The court also noted that “Congress has been scrupulously clear when it intends to delegate authority to the FCC to address areas significantly implicating program content.” *Id.*

Thus, to the extent that the proposed regulations “significantly implicate program content,” the Commission cannot rely on its general authority to adopt any such regulations. *Id.* at 805-807 (holding that the FCC’s general powers under Sections 1, 4(i) and 303(r) did not authorize the adoption of rules “about program content”). Lacking the general authority to regulate the amounts and types of local programming offered by broadcast stations – and given the absence of any “clear” congressional directive specifically “delegat[ing] authority to the FCC to address” the airing of local news, public

---

<sup>78</sup> See *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 650, 652 (1994) (“*Turner I*”) (quoting Section 326 to illustrate the “minimal extent to which the FCC” is allowed “to intrude into matters affecting the content of broadcast programming”).



affairs, political or other local content – the Commission does not possess the authority to make license renewal dependent on the broadcast of such specific content.

The Commission must also be mindful that direct governmental pressure – enforced through the license renewal process – on stations to offer certain amounts and types of local programming overrides broadcasters’ “discretion over programming choices,” could interfere with the rights of viewers and listeners, and contradict established First Amendment precepts. *Turner I*, 512 U.S. at 650-51 (the Commission may not impose upon broadcasters “its private notions of what the public ought to hear”). As the D.C. Circuit has explained, Congress “has explicitly rejected proposals to require compliance by licensees with subject-matter programming priorities,” and any “Commission requirements mandating particular program categories would raise very serious First Amendment questions.”<sup>79</sup> Moreover, quantitative guidelines that operate as a “screening device” create for licensees a “strong incentive to meet the numerical goals.”<sup>80</sup> “No rational firm – particularly one holding a government-issued license – welcomes a government audit.” *Lutheran Church*, 141 F.3d at 353.

The Commission’s goal in implementing these guidelines is clear. The processing guidelines are intended to “ensure” that broadcasters air the government’s preferred amount of locally-oriented programming and likely even mandated amounts of very specific types of local programming (e.g., political, public affairs, news and

---

<sup>79</sup> *Office of Communication of United Church of Christ v. FCC*, 707 F.2d 1413, 1430 (D.C. Cir. 1983). See also *FCC v. League of Women Voters of California*, 468 U.S. 364, 378 (1984) (“broadcasters are entitled under the First Amendment to exercise the widest possible journalistic freedom consistent with their public duties”).

<sup>80</sup> *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 353 (D.C. Cir. 1998).

entertainment). *Notice* at ¶¶ 40, 124. And if broadcasters do not comply with these so-called guidelines then their ability to renew their licenses – upon which they depend to remain in business – will be put at significant risk. Under these circumstances, “[n]o rational” broadcaster will treat these programming guidelines as anything other than a strict government mandate. *Lutheran Church*, 141 F.3d at 353.<sup>81</sup>

Particularly in light of the lack of any demonstrated need for government interference in licensees’ programming decisions, NAB urges the Commission not to adopt content-based programming requirements. As the Commission has previously recognized, the government should not “impose on broadcasters a national standard of performance in place of independent programming decisions attuned to the particular needs of the communities served.”<sup>82</sup> Specific quantitative standards cannot be regarded as “other than an encroachment on the broad discretion” of licensees “to broadcast the programs they believe best serve their audiences.” *Renewal R&O* at 427. Renewal standards coercing the provision of specific amounts of programming in government-preferred categories would not only interfere with the editorial independence of broadcasters, but would also effectively reduce or eliminate broadcast time for other,

---

<sup>81</sup> This is clear from experience with the children’s television programming “guidelines.” Television broadcasters treat these guidelines as a hard-and-fast rule and comply with the three hour children’s programming standard to ensure the renewal of their licenses. *See also MD/DC/DE Broadcasters Association v. FCC*, 236 F.3d 13, 19 (D.C. Cir. 2001) (observing that “a regulatory agency may be able to put pressure upon a regulated firm in a number of ways” and that the FCC “in particular has a long history of employing a variety of *sub silentio* pressures and ‘raised eyebrow’ regulation of program content”).

<sup>82</sup> *Report and Order* in Docket No. 19154, 66 FCC 2d 419, 428-29 (1977) (declining to adopt quantitative program standards for television broadcasters involved in comparative renewal proceedings, finding that quantitative programming standards were a “simplistic, superficial approach to a complex problem”) (“*Renewal R&O*”).

less favored program categories.<sup>83</sup> The Commission further recognized, when eliminating the television renewal processing guidelines in the 1980s, that such First Amendment concerns were only “exacerbated by the lack of a direct nexus between a quantitative approach and licensee performance.” *TV Deregulation Order* at 1089 (citing cases noting that an increased quantity of certain types of programming does not guarantee improved or more responsive service). In light of this overwhelming precedent disfavoring quantitative programming guidelines, NAB urges the Commission in this proceeding to act consistent with its earlier decisions and to decline to adopt the proposed content-based renewal processing standards that raise such profound legal and constitutional questions.

#### **IV. Limiting Broadcasters’ Ability to Engage in Remote Operations Will Unjustifiably Harm Public Access to Local Programming and Emergency Information**

The *Notice* seeks comment on whether to revise the remote operations rules to require a physical presence at each broadcast facility during all hours of operation.<sup>84</sup> As explained below, NAB submits that limiting broadcasters’ ability to engage in remote operations will disserve the Commission’s stated goals of improving the connection

---

<sup>83</sup> Religious broadcasters, for example, have opposed on First Amendment grounds proposals to adopt quantitative programming requirements because they would disfavor the types of programs (such as religious) for which quotas were not set. *See Renewal R&O* at 426.

<sup>84</sup> *Notice* at ¶¶ 29, 87. Specifically, the Commission notes that in its Digital Audio Broadcasting proceeding, it has requested comment on whether to require a physical presence at a radio broadcasting facility during all hours of operation and seeks comment on whether to impose such a requirement on television broadcasting. *Id.* (citing *Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Broadcast Service*, Second Report and Order, First Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 10344, 10391 ¶ 119 (2007) (“*Digital Audio FNPRM*”).

between stations and their communities and facilitating access to emergency information. Indeed, there is no reason for the agency to reverse the precedent on which broadcasters have relied by limiting their ability to operate stations on a remote or unattended basis, particularly in light of advancements in technology that have strengthened the original justifications for allowing remote operation and the reductions in service that would likely result from mandating attendance during all hours of broadcast operations.

**A. The Commission’s Elimination of the Requirement to Maintain a Physical Presence at a Broadcast Station Was Firmly Grounded Upon Record Evidence and Congressional Intent**

Sixteen years ago, Congress eliminated a provision of the Act that proscribed Commission waiver of a broadcast licensee’s obligation to maintain personnel during all periods of operation.<sup>85</sup> In response to this amendment, the Commission commenced a rulemaking proceeding to determine whether and under what circumstances it should waive this requirement.<sup>86</sup> The Commission sought and received comment on wide-ranging issues relating to unattended operation, including whether a waiver should apply universally to all stations, the relationship between unattended operation and the availability of emergency information, the appropriate time period for correcting any malfunctions, and monitoring, measurement, and calibration requirements.

---

<sup>85</sup> Telecommunications Authorization Act of 1992, Pub. L. No. 102-538, 106 Stat. 3533.

<sup>86</sup> *Amendment of Parts 73 and 74 of the Commission’s Rules to Permit Unattended Operations of Broadcast Stations and to Update Broadcast Station Transmitter Control and Monitoring Requirements*, Notice of Proposed Rulemaking, 10 FCC Rcd 508 (1994) (“*Unattended Operations NRPM*”).

In the resulting order waiving the prohibition on remote operations for all classes of stations, the Commission observed that there was “general agreement that the technology exists to automate the monitoring and control of broadcast stations,” that better service could result from “constant (automated) technical monitoring than with human attendance,” and that waiver would “permit licensees to make more effective use of resources by implementing the operating and maintenance policies most appropriate for their stations.”<sup>87</sup> The Commission “concur[red] with the majority opinion that waiver ... to permit unattended operation is not likely to result in an increase in operation outside the tolerances specified in the Rules or the station authorization and will not adversely affect the public interest.”<sup>88</sup> No party sought reconsideration of the *Unattended Operations Order*, nor did the order face a court challenge. In all the years since the order was adopted, no party has filed a petition for rulemaking urging the Commission to reinstitute the ban on remote station operations. Violations of the rules governing unattended operations are virtually nonexistent, having generated only a single notice of apparent liability since 1995.<sup>89</sup>

The Commission’s unattended station operation rules have successfully generated numerous public interest benefits. Stations that might otherwise have signed off during late night hours are able to provide programming and emergency information to the public twenty-four hours per day, seven days per week. Funds that might

---

<sup>87</sup> *Amendment of Parts 73 and 74 of the Commission’s Rules to Permit Unattended Operations of Broadcast Stations and to Update Broadcast Station Transmitter Control and Monitoring Requirements*, Report and Order, 10 FCC Rcd 11479 ¶ 4 (1995) (“*Unattended Operations Order*”).

<sup>88</sup> *Unattended Operations Order* at 11480 ¶ 7.

<sup>89</sup> See *New World Broadcasting Co.*, 17 FCC Rcd 7216 (2002).

otherwise be spent on wages or salaries for personnel during overnight hours can be devoted to maintaining or upgrading the station's programming and facilities. Moreover, stations have in place a variety of mechanisms to ensure that up-to-the-minute emergency information is available from stations that are sometimes operated remotely. During the summer of 2007, NAB polled radio executives representing 400 stations in markets of various sizes, all of which run unattended for some period on a weekly basis. A list of "best practices" emerged from this survey, and is attached hereto as Attachment C.<sup>90</sup> Among other things, the best practices include having station points of contact that are regularly updated for local emergency officials, training multiple station personnel in emergency procedures during periods of unattended operation, and using "on-call" procedures in the event of severe weather to monitor the content on the air, ensure it is up to date, and/or go to the station to keep the public informed if necessary.<sup>91</sup>

The success of the Commission's unattended operation rules should not be obscured by undocumented doubts or myths about remote operations. Certainly the record in this proceeding does not cast doubt on the Commission's current approach.

### **B. There Is No Record Evidence Supporting the Proposal for Change**

In discussing communication between licensees and their communities, the *Notice* states that the Commission "agree[s] with those commenters who expressed concern about the prevalence of automated broadcast operations" and the "perceived negative impact that such remote operation may have on licensees' ability to determine

---

<sup>90</sup> See Attachment C, *Unattended Station Operations Best Practices Synopsis*.

<sup>91</sup> See Attachment C, *Unattended Station Operations Best Practices Synopsis*.

and serve local needs.” *Notice* at ¶¶ 28-29. The Commission does not, however, identify any current commenters who raise such localism concerns or perceive a negative impact from remote operations. It cites only concerns expressed in the 1994 proceeding in which the Commission eliminated the requirement that a licensed operator be on duty at all times—concerns focusing on technical compliance and interference that it deemed unmeritorious over thirteen years ago.<sup>92</sup>

The *Notice* (at ¶¶ 84, 87) also focuses on the issue of remote station operation in connection with its discussion of disaster warnings and availability of emergency information. The overwhelming majority of comments and testimony concerning emergency information cited by the *Notice*, however, in fact provide evidence of strong, effective working relationships between broadcast stations and local emergency agencies or personnel.<sup>93</sup> In contrast, the *Notice* cites the views of only two commenters

---

<sup>92</sup> *Notice* at ¶ 28 (citing *Unattended Operations Order* at 11479-80 ¶¶ 5-7). The comments quoted were filed by StationWatch, which was concerned about the effects of unattended operations on compliance with technical parameters and interference limits, not ties between the local stations and their communities. See Comments of StationWatch in MM Docket No. 94-130 (filed January 23, 1995). In response, the Commission held that “based upon its experience in enforcing broadcast rules, concurs with the majority opinion that waiver of Section 318 of the Act to permit unattended operation is not likely to result in an increase in operation outside the tolerances specified in the Rules or the station authorization and will not adversely affect the public interest.” *Unattended Operations Order* at 11480 ¶ 7.

<sup>93</sup> *Notice* at ¶ 83 (citing Testimony of Jay Kimbrough, Director of Homeland Security for the State of Texas (San Antonio Tr. 17)(local broadcasters and law enforcement worked together to create the nation’s first Amber Alert); Testimony of Bob Forcello (Charlotte Tr. 109)(without local broadcasters in North Carolina, there would be no Amber Alert system); Statement of Park Owens, Director of Emergency Management, Rapid City and Pennington County, South Dakota (Oct. 20, 2006) (broadcasters provide local officials with expedited access to their facilities during emergencies); Testimony of same (Rapid City Tr. 57-59); Testimony of Rapid City, South Dakota Mayor Jim Shaw (Rapid City Tr. 107) (local broadcasters assist with production and distribution of public service announcements for emergency management agencies)).

that had any concerns about unattended operation, neither of which urges the Commission to limit broadcasters' ability to use remote operations.<sup>94</sup>

Harry Robins, the Emergency Services Manager for Monterey County, California, provided testimony that largely praised the efforts of local broadcasters, stating that the relationship between the Office of Emergency Services and local media in Monterey County "is strong, viable, and mutually supportive."<sup>95</sup> Mr. Robins provided no example of any instance in which he was unable to reach local media because of unattended operation; rather, he merely posited that if he had to reach such a station at a late hour that he "probably would not be able to get there, because they're controlled from someplace else." There are, in fact, a host of voluntary measures to address this concern without wholesale changes in the ability of stations to operate remotely. For example, both emergency services personnel and stations could elect to conduct systematic, periodic updates of their respective points of contact.<sup>96</sup> In any event, at no point during Mr. Robins' testimony did he urge the Commission to "reduce the ability of broadcasters to control their programming from a remote location," as stated in the *Notice* (at ¶ 85).

The only other commenter reported to have addressed unattended operations, Thomas C. Smith, asserted without citing any source or even an anecdote, that stations operated on an unattended basis "only air a warning from the EAS system as it comes in without the repeating or updating that a live announcer would be able to do. And that

---

<sup>94</sup> *Notice* at ¶ 84 (citing Testimony of Harry B. Robins, Emergency Services Manager for Monterey County (Monterey Tr. 130-31) and Comments of Thomas C. Smith in MB Docket No. 04-233 (filed Nov. 2, 2004) at 3-4).

<sup>95</sup> Testimony of Harry B. Robins, Emergency Services Manager for Monterey County (Monterey Tr. 130).

<sup>96</sup> See Attachment C, *Unattended Station Operations Best Practices Synopsis* at I, III.



may not happen depending on how the automatic alert function of the EAS decoder is set.”<sup>97</sup> These concerns are unfounded. The Commission’s rules require that broadcasters engaged in remote operations employ procedures which will ensure compliance with the Emergency Alert System (“EAS”) at all times.<sup>98</sup> Moreover, stations have every incentive to ensure that their audiences have access to emergency information and severe weather alerts. As one broadcaster explains: “In our market...severe weather is the number one cause for crisis. For that reason, competition drives our company to do whatever is necessary to make sure we are on the air first with severe weather information, no matter what time of day it is, and whether we are manned or not.”<sup>99</sup> Significantly, Mr. Smith also did not urge the Commission to limit the ability of broadcasters to operate remotely in order to remedy the perceived problem.<sup>100</sup>

---

<sup>97</sup> Comments of Thomas C. Smith in MB Docket No. 04-233 (filed Nov. 2, 2004) at 3-4.

<sup>98</sup> See 47 C.F.R. § 73.1300 (“licensees must employ procedures which will ensure compliance with Part 11 of this chapter, the rules governing the Emergency Alert System”). EAS Rules further mandate that “*automatic* interrupt of programming and transmission of EAS messages are required when facilities are unattended.” 47 C.F.R. §§ 11.51(k)(1). Similarly, with respect to EAS monitoring, “*automatic* interrupt of programming is required when facilities are unattended.” See 47 C.F.R. § 11.52 (e)(1). Manual interrupt can only be used if EAS decoders/encoders are located such that staff at their “normal duty” locations can initiate EAS transmissions or be alerted immediately when EAS messages are received. See 47 C.F.R. §§ 11.51(k); 11.52(b).

<sup>99</sup> See Letter from Marsha J. MacBride, National Association of Broadcasters to Marlene H. Dortch, Secretary, FCC (filed in MB Docket No. 04-233 on December 17, 2007) at attachment pp. 6-7, email correspondence from Trey Stafford, President and General Manager, Triple FM Radio Group (emphasis in original).

<sup>100</sup> In fact, Mr. Smith stated that “most stations seem to do a reasonable job with storm warnings and Amber Alerts.” Comments of Thomas C. Smith in MB Docket No. 04-233 (filed Nov. 2, 2004) at 3-4. He correctly noted that the issue of “disaster warnings” is “being covered in another action that the Commission is seeking comments on” and

NAB's review of the record indicates that, other than Mr. Robins, not one of the parties testifying at the Monterey, CA, Charlotte, NC, Rapid City, SD, San Antonio, TX or Washington, DC hearings even mentions the words "remote" or "unattended" in connection with station operations. Presumably, if unattended operations were contributing to a lack of connection between stations and their communities or a lack of emergency information, several parties providing testimony at the Commission's multiple localism hearings would have discussed this issue – or at least mentioned it. In short, the existing record does not support the Commission's stated "concern" about the prevalence of automated broadcast operations, much less a change to current rules.

**C. Because of Technological Developments and Efficiencies that Have Improved Service to the Public, the Record in Response to the Notice Will Not Support a Change to the Unattended Operations Rules**

The primary reasons that the Commission changed its rules to permit unattended station operation were technological developments permitting such operations on a reliable basis and economic efficiencies which would allow stations to better serve the public. These justifications are only stronger today, when further technological advancements have only increased the functionality and reliability of remote operations and when eliminating efficiencies derived from remote operations could actually reduce service to the public.

As NAB and others have observed in responding to the *Digital Audio Broadcasting NPRM*, transmitters and other broadcasting equipment are much more stable and reliable than they were when the Commission revised its unattended

---

asserted that "any issues concerning disaster warnings should be dealt in that proceeding." *Id.*

operations rules in 1995.<sup>101</sup> Today's sophisticated automation technology, including Internet protocol-based features, affords stations monitoring and control capabilities that were not possible at that time.<sup>102</sup> Numerous commenters opposed the re-imposition of the ban on remote operations for radio,<sup>103</sup> citing, among other things, that "advances in technology have improved the capability for reliable unattended operations and remote monitoring."<sup>104</sup> All of these justifications apply equally to any potential ban on remote operations by television broadcast stations. As over one hundred members of the United States House of Representatives have observed, the ban on remote operation "was abandoned in 1995 after the Commission deemed it 'superfluous' and archaic in

---

<sup>101</sup> See NAB Comments in MM Docket No. 99-325 at 13 (filed Oct. 15, 2007).

<sup>102</sup> *Id.* at 13-14.

<sup>103</sup> See, e.g., Comments of Clear Channel Communications, Inc. in MM Docket No. 99-325 at 13 (filed Oct. 15, 2007); Joint Comments of the Alaska Broadcasters Association, The Arkansas Broadcasters Association, The Mississippi Association of Broadcasters, The New Mexico Broadcasters Association, The Radio Broadcasters Association of Puerto Rico and The Washington State Association of Broadcasters in MM Docket No. 99-325 at 3-8 (filed Oct. 15, 2007); Comments of the Alabama Broadcasters Association, *et al* in MB Docket No. 99-325 at 8-9 (filed Oct. 15, 2007); Joint Comments of the North Carolina, Ohio, and Virginia Associations of Broadcasters in MM Docket No. 99-325 at 9 (filed Oct. 15, 2007); Comments of Christian Broadcasting System, Ltd. in MM Docket No. 99-325 at 1-4 (filed Sept. 12, 2007) ("CBSL"); Comments of Miller Media Group in MM Docket No. 99-325 at 1-2 (filed July 11, 2007); Comments of Native American Christian Voice in MM Docket No. 99-325 at 1-6 (filed Oct. 1, 2007) ("Native"); Comments of Augusta Radio Fellowship Institute, Inc. at 2-5 ("ARFI"), Comments of Houston Christian Broadcasters, Inc. at 1-7 ("HCBI"), Comments of Life on the Way Communications, Inc. at 1-5 ("LOTWCI"), Comments of The Moody Bible Institute of Chicago at 1-6 ("Moody"), Comments of The Praise Network at 1-6 ("PNI"), in MM Docket No. 99-325 (filed Sept. 28, 2007).

<sup>104</sup> See NAB Reply Comments in MM Docket No. 99-325 at 8 (filed Nov. 13, 2007) (citing Comments of the Alabama Broadcasters Association, *et al* in MB Docket No. 99-325 at 8 (filed Oct. 15, 2007)).

light of modern technology. Technology hasn't reverted—so why go back?"<sup>105</sup> Given the technological advancements that have occurred since the remote operations ban was eliminated, the Commission cannot justify, as a matter of law or policy, re-imposition of such a ban, or any new limitation on broadcasters' ability to operate stations remotely.

If the Commission's goals are to advance localism and access to emergency information, both goals will in fact be disserved by re-imposing the ban. As the Commission recognized thirteen years ago, waiving the requirement to have personnel on hand during all operating hours would "permit licensees to make more effective use of resources by implementing the operating and maintenance policies most appropriate for their stations."<sup>106</sup> If broadcasters are required to staff their stations during all operating hours, many of them will not have the economic resources to operate during

---

<sup>105</sup> See Letter dated April 15, 2008 from Representative Mike Ross, Representative Marsha Blackburn *et al* to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233 at 2 ("*Ross-Blackburn Localism Letter*"). See also Letter dated March 25, 2008 from Representative Michael L. Michaud to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233 (expressing concerns about the proposed re-imposition of "a restriction that was determined to be unnecessary given new technologies that allowed these facilities to be operated remotely") ("*Michaud Localism Letter*"); See also Letter dated April 4, 2008 from Representative Barbara Cubin to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233 at 2 ("*Cubin Localism Letter*") (the Commission's 1995 waiver of the ban recognized that "as technology has advanced it became increasingly clear that a constant physical presence in the transmitting studio was an unnecessary burden."). See also Letter dated April 24, 2008 from Senators Pat Roberts, Sam Brownback *et al* to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233 (proposed changes to the main studio and unattended operations rules "believe the fact that advances in technology make these burdensome regulations needless in today's marketplace").

<sup>106</sup> *Amendment of Parts 73 and 74 of the Commission's Rules to Permit Unattended Operations of Broadcast Stations and to Update Broadcast Station Transmitter Control and Monitoring Requirements*, Report and Order, 10 FCC Rcd 11479 ¶ 4 (1995) ("*Unattended Operations Order*").

late night hours, thereby *reducing* options available to the public for local programming, news, weather, and emergency warnings. Such reduced service will result in harm to the public interest.<sup>107</sup> Undoubtedly, these public interest harms will disproportionately impact the viewers and listeners of smaller stations—stations that serve niche audiences, operate in rural areas, and/or are not part of station groups.<sup>108</sup> When the Commission waived the ban on unattended operation, it explicitly acknowledged that “smaller broadcasters ... stand to benefit the most from the reforms at issue in this proceeding” and declined to adopt stringent technical requirements that might have foreclosed the opportunity for smaller stations and their audiences to benefit from remote operations.<sup>109</sup> Smaller stations compete for fewer advertising dollars and face

---

<sup>107</sup> See Letter from Marsha J. MacBride, National Association of Broadcasters to Marlene H. Dortch, Secretary, FCC (filed in MB Docket No. 04-233 on December 17, 2007) at attachment p. 17, email correspondence from Larry Patrick, Managing Partner, Legend Communications (estimating that it will cost \$25,000 - \$50,000 more per year per station to staff stations during all hours of operation and complete forms associated with other rule changes proposed in this proceeding, diverting resources from the stations’ programming and their contributions to community groups).

<sup>108</sup> See *Michaud Localism Letter* at 1 (elimination of the ban on remote operations “allowed locally-owned broadcasters in Maine that wouldn’t otherwise be able to financially support multiple fully-equipped, fully-staffed studios and broadcast facilities” to provide service to the public in remote areas; reinstating the ban “would likely remove locally-owned broadcasters from the air rather than encourage more local voices”); *Cubin Localism Letter* at 2 (“Resurrection of the physical presence rule would impose a terrible expense on small broadcasters. Indeed, operating in a rural state with significant labor shortages, Wyoming’s broadcasters would be forced to pay a premium for unnecessary staffing.”). See also Letter dated April 24, 2008 from Senator Mary Landrieu to FCC Chairman Kevin J. Martin regarding MB Docket No. 04-233 (the current main studio and unattended operations rules allow small local stations in Louisiana to remain viable and serve the public).

<sup>109</sup> *Unattended Operations Order* at 11480 ¶ 8. The Commission’s Regulatory Flexibility Analysis indicated that “the action taken in this proceeding is expected to benefit smaller broadcast licensees by eliminating the need for a transmitter duty operator. This is expected to result in a significant operational cost savings.” *Id.* at Appendix B.

even greater financial pressures than their counterparts serving large markets. In today's media marketplace, smaller station owners and new entrants will be particularly ill-equipped to afford the cost of staffing their stations during all operating hours.<sup>110</sup>

For all of these reasons, NAB urges the Commission to retain its current rules governing remote operations for both television and radio broadcast stations.

#### **V. Additional Restrictions on Main Studio Location Will Undermine Stations' Ability to Serve the Public Interest**

The Commission should not re-instate its pre-1987 main studio rule, or otherwise further restrict main studio location. More restrictive rules cannot be justified today, when stations' main studios are more accessible to the public than ever before, and when technological advancements allow stations to interact easily with their public and cover issues of concern to people within their communities of license. A return to outdated restrictions would adversely affect the Commission's goal of ensuring that each station offers programming responsive to the needs of its community of license.<sup>111</sup>

##### **A. The Commission's "Concern" About Main Studio Location Is Not Grounded in the Record or the History of the Rules**

The *Notice* states that the Commission "shares the concern underlying proposals that [it] require that licensees locate their main studios within the local

---

<sup>110</sup> See Randy J. Stine, *Radio: We Already Do Localism*, RADIO WORLD NEWSPAPER ONLINE (Mar. 12, 2008), available at: <http://www.rwonline.com/pages/s.0046/t.12093.html> (visited April 23, 2008) (citing former station owner's view that "many small broadcasters would ... be unable to afford to keep their stations on the air overnight if forced to hire additional manpower...the FCC is considering options that would actually cut services in smaller markets.").

<sup>111</sup> See, e.g., *Notice* at ¶ 6 ("broadcasters are obligated to operate their stations to serve the public interest—specifically, to air programming responsive to the needs and issues of the people in their communities of license").

communities...”<sup>112</sup> While use of the word “proposals” suggests that there was extensive comment or hearing testimony on the issue of main studio location, the *Notice* cites to the views of only one commenter on this point. And, significantly, while that commenter did state that the Commission should “urge main studios to be located within the local communities so that the local studios are, quote, part of the neighborhood,” her testimony never suggested that the stations she considered “local” were too physically distant today, nor did she discuss main studio location in the context of promoting the development of programming that was locally originated. Instead, she specifically encouraged the Commission to “[d]efine locally oriented programming as programming of interest to the local community, *regardless of the source.*” *Id.* (emphasis added). As an example of this, she cited the need for stations to cover natural disasters in foreign countries, which “often are of particular interest to local communities because of the community members’ ties to the foreign country.”<sup>113</sup>

More than twenty years ago, the Commission amended its main studio rules to “tailor their requirements to broadcast station operations in today’s marketplace and regulatory environment.”<sup>114</sup> Until 1987, stations were required to locate their main studios within their communities of license and to originate a specified percentage of programming from their studios. When the Commission adopted these rules in the early

---

<sup>112</sup> *Notice* at ¶ 41 (citing Testimony of Blanca Zarazua, Chair, Hispanic Chamber of Commerce of Monterey, California) (Monterey Tr. 48-49).

<sup>113</sup> See Comments of Blanca Zarazua, Chair, Hispanic Chamber of Commerce of Monterey, California in MB Docket No. 04-233 (filed August 20, 2004) at 2-3.

<sup>114</sup> See *Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Report and Order, 2 FCC Rcd 3215 ¶ 4 (1987) (“1987 Main Studio Order”).

1950s, it thought physical accessibility had a role in determining the extent to which stations could take part in community activities and members of the community could participate in live programs and present suggestions or complaints to the station.<sup>115</sup>

The Commission in 1987 permitted a station to locate its main studio anywhere within its principal community contour and eliminated the program origination requirement. In so doing, the Commission acknowledged that its goals of assuring accessibility for the public and promoting station responsiveness to community needs were no longer being met by the requirements. Specifically, the Commission found that the role of the main studio had evolved since the adoption of location requirements in the early 1950s, that the studio was no longer the center of program production and that it “may not be the best place for the origination of responsive programming.”<sup>116</sup> The Commission observed that new technology and “innovative production methods” were permitting stations to present programming in different ways from a variety of locations.<sup>117</sup> Using mobile units and remote studios connected by microwave and satellite links, stations could obtain live feeds of events of local, regional, and national significance from both local and distant points.<sup>118</sup> Significantly, the Commission also reasoned that “coverage of local issues does not necessarily have to come from locally

---

<sup>115</sup> *1987 Main Studio Order*, 2 FCC Rcd at 3215 ¶ 6 (citing *Promulgation of Rules and Regulations Concerning the Origination Point of Programs*, 43 FCC 570, 571 (1950) and *Television Main Studio Location*, 43 FCC 888 (1952)). Separate radio and television main studio rules were later combined into a single rule governing both radio and television. See *Regulations and Rules Oversight of the AM, FM, and TV Broadcast Rules*, 44 Fed. Reg. 69933 (Dec. 5, 1979).

<sup>116</sup> *1987 Main Studio Order*, 2 FCC Rcd at 3218 ¶ 30.

<sup>117</sup> *1987 Main Studio Order*, 2 FCC Rcd at 3218 ¶ 30.

<sup>118</sup> See *1987 Main Studio Order*, 2 FCC Rcd at 3218 ¶ 30.



produced programming” and therefore “no longer believe[d] that main studio facilities within the political boundaries of the community of license necessarily promote responsive programming.”<sup>119</sup>

The record also indicated that locating the studio in a station’s community of license was no longer required to assure the station’s accessibility to viewers and listeners. The Commission cited the public’s frequent use of telephone or mail to communicate with stations, as well as reduced travel time due to the rise of highways and mass transit.<sup>120</sup> The Commission held that revising the rules would serve the public interest by “extend[ing] additional flexibility to broadcast stations without affecting the station’s ability to meet its local service obligations” and permitting stations to “obtain the efficiencies to be realized by collocating the station’s studio at its transmitter site.”<sup>121</sup> In addition to such efficiencies, stations could reduce operating expenses by relocating their studios to lower cost areas.<sup>122</sup>

The Commission further held that it could no longer justify a requirement that stations originate a specified minimum amount of programming from their main studios or other points within their communities. The Commission held that the original rationale for the rule—facilitating locally-oriented programming by promoting the use of local talent and ideas—was no longer valid.<sup>123</sup> As the Commission observed, the program origination requirements never dictated the nature of the programming to be

---

<sup>119</sup> *1987 Main Studio Order*, 2 FCC Rcd at 3218 ¶ 31.

<sup>120</sup> *Id.* at ¶ 32.

<sup>121</sup> *Id.* at ¶ 33.

<sup>122</sup> *Id.* at ¶ 33.

<sup>123</sup> *Id.* at ¶ 39.

originated locally.<sup>124</sup> Thus, the programming could have been locally *originated*, but not locally *oriented*. More importantly, the Commission observed that in light of developments in broadcast station operations,<sup>125</sup> it could “no longer presume that location alone is relevant to the provision of programming which is responsive to the needs and interests of the community.”<sup>126</sup> Finally, the Commission observed that the rule was imposing significant costs on licensees and even greater costs upon the public in terms of loss of locally responsive programming that originated outside the main studio.<sup>127</sup>

Ten years later, the Commission initiated a proceeding to re-examine its main studio rules in light of changes to other rules resulting from the Telecommunications Act of 1996.<sup>128</sup> In that proceeding, the Commission sought comment on “ways to lessen the burden on licensees, particularly those owning multiple stations, by giving them greater flexibility in locating their main studios.”<sup>129</sup> The Commission also was concerned about the impact of its rules on certain classes of stations, which enjoyed less flexibility in the

---

<sup>124</sup> *Id.* at ¶ 40.

<sup>125</sup> See *1987 Main Studio Order*, 2 FCC Rcd 3219 ¶ 41 (“remote production and transmission equipment permits responsive programming to originate from outside the main studio or community of license and marketplace forces dictate the provision of such programming from whatever its source.”).

<sup>126</sup> *Id.* at ¶ 42.

<sup>127</sup> *Id.* at ¶ 43.

<sup>128</sup> See *Review of the Commission’s Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations, Notice of Proposed Rule Making*, 12 FCC Rcd 6993, 6997 ¶ 8 (1997) (“1997 Main Studio NPRM”).

<sup>129</sup> *Review of the Commission’s Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations, Report and Order*, 13 FCC Rcd 15691, 15693 ¶ 7 (1998) (“1998 Main Studio Order”) (citing *1997 Main Studio NPRM*, 12 FCC Rcd at 6999).

location of their studios because of the smaller size of their principal community contours.<sup>130</sup> The Commission's revised rule, which remains in place today, consists of a combination of a signal contour and a mileage standard.<sup>131</sup> The Commission held that its revised rule would expand the area in which many stations could relocate their main studios while "maintaining a close connection to the community."<sup>132</sup> The Commission anticipated that its revised rule would place smaller stations "on equal footing" with their competitors,<sup>133</sup> and would allow multiple station owners to "combine the resources of their jointly-owned stations, which can allow them to better serve the public."<sup>134</sup>

The Commission expected its new approach to substantially reduce regulatory burdens on broadcast licensees without compromising its goal of assuring accessibility of main studios to members of the public. The record before the Commission in 1998 demonstrated that "more people use remote rather than face-to-face means of

---

<sup>130</sup> See *1997 Main Studio NPRM*, 12 FCC Rcd at 6998 ¶ 9.

<sup>131</sup> See *1998 Main Studio Order*, 13 FCC Rcd at 15694-5 ¶ 7. Specifically, a station may locate its main studio at any location that is within either the principal community contour of any station, of any service, licensed to its community of license or 25 miles from the reference coordinates of the center of its community of license, whichever it chooses. *Id.*, see also 47 C.F.R. § 73.1125. The Commission also amended Sections 73.3526 and 73.3527 of its rules to require all stations to locate their public files at their main studios, and established requirements regarding requests for public file material via telephone or mail. *1998 Main Studio Order*, 13 FCC Rcd at 15702 ¶ 24.

<sup>132</sup> *Id.* at ¶ 7.

<sup>133</sup> *Id.* at ¶¶ 7, 10 (rule will "lessen the disproportionate effect that the previous rule had on owners of small stations").

<sup>134</sup> *Id.* at ¶ 7, 9 (amendment of the main studio rule is "particularly warranted in light of the 1996 Act and its changes to the local radio ownership rules" and will "generate savings that can be put to more productive use for the benefit of the community served by the station").

communication for routine contact with their local stations.”<sup>135</sup> In addition, the Commission noted that the principal community contour of a station encompasses the stations’ community of license, as well as the area in which its signal is strongest, thereby ensuring reasonable access for members of the community who might choose to interact with their local stations in person.<sup>136</sup>

### **B. The Commission’s Past Rationales for Relaxing the Main Studio Rule Have Only Been Reinforced by Technological Advancements**

The Commission is suggesting a return to a main studio rule adopted at a time when the U.S. telephone penetration rate was only 61.8%,<sup>137</sup> before the Interstate Highway and National Highway Systems were instituted,<sup>138</sup> before it was typical for American households to own multiple cars,<sup>139</sup> and before the advent of federal funding programs for the construction and expansion of mass transit.<sup>140</sup> Even the main studio

---

<sup>135</sup> 1998 *Main Studio Order*, 13 FCC Rcd at 15695-97 ¶ 8, 11.

<sup>136</sup> *Id.* at ¶ 11.

<sup>137</sup> See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Historical Telephone Penetration Estimates, Table 17.3 (rel. Feb. 19, 1999), available at: [http://www.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/trend199.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend199.pdf) (visited April 22, 2008) (reporting the telephone penetration estimate for 1950, the year in which the pre-1987 main studio rule was adopted).

<sup>138</sup> Historical information concerning the Interstate Highway System, which was launched in 1956, is available from the Department of Transportation’s Federal Highway Administration at: <http://www.fhwa.dot.gov/interstate/history.htm> (visited April 22, 2008). Information on the National Highway System, launched in 1996, also is available at the site: <http://www.fhwa.dot.gov/hep10/nhs/> (visited April 22, 2008).

<sup>139</sup> The Boston Foundation, *Boston Indicators Report 2004*, Section 10.4.1, available at: <http://www.tbf.org/indicators2004/transportation/index.asp> (visited April 25, 2008) (“While the nation’s population has increased 80% since 1950, car ownership has increased by 383%”).

<sup>140</sup> In 1964, the Urban Mass Transportation Act was enacted, establishing the program of financial assistance for mass transportation that is today managed and run by the Federal Transit Administration. See 49 U.S.C. § 5301 *et seq.*

rule changes adopted in 1987 and 1998, which partially reflect advances in the areas of telephony and transportation, still do not reflect the electronic communications capabilities widely used by the public today.

Today's broadcast viewers and listeners are not contacting stations using the "party lines" of the 1950s—they are calling from their own home and/or mobile phones.<sup>141</sup> Members of the public are learning about local programming using station Web sites, Web-based program guides, and other information available on the Internet.<sup>142</sup> With sophisticated customer premises equipment available from retailers or subscription services, viewers and listeners can search for desired content using their remote controls. Most importantly, communications via the Internet are *not* one-way: viewers and listeners use station Web sites to request their favorite songs and post feedback on stations' programming content, and send emails expressing their views about what should or should not be aired by their local stations. These technological developments, as well as developments in broadcast equipment and operations, make

---

<sup>141</sup> If a station locates its main studio and public file outside its community of license, the station must mail public file documents to persons within the station's service area when requested to do so by telephone. See 47 C.F.R. § 73.3526(c)(2).

<sup>142</sup> Many Web sites offer searchable listings that include local broadcast programming, such as [www.tvguide.com](http://www.tvguide.com), [www.zap2it.com](http://www.zap2it.com), [television.aol.com](http://television.aol.com), and [www.meevee.com](http://www.meevee.com). For some cities, there are even online radio programming guides. See *New York Radio Guide*, available at: <http://www.nyradioguide.com/> (visited April 24, 2008). The Commission's own Consolidated Database System offers the public access to every application or other form electronically filed with the Commission, and is easily searchable by various criteria such as call sign, channel/frequency, station owner, or community of license. The Commission also makes children's programming information available at a separate section of its Web site, where the public can search for specific programs, search by station, or find the times and titles for children's programming by DMA. See *FCC, Children's Educational Television (KidVid)*, available at: <http://www.fcc.gov/mb/engineering/kidvid/>.

it easier for station personnel to learn about and provide coverage of their local communities regardless of physical distance.

The Commission has twice relaxed the main studio rule primarily on the grounds that advancements in communications and transportation are expanding public access to stations' main studios. The means and ease of communication between stations and their communities have increased and improved dramatically since even the most recent revisions to the main studio rule. Accordingly, NAB submits that any return to a more restrictive rule on grounds that changes are needed to improve the accessibility of main studios or interaction between stations and the communities they serve cannot be sustained.

**C. Encouraging “Locally Originated” Programming in Lieu of Programming That Is Responsive to Community Needs Fails to Serve the Public Interest**

The Commission also asks whether it “should revert to [its] pre-1987 main studio rule in order to encourage broadcasters to produce locally originated programming.” *Notice* at ¶ 41. The Commission should not revert to this outdated version of the rule or otherwise institute rules or policies to “encourage” local origination of programming. As discussed in detail above, programming need not be locally produced to serve the public interest. Moreover, as the Commission has previously determined in proceedings specifically addressing the main studio rule, “locally-originated” programming does not necessarily equate to programming that is responsive to community needs. When the Commission eliminated its requirement that stations originate a certain percentage of their programming from their main studios, it did so because it correctly determined that the very premise underlying the rule—that local

origination would automatically result in programming relevant to the needs and interests of the local community—was flawed. At the time it repealed the rule, the Commission feared that the rule had already harmed the public interest by preventing the importation of locally responsive programming produced outside the studio or even the stations' community of license.<sup>143</sup>

In any event, the relocation of a station's main studio has no logical relationship to the production of local programming.<sup>144</sup> There is no reason to assume, for example, that if a television station is forced by a change in the main studio rule to move its studio five, ten, 15, or 20 miles back into its community of license, that station would change any of its programming content whatsoever, let alone begin producing more "local" programming (however defined). Today, regardless of where a station's main studio is physically located, technology permits programming to be originated and/or produced within the station's community of license, elsewhere within the station's principal community contour, or from distant sources that may interest a station's viewers and/or listeners.<sup>145</sup>

---

<sup>143</sup> *1987 Main Studio Order*, 2 FCC Rcd 3217, 3219 ¶¶ 22, 43.

<sup>144</sup> *See, e.g., Ross-Blackburn Localism Letter* at 1-2 ("the stated goal of the re-regulation [of main studio locations], namely 'to encourage broadcasters to produce locally originated programming,' requires a logical leap that has no place in government regulation").

<sup>145</sup> *See, e.g., Letter from Marsha J. MacBride, National Association of Broadcasters to Marlene H. Dortch, Secretary, FCC* (filed in MB Docket No. 04-233 on December 17, 2007) at attachment p. 76 (Mr. George DeVault, President of Holston Valley Broadcasting Corporation, states that "the location of a station's main studio means very little with regard to localism in an age in which more often than not the broadcaster takes the subject station's microphones and cameras to the local event or community leader rather than conducting the broadcast or telecast from the station's 'main studio.'").

#### **D. Changes to the Main Studio Rule Would Be Counterproductive**

The Commission should not reverse decades of sound policy by reverting to a rule adopted in the 1950s. As discussed above, each time the Commission relaxed the main studio rule, it identified cost savings, efficiencies, and competitive effects that would benefit the public. The Commission should not now toss aside these public interest benefits, especially as there is no record in this proceeding demonstrating any problem with or reason for altering the current rule. No rationale or evidence has been cited or, indeed, can be found that would justify the tremendous costs to broadcasters and significant harm to the public interest that would result from requiring every broadcast station to relocate to a main studio within its community of license. Such FCC action would clearly be arbitrary and capricious.<sup>146</sup>

The impact of any rule change on competition within the broadcasting industry will be substantial. As discussed above, the pre-1987 main studio rule, and even the rules in place before 1998, placed broadcasters operating at lower power levels at a competitive disadvantage, because they had considerably less flexibility in locating their main studios than their high power counterparts.<sup>147</sup> The 1998 rule was intended to foster parity among large and small broadcasters and to ensure competition on a level playing field.<sup>148</sup> A return to a more restrictive rule will eliminate this public interest benefit, harming competition among broadcasters and particularly injuring the ability of

---

<sup>146</sup> See *State Farm*, 463 U.S. at 42; *Mountain States Telephone and Telegraph Co. v. FCC*, 939 F.2d 1021, 1034 (D.C. Cir. 1991) (if the Commission rejects a “time-tested procedure” and replaces it with a new one, then it must be able to show that this “new procedure is superior” because, “if not, why the change?”).

<sup>147</sup> See *supra* Section V.A.

<sup>148</sup> *Id.*



smaller stations to serve their local markets. As with many other proposals in this proceeding, further restrictions on main studio location will have a greater impact on new broadcast entrants, stations with lower operating power, and stations that serve niche or rural audiences.<sup>149</sup> These and smaller stations generally are the ones that most frequently struggle financially and would have the fewest resources to bear the costs of a more restrictive main studio rule.<sup>150</sup> The Commission should carefully consider the disproportionate impact of its proposed rule changes on smaller broadcasters and their audiences.

The public interest benefits identified by the Commission when it relaxed the main studio rule in the past, including cost savings associated with locating studios in less expensive areas, efficiencies arising from co-locating studios with transmitter sites, co-locating the studios of commonly-owned stations, and co-locating the studios of stations involved in certain joint agreements—would be lost by imposing a stricter rule.<sup>151</sup> The costs associated with operating main studios within each station's community of license would ultimately steal resources away from priorities that truly serve local audiences, such as upgrading station equipment and services and providing

---

<sup>149</sup> See *Michaud Localism Letter* (asserting that relaxation of the main studio rule has expanded local service offerings in remote areas of Maine, while a return to the former rule would reduce options available to Maine residents).

<sup>150</sup> See, e.g., *1992 Radio Ownership Order*, 7 FCC Rcd at 2760 (the “outlook for small radio stations” was “particularly bleak” in the early 1990s, with more than half of all radio stations in the country, especially smaller ones, losing money).

<sup>151</sup> See, e.g., Testimony of Richard Gleason, President and General Manager, Mountain Valley Broadcasting, Inc. (Portland Tr. 50) (the current main studio rule establishes an important balance and “has enabled me to cut costs, and, therefore, cut my advertising prices so that the small businesses can afford to advertise with me.”)

local programming.<sup>152</sup> The Commission's intended goal of fostering local service to the public would be undermined by a more restrictive main studio rule, depriving stations of important efficiencies and imposing higher costs at a time of unprecedented competitive challenge.

In addition to compromising the public interest benefits the Commission identified when it previously relaxed the rules, imposing a more restrictive rule will adversely affect broadcasters' ability to participate meaningfully in today's media marketplace, where local stations are competing with many outlets that are free to locate any aspect of their operations anywhere, and staff them however they see fit.<sup>153</sup> The Commission must also recognize broadcasters' good faith reliance on rules long in force. If not, the negative economic impact of a more restrictive rule would be compounded by the obligation to unwind existing operations and relocate studios that are presently located outside their communities of license. Some broadcasters own the buildings where they presently operate their main studios, and have invested millions or even billions in

---

<sup>152</sup> *1998 Main Studio Order*, 13 FCC Rcd at 15694 ¶ 7 (relaxed rule will allow stations to "better serve the public"); *id.* at 15695-96 ¶ 9 (rule changes will "generate savings that can be put to more productive use for the benefit of the community served by the station"). See also *1992 Radio Ownership Order*, 7 FCC Rcd at 2761 (savings from the sharing of studio space and equipment by commonly owned radio stations will help stations improve their competitive standing and may also improve the diversity of programming available to the public).

<sup>153</sup> See, e.g., Letter from Marsha J. MacBride, National Association of Broadcasters to Marlene H. Dortch, Secretary, FCC (filed in MB Docket No. 04-233 on December 17, 2007) at attachment p. 30, letter from David D. Oxenford, counsel for Buckley Broadcasting *et al* ("re-imposition of ... more stringent main studio rules ... would be particularly unsound policy, especially now, when broadcasters such as those joining in this letter face more competition than ever before").

facilities outside of their communities of license.<sup>154</sup> Others could be faced with finding some way to unwind long-term agreements involving property, tower space, or joint operations with other broadcasters.<sup>155</sup> For example, Allbritton Communications Company (“Allbritton”) operates Station WJLA(TV), Washington, DC, from a large, integrated facility in Arlington, VA, which houses multiple business operations. Relocation would require Allbritton to find comparable space, break a long-term lease, and outfit a new main studio at a cost of “many millions of dollars—to move only a few hundred yards.”<sup>156</sup> Similarly, Schurz Communications, Inc. (“Schurz”) is in the process of constructing a new facility in the South Bend, IN market which will house corporate offices, a newspaper, and studios for three broadcast stations.<sup>157</sup> The 35 million-dollar facility will include “state-of-the-art digital production and distribution facilities and will make possible the introduction of local HDTV programming and, ultimately, digital radio service.” Schurz observes that if the main studio rule is changed and applied retroactively “new facilities for all three stations would have to be located and constructed, including relocation of studio-transmitter and electronic news-gathering

---

<sup>154</sup> See Randy J. Stine, *Radio: We Already Do Localism*, RADIO WORLD NEWSPAPER ONLINE (Mar. 12, 2008), available at: <http://www.rwonline.com/pages/s.0046/t.12093.html> (visited April 23, 2008) (quoting a broadcast engineer who states that “[f]ewer than a half of our properties actually have main studios physically located in the designated community of license...[m]any of these facilities contain multiple radio stations and offices licensed to multiple communities and cost millions of dollars to construct”). Numerous licensees face similar circumstances which will undoubtedly be identified during the comment phase of this proceeding. Some examples are discussed at Attachment D hereto.

<sup>155</sup> See, e.g., Attachment D.

<sup>156</sup> See Attachment D, Declaration of Jerald N. Fritz, at ¶ 4.

<sup>157</sup> See Attachment D, Declaration of Marcia K. Burdick, at ¶ 2.

links” and “capital investment in the new facility would be lost.”<sup>158</sup> Moreover, an untold number of satellite earth station, microwave, and other auxiliary authorizations would have to be modified or cancelled and re-authorized. It would be impossible for the time, effort and expense of main studio relocation not to detract substantially from broadcasters’ service to the public. On a cost-benefit basis alone, return to the outmoded pre-1987 rule is unjustifiable.<sup>159</sup>

In view of the deleterious impact of the proposed rule change on competition among broadcasters and other media outlets, the public interest benefits arising from economic efficiencies and cost savings resulting from past relaxation of the main studio rule, and the absence of any benefit to be gained from a more restrictive rule, NAB urges the Commission to retain the existing rule.

#### **VI. The Commission Should Reject the Proposal to Consider Stations’ Airing of Local Music and Their Methods of Compiling Playlists for Purposes of License Renewal**

The *Notice* (at ¶ 112) seeks comment on whether the Commission should require radio licensees to provide data on their airing of local music and artists and on how stations compile their playlists, which would then be used in consideration of licensees’

---

<sup>158</sup> *Id.*

<sup>159</sup> Courts have not hesitated to reverse, remand, or vacate FCC decisions that failed to reasonably assess the costs of the agency’s actions. *See, e.g., People of the State of California v. FCC*, 905 F.2d 1217, 1231 (9<sup>th</sup> Cir. 1990)(reviewing court “must be satisfied that the Commission’s assessment of the various costs and benefits is reasonable in light of the administrative record,” and “if the FCC’s evaluation of any significant element in the cost/benefit analysis lacks record support” then the court “cannot uphold the agency action” under the Administrative Procedure Act”); *United States Telecom Ass’n v. FCC*, 227 F.3d 450, 461 (D.C. Cir. 2000) (finding that FCC’s failure to explain how it implemented provisions of the Communications Assistance for Law Enforcement Act in a “cost-effective” manner was “a classic case of arbitrary and capricious agency action”).

renewal applications. This proposal stems from concerns over broadcasters' alleged use of national playlists. See *Notice* at ¶¶ 105, 112. Any requirement that licensees submit data directly concerning their selection of content and their airing of particular types of content to be used in the license renewal process would clearly place pressure on radio broadcasters to select and air content favored by the Commission, rather than their listeners. For the reasons discussed below, the Commission should not adopt this proposal, which lacks an evidentiary foundation, is unnecessary and unjustified in light of radio broadcasters' demonstrated service to local markets, and raises serious statutory and constitutional issues.

**A. The Record Does Not Establish an Evidentiary Basis to Adopt Requirements Relating to Playlists and the Airing of Particular Content**

As the basis for involving itself in the constitutionally sensitive area of broadcast content, the Commission cites the complaints of several commenters that use of national playlists by radio stations reduces the amount of airplay of local musicians. *Id.* at ¶ 105. This alleged "lack of access to the airwaves by local musicians" is the sole reason given for the Commission's inquiry into playlists and the airing of local artists. *Id.* at ¶ 112.

As an initial matter, NAB points out that the record does not establish that local artists lack airplay on local radio stations or, indeed, that national playlists even exist or somehow erode the independence of local stations' programming decisions. The *Notice* (at ¶ 105) cites several witnesses at the FCC's localism hearings praising the airplay of local artists by area radio stations. Beyond this evidence, many broadcasters

have testified or commented in detail about their airing of local artists.<sup>160</sup> The *Notice* (at ¶ 105) also notes radio groups' statements that they do not even have national playlists and that their music programming decisions are made at the local level.<sup>161</sup> Other evidence in the record shows that stations make extensive efforts to communicate with their listeners about music selection and programming and to discover listener tastes and preferences.<sup>162</sup>

---

<sup>160</sup> For example, Infinity Broadcasting alone submitted 38 pages describing their stations' airing of local and independent music and artists. See *Ex Parte* Submission of Viacom in RM-10803 at 3-41 (March 26, 2004). See also Comments of Univision in MB Docket No. 04-233 at 17-18 (Nov. 1, 2004); Comments of Clear Channel in MB Docket No. 04-233 at 16 (Nov. 1, 2004); Comments of Infinity in MB Docket No. 04-233 at Attachment 2 (Nov. 1, 2004); Comments of Entercom Boston License, LLC in MB Docket No. 04-233 at 6 (Nov. 1, 2004); Comments of Entercom Greensboro License, LLC in MB Docket No. 04-233 at 6 (Nov. 1, 2004); Comments of Greater Media, Inc. in MB Docket No. 04-233 at Section E. (Dec. 13, 2004); Statement of Alan Harris at Rapid City Localism Hearing at 2 (May 26, 2004); Statement of Bayard Walters at Nashville Ownership Hearing (Dec. 11, 2006); Statement of Jerry T. Hanszen at San Antonio Localism Hearing at 2 (Jan. 28, 2004); Statement of Kathy Baker at Monterey Localism Hearing at 1-2 (July 21, 2004); Statement of Terri Avery at Charlotte Localism Hearing at 4 (Oct. 22, 2003); Testimony of Debbie Kwei at Charlotte Localism Hearing (Oct. 22, 2003) (Charlotte Tr. 36).

<sup>161</sup> Additional radio broadcasters have testified that groups do not dictate playlists and that local management and staff control the programming in local markets. See, e.g., Statement of Terry Avery at Charlotte Localism Hearing at 1-2 (Oct. 22, 2003); Statement of Chuck Tweedle at Monterey Localism Hearing at 1 (July 21, 2004); Statement of Tom Glade at San Antonio Localism Hearing at 4 (Jan. 28, 2004); Comments of Greater Media, Inc. in MB Docket No. 04-233 at Section E. (Dec. 13, 2004).

<sup>162</sup> See, e.g., Comments of WBEB-FM (Philadelphia) in MB Docket No. 04-233 (Oct. 28, 2004); Comments of Sarkes Tarzian, Inc. in MB Docket No. 04-233 at 2 (Nov. 1, 2004); Comments of Greater Media, Inc. in MB Docket No. 04-233 at Section E. (Dec. 13, 2004); Statement of Tom Glade at San Antonio Localism Hearing at 2-3 (Jan. 28, 2004); Testimony of Debbie Kwei at Charlotte Localism Hearing (Oct. 22, 2003) (Charlotte Tr. 35-36); Statement of Chuck Tweedle at Monterey Localism Hearing at 1 (July 21, 2004).

Moreover, NAB observes that there is no showing in this record that consumers are necessarily harmed if, in fact, the amount of airplay given to local musicians has somehow been “reduce[d].” *Notice* at ¶ 105. Such an assumption is unproven and unwarranted. It is not clear that consumers prefer to hear local music rather than artists from all over the country – especially the leading musicians and groups. Indeed, if the record in this proceeding establishes any point, it is that broadcasters, both radio and television, must respond to the programming preferences of local consumers to succeed in today’s competitive, multiplatform, multichannel marketplace.<sup>163</sup> Radio broadcasters in particular stressed that “ultimately, a station must play whatever music its listeners want to hear.” *Notice* at ¶ 105 (citing Comments of The Cromwell Group in MB Docket No. 04-233 (Nov. 1, 2004)).<sup>164</sup> There is no evidence whatsoever that radio

---

<sup>163</sup> See, e.g., Statement of Tom Glade at San Antonio Localism Hearing at 1-2 (Jan. 28, 2004); Statement of Jerry T. Hanszen at San Antonio Localism Hearing at 4 (Jan. 28, 2004); Statement of Robert G. McGann at San Antonio Localism Hearing at 4 (Jan. 28, 2004); Statement of Alan Harris at Rapid City Localism Hearing at 1 (May 26, 2004); Statement of Dr. William F. Duhamel at Rapid City Localism Hearing at 2 (May 26, 2004); Statement of Chuck Tweedle at Monterey Localism Hearing at 2 (July 21, 2004); Statement of Eduardo Dominguez at Monterey Localism Hearing (July 21, 2004); Testimony of Richard Gleason at Portland Localism Hearing (June 28, 2007) (Portland Tr. 52-53); Testimony of James Shaffer at Portland Localism Hearing (June 28, 2007) (Portland Tr. 33). See also Letter from Marsha J. MacBride, NAB, to FCC, MB Docket No. 04-233, attach. (Dec. 17, 2007) (attaching statements of dozens of broadcasters).

<sup>164</sup> See also Statement of Alan Harris at Rapid City Localism Hearing at 1 (May 26, 2004) (radio stations “are required by law to broadcast in the public interest, but we are required by an even higher authority, our local listeners, to broadcast in their interests”); Testimony of Richard Gleason at Portland Localism Hearing (June 28, 2007) (Portland Tr. 52) (“Localism is won and lost in the marketplace”; a radio station “pass[es] the localism test” by . . . “giving the people what they want”); Statement of Tom Glade at San Antonio Localism Hearing at 1-2 (Jan. 28, 2004) (“market forces” require radio stations “to better identify what people want, meet those desires, and adapt to local changes more quickly than ever before,” and if stations “don’t meet those needs, rest assured, we know it just as quick” because the local audience “will simply turn us off”).

broadcasters are blatantly ignoring the desires of their audiences. Regulation to address a problem that does not exist is inherently arbitrary and capricious.

The apparent assumption that the music of local artists must necessarily better serve radio listeners than other content is also inconsistent with the Commission's long held position that programming need not be "local" (however defined) to serve local needs and interests. As explained in Section I., the Commission has expressly noted that programming "that addresses local concerns need not be produced or originated locally" to satisfy a "licensee's program service obligations,"<sup>165</sup> and the courts have agreed with these determinations. See *United Church of Christ*, 707 F.2d at 1430 n. 54.

Clearly, it would not serve the public interest for the Commission to involve itself in stations' decisions about playlists and music selection merely because it thinks that consumers should want to listen more than they do to musicians from their local area, instead of musicians from around the country.<sup>166</sup> Even assuming that the Commission could, consistent with its statutory authority and constitutional precepts, connect stations' license renewals to their selection of particular playlists and the airing of local artists and music, it would be arbitrary and capricious for the Commission to do so in the absence of evidence that consumers' tastes and preferences are being disregarded by

---

<sup>165</sup> *Localism NOI*, 19 FCC Rcd at 12431. See also *License Renewal Applications of Certain District of Columbia Broadcast Stations*, 77 FCC 2d 899, 906 (1980) ("we have never held that only locally produced material can satisfy local programming obligations").

<sup>166</sup> See *Radio Deregulation Order* at 1064 ("[I]t may be offensive to the public interest to require any type of programming be offered in amounts that please the Commission rather than the public whose interest, after all, is intended to be the interest served under the public interest standard.").



local stations that refuse to respond to their audiences' demands for more local music. As the D.C. Circuit has noted in a case involving FCC regulation of broadcasters, "skepticism is appropriate when agencies are trying to accomplish something that is essential to the survival and prosperity of firms in an ordinary market – such as ensuring that a business identifies and fills available market niches [and] is responsive to its customers."<sup>167</sup> In fact, ample empirical evidence shows that radio stations provide diverse programming services that satisfy listeners in local markets, including increasing service to niche markets.

### **B. Available Evidence Demonstrates that Radio Stations Provide Diverse Programming that Serves Listeners in Local Markets**

The existing diversity of radio programming available in local markets reveals no need for the Commission to press broadcasters to carry any particular type of programming or content, including local music. Due to competitive pressures, local radio stations already respond diligently to consumer demand, which has led to a significant expansion in program diversity in recent years. Between 1996 and 2006, for example, the number of general and specific types of programming offered by stations in the average Arbitron market increased by 16% and 36.4%, respectively.<sup>168</sup> Due to such increases, the diversity of programming types now available in local markets is

---

<sup>167</sup> *Bechtel v. Federal Communications Commission*, 10 F.3d 875, 881 (D.C. Cir. 1993).

<sup>168</sup> Attachment G to NAB Comments in MB Docket No. 06-121, BIA Financial Network, *Over-the-Air Radio Service to Diverse Audiences* at 5, 7 (Oct. 23, 2006) ("*Radio Diversity Study*"). Other analysts have similarly concluded that program diversity has increased during the past decade. See, e.g., Bear Stearns Equity Research, *Format Diversity: More from Less?* (Nov. 2002); Steven Berry and Joel Waldfogel, *Do Mergers Increase Product Variety? Evidence from Radio Broadcasting*, 116 Q.J. Econ. 1009 (Aug. 2001).

truly impressive. For example, on average in the ten largest Arbitron markets, radio stations air 45.4 specific programming formats per market, which obviously serve a wide range of local audiences with differing tastes and interests. *Radio Diversity Study* at 7.<sup>169</sup>

Moreover, according to an updated report on radio service by BIA Financial Network, local stations' need to enhance their competitiveness, especially in light of the increase in alternative sources for audio programming, has led to steady expansion of service to more diverse audiences, including different demographic groups.<sup>170</sup> This trend toward greater service to local communities will only continue as more and more stations convert to digital broadcasting and offer multiple programming streams. See *Radio Service Update* at 10-13.

One of the clearest examples of expanded service to local listeners is the growth in the number of Spanish-language stations to respond to increases in the Hispanic population in many markets, including smaller ones. Over the last eight years, the number of Spanish-language radio stations has increased by nearly 56%, from 547 to 853. These stations offer a variety of programming and music, such as Mexican, Tejano, Tropical, and Ranchero, as well Spanish-language news and talk. *Radio Service Update* at 5. Today, 53.3% of the Hispanic population residing in Arbitron metro markets are in markets with ten or more Spanish-language radio stations, and

---

<sup>169</sup> Even in smaller markets with fewer numbers of over-the-air stations, listeners receive a wide range of radio programming. For instance, on average in Arbitron markets 51-100, local stations air 23.3 different types of programming. *Radio Diversity Study* at 7.

<sup>170</sup> See Attachment E, BIA Financial Network, *Over-the-Air Radio Service to Diverse Audiences – An Update* (Apr. 28, 2008) (“*Radio Service Update*”).

over 90% are in markets with at least three Spanish-language stations. *Id.* at 6.

Similarly, radio stations have increased the programming they offer to serve other diverse groups within local markets. About 72% of African Americans living in Arbitron markets are in markets with three or more stations specifically targeting those listeners (up from approximately 62% in 2000), and nearly one-quarter (22.8%) are in markets with six or more such stations (compared to only 6.6% in 2000). *Id.* at 7-8.

The radio industry has also responded to consumer demand for more news and informational programming. Since 2000, the number of news/talk local radio stations has grown by over 300, a 23.7% increase. More than 75% of the population located in Arbitron markets are in markets with at least four news/talk stations, and 60% of the population are in markets with at least six such stations. *Id.* at 9-10.

Local radio stations are also investing in new digital high definition (“HD”) radio services to enhance their programming and attract listeners. Since 2003, the number of digital radio stations has increased from only 75 to 1720. These stations have also greatly expanded their number of multicast programming streams to the point where almost half of Americans (45.6%) residing in Arbitron markets are in markets with at least ten multicast radio signals, and nearly three-quarters (71.6%) are in markets with at least three such signals. *Id.* at 11-12 (reporting 786 additional multicast streams being aired). After analyzing a number of local markets specifically, it is clear that multicasting has significantly enhanced the diversity of programming available to consumers. See Appendix 1 to *Radio Service Update* (listing dozens of programming formats being offered on multicast signals, including jazz, news, classical, Christian, bluegrass, gospel, alternative, R&B, Urban and Spanish). In the 46 Arbitron markets

with new classical multicast signals, 14 previously had no other classical stations in the market; similarly, of the 28 markets with new multicast smooth jazz signals, 21 had no other smooth jazz stations in the market; of the 18 markets with new rhythm/blues signals, 15 had no other rhythm/blues stations in the market; and of the 30 markets with new alternative signals, nine had no other alternative stations in the market.

Beyond increasing the ability of stations to offer new and niche programming in local markets, multicast capabilities also allow radio stations to offer more locally targeted programming. For example, Greater Media's FM talk station WTKK in Boston offers traditional, classic and contemporary Irish music on one of its multicast streams, while in Detroit, the Greater Media rock station WRIF focuses on local music on its multicast signal. Here in Washington, D.C., there are 23 stations broadcasting 38 HD radio channels, including multicast channels offering gospel, global unsigned bands, alternative, classic country, bluegrass, and Hispanic adult contemporary.<sup>171</sup> Clearly, the development of digital multicasting has enabled broadcasters to offer niche programming, including locally-oriented programming, much of which would not be economically viable if offered on a single main signal. As multicasting further develops, it will only further enhance stations' abilities to serve the interests of local listeners, including in smaller markets.

---

<sup>171</sup> See [http://www.ibiquity.com/hd\\_radio/hdradio\\_find\\_a\\_station](http://www.ibiquity.com/hd_radio/hdradio_find_a_station). Similarly, in Baltimore, multicast channel offerings include country, indie rock, classic rock, radio for women and alternative. In Charlotte, NC, the site of one the FCC's localism hearings, multicast streams offer, among other programming, Christian, news, classic country, new country, VIVA (Spanish variety), contemporary jazz and comedy.

Given the growth in the number of traditional radio outlets, the expansion of their programming services due to digital technology, and the development of competing audio programming distributors and the Internet, there can be little doubt that the needs of listeners for audio services are being met. Not only can consumers seek a wide and growing variety of programming from terrestrial stations located within their local markets, but listeners also routinely access radio programming originating on stations located outside their local markets.<sup>172</sup> Moreover, via the Internet, listeners anywhere can easily access programming from radio stations throughout the country and the world. In such an environment, NAB reemphasizes that it is neither necessary nor economically efficient for every radio station to be “all things to all people,” because wide varieties of music programming are available to consumers on a market basis.<sup>173</sup> As discussed above, in considering whether the public’s interest in receiving responsive programming is being met, the Commission, as it has previously correctly recognized, should focus on the programming offered across markets as a whole, not on whether every single station offers certain types or amounts of programming, such as music by local artists. See *supra* Section III.C.; *Radio Deregulation Order* at 977-79.

---

<sup>172</sup> See Attachment C to NAB Comments in MB Docket No. 06-121, BIA Financial Network, *A Second Look at Out-of-Market Listening and Viewing: It Has Even More Significance* at 5-7 (Oct. 23, 2006) (on average, nearly one-third of the listening in Arbitron markets is attributable to out-of-market radio stations).

<sup>173</sup> See *supra* Section III.C., discussing, *inter alia*, *Lutheran Church-Missouri Synod*, 141 F.3d at 355-56 (it is “understandable why the Commission would seek station to station differences,” but a “goal of making a single station all things to all people makes no sense” and “clashes with the reality of the radio market”).

In light of the increasingly diverse offerings of radio stations in local markets, it is hardly surprising that overall consumer satisfaction with, and use of, radio is high. For example, a survey by Bridge Ratings found that over “three quarters of those interviewed say that their local AM/FM stations are providing what they need in their daily and weekly radio listening.”<sup>174</sup> Another study also conducted by Bridge Ratings shows that music consumers turn to terrestrial radio most as a source to discover new music.<sup>175</sup> And another survey by Hear2.0 similarly found that “74% of all terrestrial radio listeners are satisfied with what they hear on the radio.”<sup>176</sup> Moreover, audiences of programming specifically designed to meet the demands of minority groups (e.g., Latin and Urban programming) are the most satisfied with radio, with 85% of Latin and 80% of Urban listeners reporting satisfaction. These surveys provide empirical data and factual evidence further demonstrating that local radio does serve the needs and interests of local listeners.

Radio’s reach bears out this consumer satisfaction. Just last month, Arbitron released survey findings demonstrating that more than 235 million Americans tune into radio every week, a figure that has increased steadily over the last few years. Arbitron also found consistent delivery of radio to the elusive young adult demographic that

---

<sup>174</sup> Bridge Ratings, *Bridge Ratings Industry Perceptual – Spring 2006: Traditional Radio Serves the Public Interest*, Apr. 28, 2006, available at <http://www.bridgeratings.com/press.04.28.06.Perceptual.htm>.

<sup>175</sup> See Bridge Ratings, *Bridge Ratings Industry Update – New Music Discovery*, July 21, 2006, [http://www.bridgeratings.com/press\\_07.21.06.New%20Music.htm](http://www.bridgeratings.com/press_07.21.06.New%20Music.htm).

<sup>176</sup> Hear2.0, *Nationwide Study Illustrates Terrestrial Radio’s Strengths*, June 7, 2006, available at [http://mercury.blogs.com/news/2006/h20newsradio\\_satisfaction.pdf](http://mercury.blogs.com/news/2006/h20newsradio_satisfaction.pdf).

advertisers target, reaching 84% of adults 18-34, as well as 84% of adults 25-54, and 84% of adults 18-49.<sup>177</sup> These figures are even higher for minority consumers, with 94% of “Black Non-Hispanic persons” and 95% of Hispanic persons, ages 12 and over, tuning into radio on a weekly basis. *Arbitron RADAR 96*. A 2007 analysis of the radio industry found that the industry has responded to competition from new media by reinvesting in their properties, improving content and embracing new technologies, including podcasting and Internet radio simulcasting. As a result, in 2006 and 2007, consumers showed increased loyalty to radio, as measured by the percentage of audience identifying a favorite radio station.<sup>178</sup> Certainly, these figures show that the large majority of consumers enjoy and value the programming that radio broadcasters deliver, thereby casting doubt on the need for government intervention in the programming decisions of local broadcasters. Indeed, in light of empirical evidence demonstrating radio stations’ extensive and expanding programming services to local markets, efforts to regulate stations’ programming choices would be arbitrary and capricious.<sup>179</sup>

### **C. The Commission Lacks Authority to Regulate Radio Content, Directly or Indirectly**

---

<sup>177</sup> Arbitron, *According to RADAR 96, Radio Reaches More than 235 Million Listeners per Week*, March 18, 2008, available at [http://www.arbitron.com/national\\_radio/home.htm](http://www.arbitron.com/national_radio/home.htm) (“*Arbitron RADAR 96*”).

<sup>178</sup> Bridge Ratings Analysis, *Terrestrial Radio’s Run Through the New Media Gauntlet 1998-2007* at 7 (May 16, 2007).

<sup>179</sup> A regulation “reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist.” *City of Chicago, Illinois v. Federal Power Commission*, 458 F.2d 731, 742 (D.C. Cir. 1971); *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977).

Although the Commission determined not to prohibit the use of national playlists, nor to require stations to air local artists, it nonetheless is considering whether to force radio broadcasters to document what music programming they air, and why, and use that information in deciding whether to renew a station's license. For the reasons discussed in Section III. D. above, NAB submits that the pressure inherent in such a proposal to select and air music fitting the Commission's conception of "local," or risk significant complications with license renewal, raises serious statutory and constitutional concerns.

Particularly in light of the lack of any demonstrated need for government involvement in radio licensees' programming decisions and the lack of any specifically-defined governmental interest in the promotion of local music and artists, the Commission should decline to adopt requirements raising such serious problems. As the FCC observed decades ago, it "has never imposed a general requirement that stations supply extensive textual data on the *content* of their programming, and doing so would raise significant First Amendment questions." *Radio Deregulation Order* at 1010. Indeed, the Commission only recently reiterated its historical "reluctan[ce] to become involved in making programming judgments" due to "First Amendment sensitivities."<sup>180</sup>

---

<sup>180</sup> *Report and Order and Third Further Notice of Proposed Rule Making* in MB Docket No. 07-294, FCC 07-217 at ¶ 38 (rel. March 5, 2008) (declining to require entities eligible to purchase stations under the distress sale policy "to demonstrate that their proposed service to the community would address needs unmet by existing media" because the Commission should not "sit in judgment of what 'needs' are unmet by existing media" and "whether the programming service proposed by the prospective buyer would fulfill those needs").



Consistent with long-standing precedent, the Commission should be similarly reluctant to become involved in the programming decisions of radio stations in this proceeding.

NAB further observes that it would be difficult, if not impossible, to apply these requirements rationally to many radio stations, such as news, sports, talk, religious and classical. Some of these types of stations do not have playlists at all. And what interest could the Commission have in knowing how classical music stations, for example, compile their playlists? Surely there is not a concern that Beethoven is insufficiently “local” to pass muster. Given these difficulties, would any playlist/local music regulation be applied only to stations airing certain types of music programming but not to others? The operation of such selective regulation could discourage stations from offering particular types of programming or formats so as to avoid additional intrusive regulation. Of course, the inconsistent application of content-related regulations raises additional concerns -- regulations that target stations depending on their programming content or format must be regarded as suspect.<sup>181</sup>

The potential for arbitrary enforcement of any proposal involving stations’ selection and airing of “local” music and artists is another clear problem. The term “local” is vague and ambiguous. Who, precisely, is a “local” musician? Someone who currently lives in the broadcaster’s community of license (or county or state or region)? Or would an artist originally from an area count? With respect to groups or bands with

---

<sup>181</sup> The Commission has rightly previously determined not to become involved in questions of stations’ musical programming and format changes. See, e.g., *FCC v. WNCN Listeners’ Guild*, 450 U.S. 582 (1981) (upholding FCC policy that a change in radio programming was not a material factor that should be considered in ruling on applications for license renewal or transfer).

multiple members, how many would have to be local for the ensemble to count as local (however defined)? Would the interest in promoting localism somehow be satisfied if three members of a five-member ensemble were local but not if only two? Rather than the performing group or artist being local, would music programming count if the composer instead were local? Such questions, along with many others, demonstrate that it would be challenging to give the playlist proposal sufficient precision to survive constitutional vagueness review, not to mention ordinary administrative law arbitrary and capricious review.<sup>182</sup> For all of these reasons, the Commission should refrain from intervening in the radio marketplace and has no legal or policy basis for doing so.

## **VII. Restrictions on the Use of Voice-Tracking Are Unwarranted and Should Not Be Adopted**

Voice-tracking refers to broadcasters who attempt to increase operational efficiencies by using part-time disc jockeys (“DJs”) (who may be local), or DJs from other markets, and then customizing their programs for their local markets. The *Notice* states that such practices may reduce the presence of licensees in their communities and thus impair their ability to discern the needs and interests of the station’s local audience. *Notice* at ¶ 111. The Commission seeks comment on whether this practice should be limited. *Id.*

---

<sup>182</sup> See, e.g., *Hill v. Colorado*, 530 U.S. 703, 732 (2000) (for constitutional purposes, a regulation affecting speech must “provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits,” and it must not “authorize[] or even encourage[] arbitrary and discriminatory enforcement”); *Trinity Broadcasting v. FCC*, 211 F.3d 618 (D.C. Cir. 2000) (FCC could not deny a license renewal application because the regulation allegedly violated by licensee was not sufficiently clear to warn the party about what was expected of it).

NAB submits that there is little real evidence that voice tracking diminishes localism or causes other harms such that intrusive regulation into stations' business practices is warranted. Although one commenter, AFTRA, apparently more concerned with the loss of positions at radio stations than any perceived impact of voice tracking on the listening public, asserts that voice-tracking somehow deprives listeners of "responsive local programming," it offers no evidence that voice-tracked programming segments contain any fewer references to local news or events than other segments of a broadcast day, or that listeners have strong objections to hearing DJs from other markets.<sup>183</sup> Another commenter, the National Federation of Community Broadcasters seems largely concerned that voice-tracking may lead listeners to believe they are participating in local, rather than national, contests.<sup>184</sup> However, NFCB apparently fails to understand that any radio contest that involves a local event, such as winning tickets to a music concert, will only air on a particular local radio station and be available only to local listeners of that station.<sup>185</sup> There is no significant difference to listeners if the contest happens to be discussed by a DJ who is located out-of-town.

The entirety of the rest of the record demonstrates the benefits of voice-tracking. For example, Barnstable Broadcasting explains that voice-tracking is typically used to

---

<sup>183</sup> Comments of the American Federation of Television and Radio Artists and the American Federation of Musicians, MB Docket No. 04-233 (Nov. 1, 2004) ("AFTRA Comments").

<sup>184</sup> Comments of the National Federation of Community Broadcasters, MB Docket No. 04-233 (Jan. 3, 2005) ("NFCB Comments").

<sup>185</sup> NFCB also raises the alleged impact on localism of voice-tracking, but like AFTRA, primarily because it may reduce on-air opportunities for some employees of radio stations, rather than negatively impact local listeners. See NFCB Comments at 20.

prerecord material to accommodate the schedules of on-air personalities (including local ones), which should not raise any localism concerns.<sup>186</sup> Clear Channel expressly refutes many of AFTRA's unsubstantiated claims about voice-tracking. Regarding the prevalence of voice-tracking, Clear Channel notes that it is already on record that only 9% of all its stations' dayparts are voice-tracked, rather than the 70% alleged without evidence by AFTRA.<sup>187</sup> Clear Channel also explains that most voice-tracking is completed only hours before a DJs shift, and as Barnstable notes, much of it take place within markets by local DJs. Voice-tracking is thus nothing more than a modern version of "a long-used industry tool." Clear Channel Reply Comments at 21.<sup>188</sup>

In the *Notice of Inquiry* in this proceeding, the Commission recognized that voice-tracking is an economical use of technology that allows radio stations to "decrease costs and increase ratings and thus revenue" by centralizing operations and enhancing the name recognition of on-air talent or a radio brand.<sup>189</sup> Voice-tracking can allow a local radio station to produce more attractive, interesting programming for less expense. DJs who are based out-of-town may be more available and/or less expensive than locally-based DJs, especially if a station is located in a small or mid-sized market where

---

<sup>186</sup> Reply Comments of Barnstable Broadcasting Inc., MB Docket No. 04-233 (Jan. 3, 2005).

<sup>187</sup> Reply Comments of Clear Channel, MB Docket No. 04-233 at 20 (Jan. 3, 2005) ("Clear Channel Reply Comments").

<sup>188</sup> See *also* Comments of Thomas C. Smith, MB Docket No. 04-233 (Nov. 2, 2004) (stating that voice tracking has been around in one form or another since the "early sixties").

<sup>189</sup> *Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd 12425, 12440 (2004).

radio talent is more scarce.<sup>190</sup> A voice-tracking system can help stations reap substantial savings.<sup>191</sup> Many local radio stations are trying to remain financially viable in an increasingly competitive marketplace,<sup>192</sup> and voice-tracking is nothing more than a simple way for stations to use advances in technology to control costs.<sup>193</sup>

Voice-tracking is not merely about cost-cutting either. Program directors are called upon to examine their audiences for information on how listeners typically use the station, when they are listening and for how long, and their commute times, and based on such information, endeavor to best serve the needs of their audience with superior on-air talent at the most opportune times, whether they be live and local, or perhaps voice-tracked from another market.<sup>194</sup> Stations are also aware that local programming no longer needs to be defined by where it is produced. In other words, a DJ who is based out-of-town is no less qualified to inform and entertain listeners than a locally based DJ. The value of programming is determined by how strongly it resonates with listeners, regardless of where it originates. As one media expert states, “in a world that

---

<sup>190</sup> Anna Wilde Matthews, *From a Distance: A Giant Radio Chain is Perfecting the Art of Seeming Local*, Wall St. J. (Feb. 25, 2002), at A1.

<sup>191</sup> *Id.*

<sup>192</sup> See BIA Financial Network, *State of the Radio Industry, Radio Station Transactions 2005: When Is It Going To Get Better?* at 12 (Sept. 26, 2005) (radio is facing an “increasingly diversely competitive marketplace,” in which stations are “combating non-terrestrial radio and all forms of digital media” for “listeners and resulting advertising revenues”). See also NAB Comments in MB Docket No. 06-121 at 71-87 (Oct. 23, 2006); NAB Reply Comments in MB Docket No. 06-121 at 50-59 (Jan. 16, 2007).

<sup>193</sup> John Eckberg, *Clear Channel’s Move Adds Studio Capability*, The Cincinnati Enquirer (June 2, 2004).

<sup>194</sup> Paul Heine and Katy Bachman, *Personality Crisis: Will Cost Cutting Save Radio?*, MediaWeek (Feb. 11, 2008).

is increasingly global, to whom does it matter that it's live and local, so long as we're satisfying the entertainment and information needs of the listener and providing something that's unique to that signal?"

Voice-tracking is entirely consistent with localism so long as a station endeavors to tailor its programming to suit the station's local community. Local radio stations that leverage voice-tracking, as well as the out-of-town DJs, both take steps to ensure that the content is presented in a community-responsive way. The DJs identify and reference local events, news and public affairs, conduct telephone and other interactive contests with local listeners, and promote local musicians. No evidence suggests that the on-air programming produced by voice-tracked, out-of-town DJs is inferior in quality, or is less interesting to or valued by consumers, than that produced by locally-based personalities.

As Clear Channel explains, if voice-tracking were merely a cost-savings tool that is "built on deception," listeners would "quickly tune out," in favor of the many alternatives available, including other radio stations and the Internet. Clear Channel Reply Comments at 21, quoting AFTRA Comments at 15. There is simply nothing inherent in voice-tracked programming that makes it less likely to serve the needs and interests of radio listeners, and the Commission has not shown that such programming actually fails to serve consumers in local radio markets.

The Commission must also keep in mind that stations using voice-tracking for certain portions of their programming schedule typically air other local programming, including local news and informational programs, during other day parts. For instance, Clear Channel explains that "most voice-tracked shifts are in off-peak hours (nights,

overnights, weekends) . . . . “ Clear Channel Reply Comments at 21. Moreover, it is important to note that voice-tracking is performed at the discretion of the local decision-maker, such as the program director or general manager of a station. *Id.* NAB submits that radio station owners and their local management personnel are in the best position to make decisions about their business operations and how to utilize cost-saving technologies to enhance their overall service.

Thus, the use of voice tracking cannot, as the Commission suggests, somehow hinder the ability of stations “to assess the needs and interests of their local communities.” *Notice* at ¶ 111. Moreover, the financial efficiencies of voice-tracking can help ensure that stations are able to afford to produce and air local news, local sporting events, and other community-responsive content, including more expensive and resource-intensive programming. If voice-tracking was artificially restricted or eliminated by the Commission, the ability of many stations, especially smaller stations and those in small and mid-sized markets, to produce and air other non-voiced tracked locally-oriented programming could well be compromised. Rather than disparage voice-tracking as somehow being inimical to localism, the Commission should continue to permit local stations to leverage technology in a creative manner to become more efficient, and encourage them to pass on those savings to listeners in the form of enhanced local service.

## **VIII. Conclusion**

For all the reasons set forth above, NAB respectfully disagrees with the statements in the *Localism Report* suggesting that a number of radio and television broadcasters are out of touch with their communities and are failing to provide sufficient

community-responsive programming. A closer examination of the record in this and in other proceedings in fact shows that local stations recognize and embrace their obligation to serve the public interest. Local broadcasters offer a wealth of national and local news and other informational programming, vital emergency information and entertainment to the American public free of charge, and provide additional, unique community service, including giving a voice to local organizations and entities and raising monies for charities, local groups and causes and needy individuals.

Broadcasters participate in their local communities – they understand the needs of their audiences and work every day to provide programming to address those needs.

Indeed, broadcasters must do so to retain audiences (and thus advertisers) and remain relevant and economically viable in today's highly competitive media marketplace. The record contains no evidence that responsive programming and other services are not widely available to viewers and listeners on a market basis.

In light of the record, the Commission has no factual or legal basis to turn back the clock to reinstate a myriad of regulations that the agency found ineffective and unnecessary in the less competitive media marketplace of the 1980s. While we agree that promotion of broadcasters' service to their local communities is a laudable goal, the re-imposition of burdensome and outdated restrictions is not the proper approach. In fact, as we explained above, a number of the proposals in the *Notice* would impair broadcasters' abilities to serve their local communities by imposing very significant costs and diverting resources away from programming and services that directly serve their local markets. Small broadcasters and station groups and those in more rural



areas would be particularly adversely impacted in their ability to serve their local audiences by the costs and burdens of new and unnecessary regulation.

Moreover, the legal basis for several of the Commission's proposals appears questionable at best. The courts have directly questioned the agency's statutory authority to adopt regulations affecting program content without express congressional directive, and any such regulations of the content aired on broadcast stations raises significant Constitutional concerns. These concerns are only heightened by the Commission's various proposals which would apply to all radio and television stations across the nation, regardless of the level of service being provided by any individual station and regardless of the level of service available to consumers in their local markets. Especially in light of broadcasters' and other outlets' increasing service to local markets made possible by technological developments, the return to a regulatory regime from the analog era cannot be sustained on factual, policy or legal grounds.

Respectfully submitted,

NATIONAL ASSOCIATION OF  
BROADCASTERS  
1771 N Street, NW  
Washington, DC 20036  
(202) 429-5430



---

Marsha J. MacBride  
Jane E. Mago  
Jerianne Timmerman

Larry A. Walke  
Erin L. Dozier  
Scott A. Goodwin

April 28, 2008

# **Attachment A**

# **Busting the Broadcast “Postcard” License Renewal Application Urban Legend**

Joseph M. Di Scipio, Esq.  
Frank R. Jazzo, Esq.  
Fletcher, Heald & Hildreth, P.L.C.

Critics of the Federal Communications Commission's (FCC) broadcast license renewal application often refer to the application as a "postcard." So much so, it is now commonly held urban legend that the application is a mere postcard. Even FCC Commissioner Copps complains that, "Instead of having stations 'send in a postcard every eight years,' the FCC should require that stations renew their license every three years."<sup>1</sup>

To borrow from the popular program *Mythbusters*, this paper will review in detail the current application process and will *bust* the urban legend of a postcard renewal and the parallel legend of a rubber-stamp renewal grant. The fact is that the renewal application itself is substantial (38 pages of instructions and form, not including the additional forms that the FCC requires to be filed as part of the renewal process). We will also come to learn that far from being a rubber-stamp, the FCC review process is rigorous and thorough, taking on average six months to review the applications the agency has granted (longer for television stations) and resulting in the issuance of hundreds of forfeitures and admonishments. In fact, during the past renewal cycle, 8.1% of all renewal applications either were not granted, have yet to be granted, or were granted with a forfeiture or admonishment. And even according to the government's own conservative estimates, the total annual cost on applicants for the license renewal process is over 7.3 million dollars.

---

<sup>1</sup> Kathy Haley, *FCC to Aid Women's, Minority Access to Capital*, TV NEWSDAY, Mar. 14, 2008. This is not the first time that Commissioner Copps has given credence to the postcard renewal urban legend. In an Op-Ed piece in the *New York Times* on June 2, 2007, Commissioner Copps wrote, "Now we have what big broadcasters lovingly call 'postcard renewal' – the agency typically rubber-stamps an application without any substantive review." Michael J. Copps, *The Price of Free Airwaves*, N.Y. TIMES, June 2, 2007. We can find no evidence that any broadcaster lovingly referred to the renewal application process as a postcard.

## Evolution of the License Renewal Application

As with most urban legends, the postcard renewal legend began with some grain of truth. In this case, there was a time when the renewal application was, in fact, a postcard. Attached as Exhibit A is a renewal application from 1987—a half-page form and a half-page of instructions. The postcard renewal form was initially known as the simplified renewal application, or “SRA,” first adopted in 1981.<sup>2</sup> This form was used through 1994. In 1994, the FCC adopted changes to the broadcast license renewal processes to conform the renewal dates for FM and television (TV) translators and low power television stations (LPTV) to the renewal cycle for full-power television and FM stations, and to permit the combination of FM and TV translator and/or LPTV station renewals with the primary station renewal.<sup>3</sup> A Public Notice was issued on March 23, 1995, announcing the publication of the revised FCC Form 303-S and Radio Broadcast Renewal Booklet.<sup>4</sup> The booklet was to be mailed to licensees seven months prior to their license expiration and contained: (1) the new Form 303-S Renewal Application; (2) Form 396 Broadcast EEO Program Report; (3) Form 323/323-E Ownership Reports; (4) Form 5072 Mailing Address Change; (5) Form 159 Remittance Advice; instructions; and appendices (including date charts, local public notice and RF/environmental compliance worksheets). So the postcard renewal went from an actual postcard to a “booklet” that

---

<sup>2</sup> *Revision of Applications for Renewals of License of Commercial and Non-Commercial AM, FM and Television Licensees*, 49 RR 2d 740 (1981), *aff'd. sub nom.*, *Black Citizens for a Fair Media*, 719 F.2d 407 (D.C. Cir. 1983), *cert. denied*, 467 U.S. 1255 (1984).

<sup>3</sup> *Modifying Renewal Dates for Certain Stations Licensed Under Part 74 of the Commission's Rules; and Revising FCC Form 303-S, Application for Renewal of License for Commercial and Noncommercial AM, FM, or TV Broadcast Stations, TV and FM Translator Stations, and Low Power TV Stations*, 9 FCC Rcd 6504 (1994).

<sup>4</sup> Public Notice, *Radio Broadcast License Renewal Booklet and New FCC Form 303-S Available; New FCC Form 303-S to be Used by All Radio and TV Applicants* (rel. Mar. 23, 1995).

contained several forms and renewal instructions. More on this later. In October 1997, an amended 303-S became available that integrated the children's television programming reporting requirements effective as of September 1, 1997.<sup>5</sup> The model for the current form was adopted in 2003 to reflect mandatory electronic filing. The current form has been revised from time-to-time to reflect various changes in the FCC's rules and policies since 2003.

### **The Anatomy of the Renewal Application**

#### *Radio Renewals*

As mentioned above, the renewal application form itself, FCC Form 303-S is a 38-page document, consisting of 29 pages of instructions and a 9 page application form. Attached as Exhibit B is the current license renewal form. Let's walk through the form, question by question, to better understand the detail-oriented and substantive nature of the form. Section I of the form (Questions 1-7) requests identifying information — licensee name, address, phone, email, FCC Registration Number (FRN), Call Sign of the station and Facility Identifier; Contact Representative information (usually the FCC attorney for the station); fee information; purpose of the application; whether the station is commercial or non-commercial; service (AM, FM, TV, etc.) and community of license of the station.

Section II of the form (Questions 1-6) requires yes/no legal certifications which require the licensee to certify that:

1. It answered each question in the application based on the instructions and worksheets and that "yes" answers to the certifications represent the rules, and criteria set forth in the application, instructions and worksheets;

---

<sup>5</sup> See *Policies and Rules Concerning Children's Television Programming, Revision of Programming Policies*, 11 FCC Rcd 10660 (1996).

2. Neither the licensee nor any party to the application has had any interest in any broadcast application or proceeding involving character issues;
3. There are no adverse findings or final action regarding any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination;
4. There were no violations of the Communications Act in the term for which renewal is requested;
5. It and any party to the application are in compliance with the Communications Act relating to foreign ownership;
6. Neither the licensee nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act.

Any “no” answers require that the licensee file an exhibit providing a complete description of the circumstances as to why the licensee could not answer “yes”.

Section III of the form (Questions 1-6) applies to AM and FM Licensees only.

Again these are yes/no certifications. Here, two additional forms come into play — the Biennial Ownership Report (FCC Form 323), attached as Exhibit C, and the Broadcast EEO Program Report (FCC Form 396), attached as Exhibit D. *Far from being a postcard, the renewal application for radio stations encompasses two other forms that must be filed along with the renewal application.* The ownership report consists of 5 pages of instructions and a 5-page form. The actual report, depending on the structure of the licensee (not the number of stations it owns), can run several hundred pages long.<sup>6</sup> In addition, this form must be filed every other year. The Broadcast EEO Program Report is a 3-page form which requires several pages of exhibits to properly complete the report.

---

<sup>6</sup> The licensee of the station must file an ownership report and if the licensee is controlled by another entity or if another entity has an attributable interest in the licensee, a separate ownership report is required for each such entity on up the ownership chain. Licensees often have complex ownership structures with several attributable ownership entities. It is not uncommon for a single licensee to have to file ten or more ownership reports, each with several pages of exhibits.



Let's total the pages of the forms to the renewal application package so far: 34 pages of instructions and 17 pages of applications/reports. Our urban legend is on shaky ground.

Back to the renewal application — here are the certifications required in Section III of the Form:

1. The Biennial Ownership Report (FCC 323 or FCC 323-E) was filed;
2. The Broadcast EEO Program Report (FCC 396) was filed;
3. That all the documentation required by the FCC's rules has been timely placed in the station's public inspection file. In order to certify "yes," the licensee must have continually placed various documents in the public file over the license term. This includes the requirement that the licensee compile and complete a list quarterly of the programs it aired that were responsive to the needs of the community it serves;
4. The licensee has not been silent for any consecutive 12-month period;
5. The station is currently on the air;
6. The station complies with maximum permissible radiofrequency electromagnetic exposure limits. This certification may require a separate exhibit. The exhibit is so complex that it takes up 15 pages of instructions and worksheets and usually requires a consulting engineer to complete.

We now know that radio applicants filing a renewal application must complete three separate forms, file numerous exhibits, and have complied with and completed ongoing requirements throughout the license term. The renewal application is starting to look much more like a book.

### *TV Renewals*

We have seen that the radio station renewal package uses a significantly detailed renewal application form and requires the completion and filing of at least two other forms. As we will discover below, the TV renewal process also adds an extra layer of complexity due to additional regulatory burdens.

Again, let's walk through the renewal application form.

Section I of the form (Questions 1-7) requests identifying information — licensee name, address, phone, email, FCC Registration Number (FRN), Call Sign of the station and Facility Identifier; Contact Representative information (usually the FCC attorney for the station); fee information; purpose of the application; whether the station is commercial or non-commercial; service (AM, FM, TV, etc.) and community of license of the station.

Section II of the form (Questions 1-6) requires yes/no legal certifications which require the licensee to certify that:

1. It answered each question in the application based on the instructions and worksheets and that “yes” answers to the certifications represent the rules and criteria set forth in the application, instructions and worksheets;
2. Neither the licensee nor any party to the application has had any interest in any broadcast application or proceeding involving character issues;
3. There are no adverse findings or final action regarding any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination;
4. There were no violations of the Communications Act in the term for which renewal is requested;
5. It and any party to the application are in compliance with the Communications Act relating to foreign ownership;
6. Neither the licensee nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act.

Any “no” answers require that the licensee file an exhibit providing a complete description of the circumstances as to why the licensee could not answer “yes”.

The next Section, Section IV of the form, applies only to TV licensees (Section III applied only to radio station applicants). Here, *three* additional forms come into play —

the Biennial Ownership Report (FCC Form 323), attached as Exhibit C; the Broadcast EEO Program Report (FCC Form 396), attached as Exhibit D; and the Children's Television Programming Report (FCC Form 398), attached as Exhibit E. The Ownership Report is a document consisting of 5 pages of instructions and a 5-page form. The actual form, depending on the structure of the licensee (not the number of stations it owns) can run several hundred pages long.<sup>7</sup> In addition, this form must be filed every other year. The Broadcast EEO Program Report is a 3-page form which requires several pages of exhibits to properly complete the form. The FCC Form 323 (or FCC 323-E for noncommercial educational stations) and FCC Form 396 are the same forms filed by radio stations. The Children's Television Programming Report (FCC Form 398) consists of 4 pages of instructions and 7 pages of form. As with the Ownership Report (FCC Form 323), the actual completed form runs several more pages than the form, as each licensee is required to complete Question 4 and Question 10 for each children's program it runs. To put this in perspective, if a licensee broadcasts the minimum guideline<sup>8</sup> of three hours of children's educational and informational programming per week (usually consisting of 6 half-hour programs), that licensee must complete Question 4 and Question 10 at least 6 separate times. If the TV licensee runs a second broadcast channel on its digital

---

<sup>7</sup> See Footnote 6, above.

<sup>8</sup> Each TV station is required to serve the educational and informational needs of children through its overall programming and programming specifically designed to serve those needs. The FCC has a recommended compliance guideline of an average of three hours of CORE Programming per week. CORE Programming is educational and informational programming that is specifically designed to serve the educational and informational needs of children and that also meet the following criteria: (i) the program has serving the educational and informational needs of children ages 16 and under as a significant purpose; (ii) the program is aired between 7:00 a.m.-10:00 p.m.; (iii) the program is a regularly scheduled weekly program; (iv) the program is at least 30 minutes in length; (v) the program is identified as specially designed to educate and inform children by the display on the screen of the E/I symbol; (vi) the educational and informational objective of the program and the target child audience are specified in writing in the FCC Form 398; and (vii) instructions for listing the program as educational/informational including the target age group are provided to the publishers of program guides.

spectrum, it must complete Question 10 again, and it must do so for each additional digital channel it broadcasts. Moreover, this form is not just filed once — it must be completed quarterly (four times per year), for a total of 32 times over the license term.

As with the radio renewal process, the total number of pages of the forms in the renewal application package so far equals 34 pages of instructions and 17 pages of applications/reports. And, for TV stations the renewal filing has gotten much more complex and time-consuming with the addition of the quarterly Children’s Television Programming Report, which brings the page totals up to 38 pages of instructions and 24 pages of applications/reports. Let’s go through the certifications required specifically of TV applicants in Section IV of the renewal application form. The licensee must certify as follows:

1. The Biennial Ownership Form was filed;
2. The Broadcast EEO Program Report was filed;
3. That all the documentation required by the FCC’s rules has been timely placed in the public inspection file. In order to certify “yes,” the licensee must have continually placed various documents in the public file over license term. This includes the requirement that the licensee compile and complete a list quarterly of the programs it aired that were responsive to the needs of the community it serves. This list is in the process of being replaced by the new 12 page “Standardized Television Disclosure Form” (FCC 355), which includes 4 pages of instructions and 8 pages of report. *See FCC 07-205, released January 24, 2008;*
4. Here, the licensee must certify that it received no written comments or “suggestions” from the public that characterize the station’s programming as violent. The FCC’s rules limits this to the most recent-three year period prior to filing the renewal application. If such comments were received, the licensee must attach an exhibit summarizing these written comments and suggestions from the public;
5. For the preceding eight years, the licensee complied with the limits on the amount of commercial matter in Children’s programs. Each quarter, the licensee must prepare a certification that it met the commercial limits (or if

it did not, the amount of overages) and place that in the public file. The licensee must report any commercial overage in the term for which the renewal application is filed;

6. Here is where the Children's Television Programming Reports come into play. The licensee certifies that it has filed with the FCC (and incorporates by reference) each of the 32 FCC Form 398s it has filed over the term of its license at the time its license renewal application is submitted. The licensee must report here if even one of the quarterly reports was not filed during the license term;
7. Continuing with the Children's theme — the licensee must certify compliance that it broadcast at least 3 hours per week of educational and informational programming aimed at children (averaged over a six-month period). Again, any period in which this requirement was not met requires an exhibit explaining why or how the station met the children's programming requirement if it fell short of the three-hour average;
8. This certification requires the licensee to certify that, prior to each children's program meeting the CORE requirements (CORE programming is programming aimed at children under the age of 16, broadcast between 7:00 a.m. and 10:00 p.m. that is regularly scheduled, at least 30 minutes in length, and is specifically designed to educate and inform children), it identified the programming as CORE at the beginning of the program when broadcast. If the licensee cannot make this certification, an exhibit is required;
9. In addition to identifying CORE programming on air, the licensee must also provide publishers of program guides with information regarding each CORE program it airs along with the target child audience. Again, if the licensee cannot make this certification, it must provide an explanatory exhibit;
10. The licensee must also publicize the existence and location of the station's FCC Form 398 — meaning, the station must tell the public that the FCC Form 398 is available for review in its public file and give the location of the public file. If the licensee did not make this publication at any time during the preceding term, it must file an explanatory exhibit;
11. Here the licensee may include any other comments or information it would like the FCC to consider in evaluating the licensee's compliance with the Children's Television Act. This usually includes non-CORE programming broadcast by the licensee or other non-broadcast efforts made by the licensee throughout the term;

12. Certification 12 is for Class A TV stations and is not applicable to full-power TV stations. The Class A certification is beyond the scope of this white paper;
13. The licensee has not been silent for any consecutive 12-month period;
14. The station is currently on the air;
15. The station complies with maximum permissible radiofrequency electromagnetic exposure limits. This certification requires a separate exhibit completed by a consulting engineer.
16. Finally, the last certification on the TV renewal application for full power TV applicants, the licensee must state whether it has been granted a failing or marginal station waiver. If the licensee has received a failing/marginal station waiver it must submit an exhibit showing the program related benefits that have accrued to the public as a result of the waiver.

Wow. 18 total questions (19 if our applicant also happens to be or have a Class A station — if the licensee also has an FM translator, TV translator or Low Power TV station, it must complete the four additional certifications in Section V of the form).

Three forms must be filed in addition to the renewal application. Countless hours will be spent reviewing and preparing the forms that are included in the application and in complying with on-going requirements throughout the license term.<sup>9</sup>

### **MYTHBUSTED!!!!**

We now know that the renewal application form is far from a postcard. That said, how long does it take to actually complete the form? While they are undoubtedly highly conservative, the government's own estimates, as made by the Office of Management and

---

<sup>9</sup> A special note regarding the public inspection file certification for both radio and television stations. As discussed on page 8, in order to affirmatively make the public file compliance certification, the licensee, each quarter throughout the license term, must have placed in its public file the list of issues that are important to the community the station serves and the programming that was responsive to those issues. This is more than just a list – it is one of the ways the licensee declares the *programming* it aired that was responsive to the needs of the local community. In other words, the issues/programs list is a written, public recitation of the daily and special programming a particular station broadcasts that serves the needs of the residents of the station's community of license.

Budget (OMB), state that it will take 1.64 hours to fill-out the renewal application (this does not take into account the time to gather the necessary information or comply with on-going requirements).<sup>10</sup> Recall from our review of the many certifications required the hours of preparation time that licensees must expend in order to make these certifications. The estimates for the ownership report form are 1.375 hours to fill-out the ownership report form.<sup>11</sup> That is per form. Keep in mind that many licensees must complete more than one ownership report form depending on its ownership structure. The Broadcast EEO Program Report is estimated to take 1.14 hours to fill-out.<sup>12</sup> The Children's Television Programming Report is estimated to take 12 hours per year to fill-out.<sup>13</sup> In total then, for all the forms required as part of a station's renewal application, it takes over 16 hours (according to government estimates) to just fill-out the applications. And what is the total annual cost as estimated by the government? \$7,302,951 — yep, that is right, over Seven Million Dollars per year spent by applicants on license renewals. That is some postcard!

### **The FCC Processing of License Renewal Applications**

As we have found out in detail above, the renewal application package is voluminous, detailed and substantive. So, it is now time to see if we can bust the parallel renewal myth of the FCC rubber-stamping renewal applications. The best way to do that is to look at the FCC's own data on renewal application processing culled from the

---

<sup>10</sup> Information Collection Review Data, Reference No. 200611-3060-019, available at <http://www.RegInfo.gov>.

<sup>11</sup> Information Collection Review Data, Reference No. 200601-3060-001, available at <http://www.RegInfo.gov>.

<sup>12</sup> Information Collection Review Data, Reference No. 200610-3060-013, available at <http://www.RegInfo.gov>.

<sup>13</sup> Information Collection Review Data, Reference No. 200704-3060-001, available at <http://www.RegInfo.gov>. Over the course of the license term, 96 hours are spent filling-out the Children's Television Report.

FCC's Consolidated Data Base System (CDBS). Attached hereto is Exhibit F, which is a chart reflecting the total number of AM, FM and TV renewal applications filed and the status of those applications. Let's take a close look at the data and see what we discover, first an overall look and then a breakdown by service.

Overall

According to CDBS, for the last license renewal period, there were 15,348 renewal applications filed. Of those, after 4 years in which renewal applications were filed, 746 remain pending. This means 4.86 % of renewal applications filed remain pending, even though the final renewal applications were due over a year ago.

Perhaps we should take a step back and review the renewal application process. Applications are filed on a staggered basis over three years for both radio and TV stations by state. Radio applications started in 2003 and ended in 2006. TV applications started in 2004 and ended in 2007. Applications are filed four months in advance of when the current license is set to expire.<sup>14</sup> This is to give the staff the time to thoroughly review the renewal application and to give the public ample time to comment on the licensee's performance during the preceding license term. 120 days to review an application is hardly a rubber-stamp process. A closer look at the data reveals that applications remain pending far longer than 120 days.

In fact, the average renewal application was pending for 220 days prior to grant. This means, on average, the FCC reviewed each renewal application an additional 100 days, or more than three additional months prior to acting on the application. So the total

---

<sup>14</sup> Stations (except in specific circumstances) are also required to broadcast announcements that they are going to file renewal applications. These announcements must begin two months prior to the filing of the application and continue for three months after the renewal application was filed, inviting the public to comment on the licensee's performance during the preceding license term.



review process took *over seven months*. Not only did the FCC take a significant amount of time reviewing renewal applications, it issued 410<sup>15</sup> forfeitures or admonishments, representing 2.7% of all applications. Let's add this 2.7% to the 5.4% of all applications filed that were either dismissed, resulted in cancelled licenses, were returned, had the grants rescinded, or remain pending (5.4% of applications by itself is a noteworthy percentage of applications). The considerable result is that of all applications filed, 8.1% of stations were either issued forfeitures, admonished, dismissed or their applications remain pending. That is worth repeating — 8.1% of all renewal applications either were not granted, have yet to be granted, or were granted with a forfeiture or admonishment.

Now, let's take a service by service look at the applications to see how they were processed.

### AM

There were 4,809 total AM renewal applications filed. 134 of those applications have not been or were not granted (2.8%) and it took an average of 180 days to process the granted renewal applications. So, on average, AM applications remained pending for 2 months longer than the normal 4 month processing window.

### FM

There were 8,785 total FM renewal applications filed. 197 of those applications have not been or were not granted (2.2%). It took, on average, 177 days to process the granted renewal application. So, instead of four months, it took 3 days short of six months to process the granted FM renewal applications.

### TV

---

<sup>15</sup> Results from *Lexis-Nexis* research reporting fines or admonishments for all full power renewal applications.

There were 1,754 TV renewal applications filed. Of those, more than one-quarter, 495 or 28% to be exact, remain pending. Of those that have been granted,<sup>16</sup> it has taken an average of 302 days of processing time before the applications were granted. There can be no question that a 10-month processing period is not a “rubber stamp” renewal.

### **MYTHSBUSTED!!!!**

We have found that there is no truth to the urban legend that the license renewal application is a postcard. Instead we have discovered that the license renewal application by itself is 38 pages of forms and instructions. In addition, each renewal application must also include up to three additional forms filed along with the renewal application. Perhaps renewal application binder is more appropriate.

We also discovered that not only is the postcard renewal urban legend, so is the legend of the rubber-stamp processing by the FCC. The FCC has taken, on average, six months to review the applications it has granted (10 months for TV stations). And 8.1% of all applications (28% of TV applications) have yet to be granted or were granted with a forfeiture or admonishment for non-compliance.

The license renewal application is a rigorous and substantive compilation. It is also a very expensive compilation. The review process is equally substantive. Consequently, the application properly and seriously reviews the performance of applicants during the preceding license term.

---

<sup>16</sup> Two TV renewal applications had their grants rescinded.

## **Exhibit A**

FCC 303-S  
October 1987

United States of America  
Federal Communications Commission  
Washington, D.C. 20554

Approved by OMB  
3060-0110  
Expires 8/31/90

APPLICATION FOR RENEWAL OF LICENSE FOR COMMERCIAL AND NONCOMMERCIAL AM, FM OR TV BROADCAST STATION

1. Name of Applicant		Mailing Address	
Call Letters	City	State	ZIP Code

2. Have the following reports been filed with the Commission:

(a) The Annual Employment Reports (FCC Form 395) as required by Section 73.3612 of the Commission's rules? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, attach as Exhibit No. _____ an explanation.	(b) The applicant's Ownership Report (FCC Form 323 or 323-E) as required by Section 73.3615 of the Commission's rules? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, give the following information: Date last ownership report was filed. <u>12/30/81</u> Call letters of the renewal application with which it was filed. _____
---	---

3. Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?  
 Yes  No  
If No, attach as Exhibit No. \_\_\_\_\_ an explanation.

4. Since the filing of the applicant's last renewal application for this station or other major application, has an adverse finding been made, a consent decree been entered or final action been approved by any court or administrative body with respect to the applicant or parties to the application concerning any civil or criminal suit, action or proceeding brought under the provisions of any federal, state, territorial or local law relating to the following: any felony; lotteries; unlawful restraints or monopolies; unlawful combinations; contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices; or discrimination?  
 Yes  No If Yes, attach as Exhibit No. \_\_\_\_\_ a full description, including identification of the court or administrative body, proceeding by file number, the person and matters involved, and the disposition of litigation.

5. Has the applicant placed in its public inspection file at the appropriate times the documentation required by Section 73.3526 or 73.3527 of the Commission's rules?  
 Yes  No If No, attach as Exhibit No. \_\_\_\_\_ a complete statement of explanation.

THE APPLICANT hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

THE APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATION

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ Name of Applicant \_\_\_\_\_

WILLFUL FALSE STATEMENTS MADE ON THIS FORM  
ARE PUNISHABLE BY FINE AND IMPRISONMENT,  
U.S. CODE, TITLE 18, SECTION 1001

By Signature \_\_\_\_\_

Title \_\_\_\_\_

### Question-by-Question Guidelines (FCC Form 303-S)

1. The name of the applicant should be stated exactly as it appears on the station's existing license. The current street address or post office box used by the applicant for receipt of Commission correspondence should be set forth.

2. Every station with five or more full-time employees must file an employment report on or before May 31 of each year. That report is to be available locally for public inspection.

A current and complete ownership report should be submitted with the licensee's renewal application and the question answered affirmatively. However, if the ownership report submitted with a station's last renewal application is "up-to-date" and has not been amended, a new report need not be filed with the current renewal application. The applicant should answer the question negatively and should supply the call letters of the station and the filing date of the renewal application with which the ownership report was submitted. An "up-to-date" ownership report is one that is current for each question on that report.

3. Aliens, foreign governments and corporations, and corporations of which any officer or director is an alien or of which less than 80% of the capital stock is owned or voted by U.S. citizens, are prohibited from holding a broadcast station license. Where a corporate licensee is directly or indirectly controlled by another corporation, of which any officer or more than 25% of the directors are aliens or of which less than 75% of that corporation's stock is owned or voted by U.S. citizens, the Commission must consider whether denial of renewal would serve the public interest. Licensees are expected to employ reasonable, good faith methods to ensure the accuracy and completeness of their citizenship representations.

4. This question is limited to adverse actions and judgments adjudicated or entered into within the preceding license term. Reportable activities consist of judgments or decrees, including settlement, consent, and like agreements, where the misconduct occurred either in the operation of the station for which renewal is requested or in the conduct of the other broadcast and non-broadcast activities of the renewal applicant and parties to that application, such as all partners and all corporate officers, directors, and stockholders with a 10% or more ownership interest in the applicant.

5. A licensee must maintain certain documents pertaining to its station in a file which should be kept at the station's main studio or other accessible place in the community of license. The file must be available for inspection by anyone during regular business hours. The documents to be maintained include applications for a construction permit and for license renewal, assignment or transfer of control; ownership and employment reports; and annual lists of local problems and responsive programming broadcast in the preceding twelve months. A complete listing of the required documents and their mandatory retention periods is set forth in Rules 73.3526 and 73.3527.

#### FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain authority.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

## **Exhibit B**

**INSTRUCTIONS FOR FCC 303-S  
APPLICATION FOR RENEWAL OF BROADCAST STATION LICENSE**

**(FCC FORM 303-S ATTACHED)**

- A. This form is used to apply for renewal of license of a commercial or noncommercial educational AM, FM, TV, Class A TV, FM translator, TV translator, Low Power TV or Low Power FM broadcast station. It is also to be used in seeking the joint renewal of licenses for an FM or TV translator station and its co-owned primary FM, TV or LPTV station.
- B. FCC Form 303-S consists of Sections I, II, III, IV and V. Those sections which do not apply to the station license being renewed should not be submitted as part of your application. Submit relevant sections only.

**All** applicants must complete and submit Sections I and II of this form. AM and FM radio applicants must also submit Section III. TV and Class A TV applicants must submit Section IV. FM Translator, TV Translator and Low Power FM applicants must also complete Section V.

Applicants seeking to renew the licenses of both a translator (FM or TV) and a co-owned primary FM, TV or LPTV station on the same form should complete and submit Sections I, II, III, and IV of this form.

- C. References to FCC Rules are made in this application form. Before filling it out, applicant should have on hand and be familiar with the current broadcast, translator, LPTV and LPFM rules, which are contained in 47 Code of Federal Regulations (C.F.R.):
- (1) Part 0 "Commission Organization"
  - (2) Part 1 "Practice and Procedure"
  - (3) Part 17 "Construction, Marking, and Lighting of Antenna Structures"
  - (4) Part 73 "Radio Broadcast Services"
  - (5) Part 74 "Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services"

FCC Rules may be purchased from the Government Printing Office. Current prices may be obtained from the GPO Customer Service Desk at (202) 512-1803. For payment by credit card, call (202) 518-1800 or 1-866-518-1800, M-F, 8 a.m. to 4 p.m. EST; facsimile orders may be placed by dialing (202) 518-2233, 24 hours a day. Payment by check may be made to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954.

- D. Electronic Filing of Application Forms. The Commission is currently developing electronic versions of various broadcast station application and reporting forms, such as this application form. As each application form and report goes online, the Commission will, by Public Notice, announce its availability and the procedures to be followed for accessing and filing the application form or report electronically via the Internet. For a six-month period following issuance of this Public Notice, the subject application form or report can be filed with the Commission either electronically or in a paper format. Electronic filing will become mandatory, on a form-by-form basis, six months after each application form or report becomes available for filing electronically.
- E. Applicants should provide all information requested by this application. If any portions of the application are not applicable, the applicant should so state. **Defective or incomplete applications will be returned**

**without consideration.** Inadvertently accepted applications are also subject to dismissal. See 47 C.F.R. Section 73.3564(b).

- F. In accordance with 47 C.F.R. Section 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.
- G. This application requires applicants to certify compliance with many statutory and regulatory requirements. Detailed instructions and worksheets provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria that the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be substitutes for familiarity with the Communications Act and the Commission's regulations, policies, and precedent. While applicants are required to review all application instructions and worksheets, they are not required to complete or retain any documentation created or collected to complete the application. See Section II, Item 1.
- H. This application is presented primarily in a "Yes/No" certification format. However, it contains places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. Thus a "No" response to any of the certification Items **will not** cause the immediate dismissal of the application provided that an appropriate exhibit is submitted.
- I. Except as specifically noted to the contrary in Form 303-S or these instructions, each certification covers the entire license term. However, if the station license was assigned or transferred during the subject license pursuant to a "long-form" application on FCC Form 314 or 315, the renewal applicant's certifications should cover only the period during which the renewal applicant held the station's license.
- J. Except as specifically indicated in Section II, Item 6, below, as used in this application form, the term "party to the application" includes any individual or entity whose ownership or positional interest in the applicant is attributable. An attributable interest is an ownership interest in or relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or licensee sufficient to implicate the Commission's multiple ownership rules. Applicants should review the Commission's multiple ownership attribution policies and standards which are set forth in the Notes to 47 C.F.R. Section 73.3555, as revised and explained in Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests, FCC 99-207, released August 6, 1999, on reconsideration, FCC 00-438, released January 19, 2001. See also, Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984), reconsideration granted in part, 58 RR 2d 604 (1985), further modified on reconsideration, 61 RR 2d 739 (1986).

**Equity/Debt Plus Attribution Standard.** Certain interests held by substantial investors in, or creditors of, the applicant may also be attributable and the investor reportable as a party to the application, if the interest falls within the Commission's equity/debt plus (**EDP**) attribution standard. Under the **EDP** standard, the interest held, aggregating both equity and debt, must exceed 33% of the total asset value (all equity plus all debt) of the applicant, a broadcast station licensee, cable television system, daily newspaper or other media outlet subject to the Commission's broadcast multiple ownership rules **AND** the interest holder must either also hold an attributable interest in a media outlet in the same market or supply over 15% of the total weekly broadcast programming hours of the station in which the interest is held. For example, the equity interest of an insulated limited partner in a limited partnership applicant would normally not be considered attributable.



However, under the **EDP** standard, that interest would be attributable if the limited partner's interest exceeded 33% of the applicant's total asset value **AND** the limited partner also held a 5% voting interest in a radio or television station licensee in the same market.

Additionally, "parties to the application" includes the following with respect to each of the listed applicant entities:

**INDIVIDUAL APPLICANT:** The natural person seeking to hold in his or her own right the authorization specified in this application.

**PARTNERSHIP APPLICANT:** Each partner, including all limited partners. However, a limited partner in a limited partnership is **not** considered a party to the application **IF** the limited partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership. Sufficient insulation of a limited partner for purposes of this certification would be assured if the limited partnership arrangement:

- (1) specifies that any exempt limited partner (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership if his or her functions, directly or indirectly, relate to the media enterprises of the company;
- (2) bars any exempt limited partner from serving, in any material capacity, as an independent contractor or agent with respect to the partnership's media enterprises;
- (3) restricts any exempted limited partner from communicating with the licensee or the general partner on matters pertaining to the day-to-day operations of its business;
- (4) empowers the general partner to veto any admissions of additional general partners admitted by vote of the exempt limited partners;
- (5) prohibits any exempt limited partner from voting on the removal of a general partner or limits this right to situations where the general partner is subject to bankruptcy proceedings, as described in Sections 402 (4)-(5) of the Revised Uniform Limited Partnership Act, is adjudicated incompetent by a court of competent jurisdiction, or is removed for cause, as determined by an independent party;
- (6) bars any exempt limited partner from performing any services to the limited partnership materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business; and
- (7) states, in express terms, that any exempt limited partner is prohibited from becoming actively involved in the management or operation of the media businesses of the partnership.

Notwithstanding conformance of the partnership agreement to these criteria, however, the requisite certification **cannot** be made **IF** the limited partner's interest is attributable under the Commission's EDP attribution standard described below; or **IF** the applicant has actual knowledge of a material involvement of a limited partner in the management or operation of the media-related businesses of the partnership. In the event that the applicant cannot certify as to the noninvolvement of a limited partner, the limited partner will be considered as a party to this application.

## INSTRUCTIONS FOR SECTION I: GENERAL INFORMATION

**Item 1: Legal Name of Licensee.** The name of the applicant must be stated exactly in Item 1. If the applicant is a corporation, the exact corporate name; if a partnership, the name under which the partnership does business; if an unincorporated association, the name of the executive officer, his/her office, and the name of the association; and if an individual applicant, the person's full legal name.

Applicants should use only those state abbreviations approved by the U.S. Postal Service.

**Facility ID Number.** Radio and TV Facility ID Numbers can be obtained at the FCC's Internet Website at [www.fcc.gov/mb](http://www.fcc.gov/mb). Once at this website, scroll down and select CDBS Public Access. You can also obtain your Facility ID Number by calling: Radio (202) 418-2700, TV (202) 418-1600. Further, the Facility ID Number is now included on all Radio and TV authorizations and postcards.

**FCC Registration Number (FRN).** To comply with the Debt Collection Improvement Act of 1996, the applicant must enter its FRN number, a ten-digit unique entity identifier for anyone doing business with the Commission. The FRN can be obtained through the FCC webpage at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html> or by calling 1-800-418-3676. Questions concerning the FCC Registration Number can be directed to the Commission's Registration System help desk at [http://www.CORES@fcc.gov](mailto:www.CORES@fcc.gov) or by calling 1-877-480-3201.

**Item 2: Contact Representative.** If the applicant is represented by a third party (for example, legal counsel), that person's name, firm or company, mailing address and telephone/electronic mail address may be specified in Item 2.

**Item 3: Fees.** By law, the Commission is required to collect charges for certain regulatory services it provides to the public. Generally, applicants seeking to renew the license for a commercial AM, FM TV, Class A TV, FM translator, TV translator or Low Power TV station is required to pay and submit a fee with the filing of FCC Form 303-S. However, government entities, which include any possession, state, city, county, town, village municipal organization or similar political organization or subpart thereof controlled by publicly elected and/or duly appointed public officials exercising sovereign direction and control over their respective communities or programs, are exempt from the payment of this fee. Also exempted from this fee are licensees of noncommercial educational radio or television broadcast stations. (This includes licensees of noncommercial educational FM and full service TV broadcast stations seeking renewal of the licenses for their translator or low power TV stations provided those stations operate on a noncommercial educational basis.) Low Power TV or TV Translator stations that rebroadcast the programming of a primary noncommercial educational station, but are not co-owned by the licensee of such a station, are required to file fees. Renewal applications that earlier obtained either a fee refund because of an NTIA facilities grant for the stations or a fee waiver because of demonstrated compliance with the eligibility and service requirements of 47 C.F.R. Section 73.503 or Section 73.621, and that continue to operate those stations on a noncommercial basis, are similarly exempted from this fee. See 47 C.F.R. Section 1.112. To avail itself of any fee exemption, the renewal applicant must indicate its eligibility by checking the appropriate box in Item 3, Section I. FCC Form 303-S applications not involving the payment of a fee must be hand-delivered or mailed to the FCC's Washington, D.C. offices. See 47 C.F.R. Section 0.401(a). Do not send fee exempt applications to Mellon Bank, because it will result in a delay in processing the application.

When filing a fee-exempt application, an applicant must complete Item 3 and provide an explanation as appropriate.

The Commission's fee collection program utilizes a U.S. Treasury lockbox bank for maximum efficiency of collection and processing. Prior to the institution of mandatory electronic filing procedures, all paper-form FCC Form 303-S applicants requiring the remittance of a fee, or for which a waiver or deferral from the fee requirement is requested, must be submitted to the appropriate post office box address. See 47 C.F.R. Section 0.401(b). A listing of the required fee and the address to which FCC Form 303-S should be mailed or otherwise delivered are also set forth in the "Media Bureau Fee Filing Guide." This document can be either obtained by writing to the Commission's Form Distribution Center, 9300 E. Hampton Drive, Capitol Heights, Maryland 20743, or by calling 1-800-418-FORM and leaving your request on the answering machine provided for this purpose. See also 47 C.F.R. Section 1.1104. The Fee Filing Guide also contains a list of the Fee Type Codes needed to complete this application.

Payment of any required fee must be made by check, bank draft, money order, or credit card. If payment is by check, bank draft, or money order, the remittance must be denominated in U.S. dollars, drawn upon a U.S. institution, and made payable to the Federal Communications Commission. No postdated, altered, or third-party checks will be accepted. **DO NOT SEND CASH.** Additionally, checks dated six months or older will not be accepted.

Procedures for payment of application fees when applications are filed electronically are available on the electronic filing system. Payment of application fees for paper-filed applications may also be made by Electronic Payment provided that prior approval has been obtained from the Commission. Applicants interested in this option must first contact the Credit and Debt Management Center at (202) 418-1995 to make the necessary arrangements.

Applicants hand-delivering FCC Forms 303-S may receive dated receipt copies by presenting copies of the applications to the acceptance clerk at the time of delivery. For mailed-in applications, a "return copy" of the application should be furnished and clearly marked as a "return copy." The applicant should attach this copy to a stamped, self-addressed envelope. Only one piece of paper per application will be stamped for receipt purposes.

For further information regarding the applicability of a fee, the amount of the fee, or the payment of the fee, applicants should consult the "Media Bureau Services Fee Filing Guide."

**Item 4: Purpose of Application.** This question requires that the applicant identify the purpose of the application and should identify whether a renewal is being filed or an amendment to a pending renewal is being filed.

**Item 5: Facility Information.** This question requires that the applicant identify whether it is licensed by the Commission as a commercial or noncommercial educational licensee. A licensee that merely elects to operate its station on a noncommercial basis is not considered to be a noncommercial educational licensee.

**Item 6: Service and Community of License.** The facility should be described by its service, call letters, and specific community of license or area as listed on the station's existing license. See 47 C.F.R. Section 74.1201(a), 74.701(a) and 74.701(f) for definition of an FM Translator, TV Translator and Low Power TV broadcast station, respectively. For purposes of Item 6a., AM, FM or TV stations, the location of the facility should be described in terms of the specific city or community to which the station is licensed. Translator and Low Power TV stations should specify the area the stations are licensed to serve.

If the applicant seeks to renew the license only for an individual FM or TV translator, Low Power TV, Low Power FM, or Class A TV station, the applicant should respond only to Item 6a. The applicant should

identify the appropriate service and list the station's call letters, facility identification number, community of license or area, and state.

If the applicant seeks the joint renewal for an FM or TV translator station or LPTV station and its co-owned primary FM, TV, or LPTV station, the applicant should indicate "Yes" to Item 6b. and skip directly to Item 7. The applicant should provide information with regard to such translator station for which renewal is sought in response to Section V below.

**Item 7: Other Authorizations.** This question must be completed by a radio or television renewal applicant seeking to continue its authority to operate an FM Booster or TV Booster station in conjunction with the primary station. The FM or TV Booster station should be described in terms of its call letters and the name of the specific community which it serves.

## INSTRUCTIONS FOR SECTION II: LEGAL INFORMATION

**Item 1: Certification.** Each applicant is responsible for the information that the application, instructions, and worksheets convey. As a key element in the Commission's streamlined licensing process, a certification that these materials have been reviewed and that each response is based on the applicant's review is required.

**Items 2 and 3: Character Issues/Adverse Findings.** Item 2 requires the applicant to certify that neither it nor any party to the application has had any interest in or connection with an application that was or is the subject of unresolved character issues. An applicant must disclose in response to Item 3 whether an adverse finding has been made with respect to the applicant or any party to the application regarding certain relevant non-broadcast matters. The Commission's character policies and litigation reporting requirements for broadcast applicants focus on misconduct that violates the Communications Act or a Commission rule or policy and on certain specified non-FCC misconduct. In responding to Items 2 and 3, applicants should review the Commission's character qualifications policies, which are fully set forth in Character Qualifications, 102 FCC 2d 1179 (1985), reconsideration denied, 1 FCC Rcd 421 (1986), as modified, 5 FCC Rcd 3252 (1990) and 7 FCC Rcd 6564 (1992).

Where the response to Item 2a. or 2b. is "No," the applicant must submit an exhibit that includes an identification of the party having had the interest, the call letters and location of the station or file number of the application or docket, and a description of the nature of the interest or connection, including relevant dates. The applicant should also fully explain why the unresolved character issue is not an impediment to a grant of this application.

In responding to Item 3, the applicant should consider any relevant adverse finding that occurred within the past ten years. Where that adverse finding was fully disclosed to the Commission in an application filed on behalf of this station or in another broadcast station application and the Commission, by specific ruling or by subsequent grant of the application, found the adverse finding not to be disqualifying, it need not be reported again and the assignee may respond "Yes" to this item. However, an adverse finding that has not been reported to the Commission and considered in connection with a prior application would require a "No" response.

Where the response to Item 3 is "No," the applicant must provide in an exhibit a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and the disposition of the litigation. Where the requisite information has been earlier disclosed in connection with another pending application, or as required by 47 C.F.R. Section 1.65(c), the applicant need only provide an identification of that previous submission by

reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing. The assignee should also fully explain why the adverse finding is not an impediment to a grant of this application.

**Item 4: FCC Violations During the Preceding License Term.** Section 309(k) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(k) states that the Commission shall grant a license renewal application if it finds, with respect to that station, during the preceding license term, that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations by the licensee of the Communications Act or the Commission's Rules; and (3) there have been no other violations of the Act or the Commission's rules, which, taken together, would constitute a pattern of abuse. This question asks the applicant to certify that, with respect to the station for which a renewal application is being submitted, there were no violations of the Communications Act or the Commission's Rules. If the renewal applicant has violated the Act or the Rules, it must respond "No" and submit an explanatory exhibit detailing the number and nature of the violations and any adjudication by the Commission (Notice of Violation, Forfeiture Order, etc.).

For purposes of this license renewal form only, an applicant is required to disclose only violations of the Communications Act of 1934, as amended, or the Rules of the Commission that occurred at the subject station during the license term, as preliminarily or finally determined by the Commission, staff, or a court of competent jurisdiction. This includes Notices of Violation, Notices of Apparent Liability, Forfeiture Orders, and other specific findings of Act or Rule violations. It does not include "violations" identified by the station itself or in conjunction with the station's participation in an Alternative Broadcast Inspection Program. In responding to this item, licensees should not submit any information concerning self-discovered or other "violations" that have not been identified by the Commission, staff, or court. Licensees are advised that the Commission may also consider other violations by the station that come to its attention in determining whether to grant this license renewal application.

**Item 5: Alien Ownership and Control.** Aliens, foreign governments and corporations, and corporations of which less than 80% of the capital stock is owned or voted by U.S. citizens are prohibited from holding a broadcast station license. Where a corporate licensee is directly or indirectly controlled by another corporation, of which less than 75% of that corporation's stock is owned by or voted by U.S. citizens, the Commission must consider whether denial of renewal would serve the public interest. Licensees are expected to employ reasonable, good faith methods to ensure the accuracy and completeness of their citizenship representations.

**Item 6: Anti-Drug Abuse Act Certification.** This question requires the applicant to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988. 21 U.S.C. Section 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. A "Yes" response to Item 6 constitutes a certification that neither the applicant nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of Section 5301.

With respect to this question only, the term "party to the application" includes if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5 percent or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; all members if a membership association's and if the applicant is a partnership, all general

partners and all limited partners, including both insulated and non-insulated limited partners, holding a 5 percent or more interest in the partnership.

### **INSTRUCTIONS FOR SECTION III: AM and FM Licensees Only**

**Item 1: Biennial Ownership Report.** This question asks the renewal applicant to certify that it has filed with the Commission the biennial ownership reports required by 47 C.F.R. 73.3615. Each licensee of an AM, FM, and TV broadcast station shall file an Ownership Report on FCC Form 323 (commercial) or 323-E (noncommercial/educational) every two years on the anniversary of the date that its renewal application is required to be filed. Licensees owning more than one broadcast station with different anniversary dates need to file only one Report every two years on the anniversary of their choice, provided that they are not more than two years apart. A licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate by validating electronically its previously filed report.

**Note: FCC Form 323 and 323-E must be filed electronically. Paper versions of these forms will not be accepted for filing unless accompanied by an appropriate request for waiver of the electronic filing requirement. See 47C.F.R. Section 73.3615.**

**Item 2: EEO Program.** Each licensee of an AM, FM and TV broadcast station is required to afford equal employment opportunity to all qualified persons and to refrain from discrimination in employment and related benefits on the basis of race, color, religion, national origin, etc. See 47 C.F.R. Section 73.2080. Pursuant to these requirements, a license renewal applicant whose station employs five or more full-time employees must file a report of its activities to ensure equal employment opportunity. If a station employment unit employs fewer than five full-time employees, no equal employment opportunity program information need be filed.

Additionally, each licensee must place in the station's public inspection file annually AND POST ON THE STATION'S WEBSITE, if any, a report containing lists of (1) all full-time vacancies filled during the preceding year, identified by job title; (2) for each such vacancy, the recruitment source(s) utilized to fill the vacancy, (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number; (3) the recruitment source that referred the hiree for each full-time vacancy during the preceding year; (4) data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and (5) a list and brief description of initiatives undertaken pursuant to Section 73.2080(c)(2) during the preceding year.

**Item 3: Local Public File.** Commercial and noncommercial educational AM and FM licensees must maintain certain documents pertaining to its station in a file that is to be kept at the station's main studio or other accessible place in the community of license. The file must be available for inspection by anyone during regular business hours. The documents to be maintained generally include applications for a construction permit and for license renewal, assignment or transfer of control; ownership and employment reports; and quarterly lists of the community issues most significantly addressed by the station's programming during the preceding three months. A complete listing of the required documents and their mandatory retention periods is set forth in 47 C.F.R. Sections 73.3526 and 73.3527. Applicants that have not so maintained their file should provide an exhibit identifying the items that are missing/late filed, and identifying steps taken to reconstruct missing information, and to prevent such problems in the future.

**Item 4: Discontinued Operation.** Section 312(g) of the Communications Act of 1934, 47 U.S.C. Section 312(g), states that if a broadcast station fails to transmit broadcast signals for any consecutive 12-month period, then the station license expires automatically, by operation of law, at the end of that 12-month period. The Commission has no discretion to reinstate a broadcast license that has expired pursuant to Section 312(g). *See OCC Acquisition, Inc.*, 17 FCC Rcd 6147 (2002). Additionally, a station that does cease broadcasting for nearly 12 months may not preserve its license by recommencing operation with unauthorized facilities. *See Letter to Idaho Broadcasting Consortium*, 16 FCC Rcd 1721 (M.M. Bur. 2001). Accordingly, this item requires the licensee to certify that the station was not silent for any consecutive 12-month period during the preceding license term. By answering “Yes” to this question, the applicant certifies that (1) it was not silent for any consecutive 12-month period during the preceding license term; and (2) if the station was silent for any period of time during the preceding license term, it resumed broadcasting *with authorized facilities* before 12 months from the date on which that station went silent. If the applicant cannot make this certification, its license renewal application will be dismissed and the Commission’s data base will be amended to reflect the expiration of the station’s license.

**Item 5: Silent Station.** The Commission will not review the license of a station that is not broadcasting. *See Birach Broadcasting Corporation*, 16 FCC Rcd 5015 (2001). “Broadcasting” means “the dissemination of radio communications intended to be received by the public.” 47 U.S.C. Section 153(6). Accordingly, this item requires the applicant to certify that its commercial AM or FM broadcast station is currently transmitting signals intended to be received by the public. An application may not answer “Yes” to this question if the station is transmitting only “test signals.”

**Note:** Noncommercial educational FM stations, while authorized for limited-time operation, are required to operate at least 36 hours per week, consisting of at least 5 hours of operation on at least 6 days of the week. Stations licensed to *educational institutions* are not required to operate on Saturday or Sunday or observe the minimum operating requirements during those days when school is not in session. 47 C.F.R. Section 73.561(a). [Licensees of noncommercial educational FM applicants adhering to these requirements may answer “Yes” to this question whether or not the station is on the air on the particular day on which the license renewal application is submitted electronically.]

**Note:** A noncommercial educational AM broadcast station is expected to provide continuous service except where causes beyond its control warrant interruption. Where causes beyond the control of the licensee make it impossible to continue operation, the station may discontinue operation for a period of 30 days without further authority from the FCC. However, notification of the discontinuance must be sent to the FCC in Washington, D.C. no later than 10 days after the discontinued operation. Failure to operate for a period of 30 days or more, except for causes beyond the control of the licensee, as well as the actual hours of operation during the entire license period, shall be taken into consideration in the renewal of the station’s license. *See* 47 C.F.R. Section 73.1740(b).

**Item 6: Environmental Effects.** This question requires that the applicant either certify that its facility complies with the Commission’s maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments. Worksheet #1 includes specific subsections for RF exposure analysis. These pages are designed to facilitate and substantiate the certification. Their use is voluntary but strongly encouraged.

**Note:** Licensees are reminded that the Commission retains the authority to revoke any station license for a licensee’s failure to satisfy the requirements of the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, or other environmental statute, regulation, or directive at the time it sought authorization for the original construction or modification of its broadcast facilities. 47 U.S.C. Sections 312(a)(2) (authorizing the revocation of a station license “because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license

or permit on an original application . . . .”) See also FCC Form 301 Instructions, Page 11, “General Environmental” Worksheet.

**RF Exposure Requirements.** In 1996, the Commission adopted guidelines and procedures for evaluating environmental effects of RF emissions. All applications subject to environmental processing filed on or after October 15, 1997 must demonstrate compliance with these requirements. These guidelines incorporate two tiers of exposure limits:

**General population/uncontrolled** exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Members of the general public are always considered under this category when exposure is not employment-related.

**Occupational/controlled** exposure limits apply to human exposure to RF fields when persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. These limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above the general populations/uncontrolled limits as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or some other appropriate means.

The guidelines are explained in more detail in OET Bulletin 65, entitled Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, Edition 97-01, released August, 1997, and Supplement A: Additional Information for Radio and Television Broadcast Stations (referred to here as "OET Bulletin 65" and "Supplement A," respectively). Both OET Bulletin 65 and Supplement A can be viewed and/or downloaded from the FCC Internet site at <http://www/fcc.gov/oet/rfsafety>. Copies can also be purchased from the Commission's duplicating/research contractor, Qualex International, Room CY-B402, 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554 (telephone: (202) 863-2893. Additional information may be obtained from the RF Safety Group at [rfsafety@fcc.gov](mailto:rfsafety@fcc.gov) or (202) 418-2464 or from the FCC Call Center at 1-888-CALL FCC (225-5322).

The RF worksheets and tables appended to Worksheet #1 below will enable certain categories of stations to determine whether or not the proposed facility will have a significant environmental impact as defined by Section 1.1307. Some, but not all, stations will be able to use the RF worksheets. Generally, the RF worksheets can only be used in the following situations: (1) single use tower; (2) single tower with several FM/FM translators; or (3) a multiple tower AM array with no other user co-located within the array. Additionally, the RF worksheets can be used in regard to an AM station only if access to the AM station is restricted by a fence or other barrier that will preclude casual or inadvertent access to the site and warning signs are posted at appropriate intervals describing the potential for RF exposure. See "RF Exposure Compliance Worksheet Instructions" for more detail on eligibility.

If after using the worksheets the applicant finds that levels will exceed the RF guidelines, levels may still be acceptable based on a more detailed evaluation of a number of variables (*e.g.*, antenna radiation patterns or measurement data). In that case, the applicant must submit an exhibit to the application that explains why the proposed facility does not exceed the RF radiation exposure guidelines at locations where humans are likely to be present, or describing measures or circumstances which will prevent or discourage humans from entering those areas where the RF exposure exceeds the guidelines (*e.g.*, fencing or remote location). The guidelines are explained in more detail in OET Bulletin 65.

If the applicant is not eligible to use the worksheets, it is not an indication that the proposed facility will cause excessive exposure. Generally, applicants that are not able to use the worksheets will need to utilize more



complex calculations or measurements to demonstrate compliance. For this reason, applicants who are not eligible to use the worksheets should consider seeking the assistance of a qualified consulting engineer in determining whether the proposed facility will meet the RF exposure guidelines.

## **WORKSHEET #1: ENVIRONMENTAL**

Some, but not all, applicants for AM and FM facilities will be able to use the RF worksheets. Generally, an AM or FM applicant can use the RF worksheets if: (1) it is the only user on its tower; (2) its station is one of several FM/FM translator stations located on a single tower; or (3) its station uses a multiple-tower AM array but no other user is co-located within the array. Additionally, the RF worksheets can be used in regard to an AM station only if access to the AM station is restricted by use of a fence or other barrier that will preclude casual or inadvertent access to the site and warning signs are posted at appropriate intervals describing the potential for RF exposure.

If an applicant cannot use the RF worksheets, it may show its compliance with RF guidelines in other ways, as detailed in OET Bulletin 65.

If the worksheets indicate that an applicant exceeds acceptable RF levels, it does not necessarily mean that the proposed station does not or cannot meet the Commission's RF requirements. The worksheets are based on generalized "worst case" presumptions. It may be that a more individualized evaluation of the proposed station (possibly with the help of a consulting engineer) will demonstrate that RF levels are acceptable. Among the individual factors that may be relevant are antenna radiation patterns, actual RF measurements, barriers/precautions that prevent access to high RF areas, etc. These factors are also explained in OET Bulletin 65.

Applicants satisfying the RF requirements on the basis of such non-worksheet factors should submit a detailed explanation demonstrating their compliance. Otherwise, applicants should submit an Environmental Assessment, as explained in 47 C.F.R. Section 1.1311, explaining the environmental consequences of the proposed operation.

## **RF EXPOSURE COMPLIANCE WORKSHEET/INSTRUCTIONS**

### **Who may use these worksheets?**

1. A directional AM station (i.e., one using a multiple tower array) that does not share its towers with any other non-excluded RF sources (including, but not limited to FM or TV transmitting antennas) and is located more than 315 meters (1,034 feet) from any other tower or non-excluded RF radiation sources; or
2. A non-directional AM station located on a single-use tower more than 315 meters (1,034 feet) from any other tower or other non-excluded RF radiation sources; or
3. An FM station on a single tower that may or may not support other FM stations (including FM translators and boosters) and that is more than 315 meters (1,034 feet) from any other tower or non-excluded RF sources.
4. An FM translator on a single tower that may or may not support other FM stations (including FM translators and boosters) that is more than 315 meters (1,034 feet) from any other tower or other non-excluded RF sources.

### **Ineligible Sites.**

Please note that the applicant cannot use these worksheets if any of the following apply:

1. The application is for a television or digital television facility;
2. There are other towers or supporting structures with non-excluded RF sources within 315 meters of the tower; *See* 47 C.F.R. Section 1.1307(b)
3. There are TV antennas and/or other RF sources on the tower other than AM or FM antennas that are not categorically excluded from environmental processing by 47 C.F.R. Section 1.1307;
4. There is an FM, TV or other non-excluded RF source co-located within a multiple tower AM array;
5. The tower is located at a site where the terrain or a building or other inhabited structure (other than a transmitter building) within a 315 meter radius is higher than the level of the terrain at the base of the tower. (**Note:** Sites with transmitter buildings at the base of the tower are considered “eligible” provided that procedures are established in accordance with the methods described in OET Bulletin 65 to protect persons with access to such buildings from RF exposure in excess of the FCC-adopted limits.); or
6. AM towers where access is not restricted by fencing or other barrier that preclude casual or inadvertent access to the site and warning signs are not included at appropriate intervals describing the potential for RF exposure.

**The above categories have been excluded from the RF worksheets not because of a propensity to cause excessive RF radiation, but because a determination of their compliance involves more complex calculations and measurements.** If you are not eligible to use the RF worksheets, or elect not to use them, before reaching a determination with respect to your facilities you should review **OET Bulletin 65 and Supplement A** in order to properly evaluate your facility for compliance with the RF guidelines. The

bulletin provides information and assistance on the RF guidelines, prediction methods, measurement procedures and instrumentation, methods for controlling exposure, and reference material. It will instruct the applicant on the type of data which may demonstrate compliance with the Commission's RF guidelines in support of your response. If you continue to have trouble evaluating your site after consulting the Bulletin, you may want to seek the assistance of a qualified engineer in determining whether these facilities meet the FCC RF exposure guidelines.

### **Other Evaluations**

These worksheets represent "worst case" calculations, and as such, should be used in your initial attempt to determine compliance. If use of the worksheet indicates that you exceed the RF guidelines, levels may still be acceptable based on more detailed evaluation of variables such as antenna type and vertical radiation patterns. In this case you may submit a statement explaining why your facilities do not exceed the RF exposure guidelines at locations where humans are likely to be present, or describing those measures or circumstances which will prevent or discourage humans from entering those areas where the RF levels exceed the guidelines or which will otherwise control access in accordance with the time-averaging limits described in the guidelines. See OET Bulletin 65 and Supplement A. This statement may include:

- (i) antenna radiation patterns showing that the site complies with the guidelines described in OET Bulletin 65;
- (ii) measurements that show the site to comply with the FCC-adopted guidelines;
- (iii) a description of what warning signs, fences or other barriers preclude excessive RF exposure;
- (iv) any other statement necessary to demonstrate compliance with the RF guidelines.

## How to Use RF Worksheets

### Attached are:

Worksheet #1 – FM, FM translator & FM booster  
Worksheet #1A-Multiple FM User Tower  
Worksheet #2 – AM  
Worksheet #2A – Multiple Tower AM Array  
AM Fence Distance Tables

---

### **FM Contributors:**

- a. **Single Use FM or FM translator tower** – Use **Worksheet #1** to determine compliance with the FCC RF exposure limits.
  - b. **Multiple – use FM (including translator & booster)** – Use **Worksheet #1A for each FM facility on the tower to obtain an approximate power and antenna height and complete Worksheet #1 as above.**
- 

### **AM Contributors:**

- a. **Single Tower Site:** Use **Worksheet #2** to determine if the distance to the fence or other restrictive barrier provides adequate protection to the general public pursuant to FCC guidelines.
- b. **Multiple Tower Site** – Use **Worksheet #2 for each tower in the array** to determine if the tower is adequately distanced from the fence (or other restrictive barrier). This determination may be made by either of the following methods:
  - i. a “worst case” prediction could be made by assuming that all transmitted power is radiated from each tower. Use **Worksheet #2A** to list the power and fence distance for each tower. Then use **Worksheet #2** for each tower to determine compliance with the FCC guidelines for the single tower.
  - ii. use the actual transmitted power for each tower. Use **Worksheet #2A** to list transmitted powers and restriction distances for each tower. Then, use **Worksheet #2** for each tower to determine compliance with the FCC guidelines for the single tower.

**If any single tower is not adequately distanced from the fence or restrictive barrier, you may not continue to use these worksheets.**

**CAUTION:** Even if you conclude from the use of these worksheets that human exposure to RF electromagnetic fields is consistent with our guidelines, be aware that each site user must also meet requirements with respect to “on-tower” or other exposure by workers at the site (including RF exposure on one tower caused by sources on another tower or towers). These requirements include, but are not limited to the reduction or cessation of transmitter power when persons have access to the site, tower, or antenna. Such procedures must be coordinated among all tower users. **See OET Bulletin 65 for further details.**

**RF Worksheet #1 – FM (including translators & boosters)**

**PLEASE COPY BEFORE USING. THE DETERMINATION OF COMPLIANCE MAY INVOLVE REPEATED CALCULATIONS. IF LOCATED ON A MULTIPLE FM USER TOWER, PLEASE COMPLETE RF WORKSHEET 1A BEFORE PROCEEDING.**

**EFFECTIVE RADIATION CENTER HEIGHT**

Enter proposed “height of radiation center above ground” OR as listed in Line 1 \_\_\_\_\_ m (1)  
of Worksheet 1A.

Is antenna supporting structure located on the roof of a building? (check one)  Yes  No (2)

If Line 2 is “Yes” enter the building height measured at the base of the antenna supporting structure in Line 3

If Line 2 is “No” enter “0” in Line 3..... \_\_\_\_\_ m (3)

Subtract Line (3) from Line (1)..... \_\_\_\_\_ m (4)

Subtract the value 2.0 from Line (4)..... \_\_\_\_\_ m (5)

---

**TOTAL EFFECTIVE RADIATED POWER**

(If “beam tilt” is utilized, list maximum values)

List Effective Radiated Power in the Horizontal Plane..... \_\_\_\_\_ kW (6)

List Effective Radiated Power in the Vertical Plane..... \_\_\_\_\_ kW (7)

Add Lines (6) and (7) OR list value from Line 2 in Worksheet 1A..... \_\_\_\_\_ kW (8)

---

**PERCENTAGE OF FCC RF LIMIT(S) FOR MAXIMUM PERMISSIBLE EXPOSURE**

Multiply Line (8) by 33.41 ..... \_\_\_\_\_ (9)

Multiply the value listed in Line (5) by itself..... \_\_\_\_\_ (10)

Divide Line (9) by Line (10) ..... \_\_\_\_\_ (11)

Multiply Line (11) by (100) ..... \_\_\_\_\_ (12)

---

**DETERMINATION OF COMPLIANCE WITH CONTROLLED/OCCUPATIONAL LIMIT**

Does Line (12) exceed 100%.....  Yes  No (13)

**IF YOU ANSWERED “YES” IN LINE (13), THE WORKSHEETS MAY NOT BE USED IN THIS CASE.\***

**IF YOU ANSWERED “NO” IN LINE (13), THEN THE SITE SHOULD COMPLY WITH THE FCC’S CONTROLLED/OCCUPATIONAL RF EXPOSURE LIMITS FOR GROUND LEVEL EXPOSURE**

---

**\*In this case, you may need to prepare an Environmental Assessment. See Instructions for Section III-C FCC Form 301.**

**DETERMINATION OF COMPLIANCE WITH THE UNCONTROLLED/GENERAL POPULATION LIMIT**

Does Line (12) exceed 20%.....  Yes  No (14)

**IF YOU ANSWERED “NO” IN LINE (14), THEN THE SITE SHOULD COMPLY WITH THE FCC’S UNCONTROLLED/GENERAL POPULATION RF EXPOSURE LIMITS FOR GROUND LEVEL EXPOSURE. NO FURTHER STUDY REQUIRED.**

**IF YOU ANSWERED “YES” IN LINE (14), CONTINUE.**

**ROOFTOP WITH RESTRICTED ACCESS.**

If you answered “YES” in Line (14) and “YES” in Line (2) (indicating that the tower is located on the roof of a building), and the general public is not allowed access to the rooftop level, repeat lines 5 through 12, entering the value in Line (1) directly in Line (4). (If Multiple FM Use tower, recalculations should be in accordance with instructions on Worksheet #1A.) **Otherwise, go to the next section.**

Upon recalculation, does Line (12) exceed 20%.....  Yes  No (15)

**IF YOU ANSWERED “YES” IN LINE (15), THE WORKSHEETS MAY NOT BE USED IN THIS CASE. \***

**IF YOU ANSWERED “NO” IN LINE (15), THEN THE AREA AT GROUND LEVEL SHOULD COMPLY WITH THE FCC’S UNCONTROLLED/GENERAL POPULATION EXPOSURE LIMIT. NO FURTHER STUDY REQUIRED.**

**ACCESS TO BASE OF TOWER RESTRICTED BY FENCING.**

If the tower is not located on the roof of a building, is the base of the tower surrounded by fencing or other restrictive barrier and are appropriate warning signs posted on the fence that adequately detail the nature of the RF exposure environment contained therein?.....

Yes  No (16)

**IF YOU ANSWERED “NO” IN LINE (16), THE WORKSHEET MAY NOT BE USED IN THIS CASE.\***

If you answered “Yes” in Line (16), what is the distance from the base

of the tower to the fence or barrier at its nearest point..... \_\_\_\_\_ m (17)

Multiply Line (9) (as calculated previously) by 5..... \_\_\_\_\_ (18)

Subtract Line (10) (as calculated previously) from Line (18)..... \_\_\_\_\_ (19)

Take the square root of Line (19)..... \_\_\_\_\_ m (20)

Is Line (20) less than or equal to Line (17).....  Yes  No (21)

**IF YOU ANSWERED “YES” IN LINE (21), THEN THE RF FIELD OUTSIDE THE FENCE COMPLIES WITH THE FCC’S UNCONTROLLED/GENERAL POPULATION EXPOSURE LIMIT. NO FURTHER STUDY REQUIRED.**

**IF YOU ANSWERED “NO” IN LINE (21), THE WORKSHEETS MAY NOT BE USED IN THIS CASE.\***

**\* In this case, you may need to prepare an Environmental Assessment.** See instructions for Section III-C of FCC Form 301.

**RF WORKSHEET #1A –Multiple FM Use Tower**

The procedure below will allow for a “worst-case” determination to be made in situations where several FM stations share a common tower. This determination is based upon the “worst case” assumption that all RF energy is emanating from a single antenna located at the same height (i.e., antenna center of radiation above ground level) as the lowest user on the tower.

**Complete for all call signs.**

For each call sign, **the total** of the Horizontal and the Vertical ERP’s must be used. If “beam tilt” is utilized, list maximum values.

COLUMN 1  CALL SIGN	COLUMN 2  HEIGHT OF ANTENNA RADIATION CENTER ABOVE GROUND LEVEL	COLUMN 3  TOTAL EFFECTIVE RADIATED POWER (HORIZONTAL AND VERTICAL)
	meters	kilowatts
	meters	kilowatts
	meters	kilowatts
	meters	kilowatts
	meters	kilowatts
	meters	kilowatts

List the smallest value in Column 2.....\_\_\_\_\_ m (1)  
 List the total of all values in Column 3.....\_\_\_\_\_ kW (2)

**The value listed in line (1) above must be used in line (1) on Worksheet 1.**  
**The value listed in line (2) above must be used in line (8) on Worksheet 1.**

**Now complete worksheet 1 (except for lines 6 and 7).**



**RF WORKSHEET #2: AM**

**PLEASE COPY THIS WORKSHEET PRIOR TO USING. IN THE CASE OF A MULTIPLE TOWER ARRAY, A COPY IS NECESSARY FOR EACH TOWER LISTED IN RF WORKSHEET #2A. See AM Instruction b. to “How to Use RF worksheets” on page 5 of Appendix A.**

**SINGLE TOWER**

Enter the transmitted power..... \_\_\_\_\_ kW (1)

Enter the distance from the tower to the nearest point of the fence or other restrictive barrier enclosing the tower..... \_\_\_\_\_ m (2)

---

**DETERMINATION OF WAVELENGTH**

**Method 1: Electrical Height**

The tower height in wavelength may be obtained from the electrical height in degrees of the radiator.

Electrical height of the radiator..... \_\_\_\_\_ degrees (3a)

Divide Line 3(a) by 360 degrees..... \_\_\_\_\_ wavelength (3b)

**Method 2: Physical Height**

Alternatively, the wavelength may be obtained from the physical height of the radiator above the tower base and the frequency of the station.

Overall height of the radiator above the tower base..... \_\_\_\_\_ m (4a)

List the station’s frequency..... \_\_\_\_\_ kHz (4b)

Divide 300,000 by Line (4b)..... \_\_\_\_\_ m (4c)

Divide Line (4a) by Line 4(c) ..... \_\_\_\_\_ wavelength (4d)

---

**REQUIRED RESTRICTION DISTANCE**

Use the appropriate AM fence distance table based on the wavelength determined in either Line (3b) or Line (4d) above. If the transmitted power is not listed in the table, use next highest value (e.g., if the transmitted power is 2.5 kW, use the fence value in the 5 kW column).

List the fence distance obtained from the appropriate table..... \_\_\_\_\_ m (5)

Is the value listed in Line (5) less than or equal to the value listed in Line (2)?  Yes  No (6)

If line (6) is “Yes,” are warning signs posted at appropriate intervals which describe the nature of the potential hazard?  Yes  No (7)

IF EITHER LINE (6) OR LINE (7) WAS ANSWERED “NO”, you may need to prepare an Environmental Assessment. However, in order to determine the need for such an Assessment please see the **NOTE** on page 5 of Appendix A. If after consideration of such factors as the antenna radiation pattern, measurement data and the barriers which restrict access you conclude that an Environmental Assessment is required, please see Section I of the instructions to this worksheet entitled “Environmental Assessment.”

IF BOTH LINE (6) AND LINE (7) WERE ANSWERED “YES”, it appears that this tower complies with the FCC guidelines with respect to the general public. Please be aware, that each site user must also meet requirements with respect to “on-tower” or other exposure by workers at the site (including RF fields caused by other facilities on the tower, or RF fields caused by facilities on another tower or towers). These requirements include, but are not limited to the reduction or cessation of transmitter power when persons have access to the site, tower, or antenna. **See OET Bulletin 65 for more details.**

**RF WORKSHEET #2A Multiple Tower AM Array**

Do not use this table if there are FM, TV or other non-excluded RF sources on any single tower of the array.

Tower Number	Transmitted Power (kW)	Distance to Fence (meters)
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

If each tower listed above meets the distance requirements of the worksheet #2, it appears this tower complies with the FCC guidelines with respect to the general public. Please be aware, that each site user must also meet requirements with respect to “on-tower” or other exposure by workers at the site. These requirements include, but are not limited to the reduction or cessation of transmitter power when persons have access to the site, tower, or antenna. **See OET Bulletin 65 for more details.**

If the distance from the base of the tower to the fence is less than the value listed above, you may need to prepare an Environmental Assessment. However, in order to determine the need for such an Assessment please see the **NOTE** on page 5 of Appendix A. If after consideration of such factors as the antenna radiation pattern, measurement data and the barriers which restrict access you conclude that an Environmental Assessment is required, please see Section I of the instructions to this worksheet entitled “Environmental Assessment.”

**AM FENCE DISTANCE TABLES**

**TABLE 1. Predicted Distances for Compliance with FCC Limits: 0.1-0.2 Wavelength**

Frequency (kHz)	Transmitter Power (kW)			
	50	10	5	1
	Predicted Distance for Compliance with FCC Limits (meters)			
535-740	13	7	6	3
750-940	12	7	5	3
950-1140	11	6	5	3
1150-1340	10	6	5	3
1350-1540	10	6	5	3
1550-1705	10	6	5	3

**TABLE 2. Predicted Distances for Compliance with FCC Limits: 0.21-0.4 Wavelength**

Frequency (kHz)	Transmitter Power (kW)			
	50	10	5	1
	Predicted Distance for Compliance with FCC Limits (meters)			
535-740	4	2	2	1
750-940	4	2	2	1
950-1140	4	2	2	1
1150-1340	4	2	2	1
1350-1540	4	2	2	1
1550-1705	5	2	2	1

**TABLE 3. Predicted Distances for Compliance with FCC Limits: 0.41-0.55 Wavelength**

Frequency (kHz)	Transmitter Power (kW)			
	50	10	5	1
	Predicted Distance for Compliance with FCC Limits (meters)			
535-740	4	3	2	2
750-940	4	2	2	2
950-1140	4	2	2	1
1150-1340	4	2	2	2
1350-1540	4	2	2	2
1550-1705	4	3	2	1

**TABLE 4. Predicted Distances for Compliance with FCC Limits: 0.56-6255 Wavelength**

Frequency (kHz)	Transmitter Power (kW)			
	50	10	5	1
	Predicted Distance for Compliance with FCC Limits (meters)			
535-740	4	3	2	1
750-940	4	2	2	1
950-1140	4	2	2	1
1150-1340	4	2	2	1
1350-1540	4	2	2	1
1550-1705	4	2	2	2

## **INSTRUCTIONS FOR SECTION IV – To be Completed by TV and Class A TV licensees only.**

**Item 1: Biennial Ownership Report.** This question asks the renewal applicant to certify that it has filed with the Commission the biennial ownership reports required by 47 C.F.R. 73.3615. Each licensee of an AM, FM, and TV broadcast station shall file an Ownership Report on FCC Form 323 (commercial) or 323-E (noncommercial/educational) every two years on the anniversary of the date that its renewal application is required to be filed. Licensees owning more than one broadcast station with different anniversary dates need to file only one Report every two years on the anniversary of their choice, provided that they are not more than two years apart. A licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate by validating electronically its previously filed report.

**Note: FCC Form 323 and 323-E must be filed electronically. Paper versions of these forms will not be accepted for filing unless accompanied by an appropriate request for waiver of the electronic filing requirement.**

**Item 2: EEO Program.** Each licensee of an AM, FM and TV broadcast station is required to afford equal employment opportunity to all qualified persons and to refrain from discrimination in employment and related benefits on the basis of race, color, religion, national origin, etc. *See* 47 C.F.R. Section 73.2080. Pursuant to these requirements, a license renewal applicant whose station employs five or more full-time employees must file a report of its activities to ensure equal employment opportunity. If a station employment unit employs fewer than five full-time employees, no equal employment opportunity program information need be filed.

Additionally, each licensee must place in the station's public inspection file annually AND POST ON THE STATION'S WEBSITE, if any, a report containing lists of (1) all full-time vacancies filled during the preceding year, identified by job title; (2) for each such vacancy, the recruitment source(s) utilized to fill the vacancy, (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number; (3) the recruitment source that referred the hiree for each full-time vacancy during the preceding year; (4) data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and (5) a list and brief description of initiatives undertaken pursuant to Section 73.2080(c)(2) during the preceding year.

**Item 3: Local Public File.** Commercial and noncommercial educational AM and FM licensees must maintain certain documents pertaining to its station in a file that is to be kept at the station's main studio. The file must be available for inspection by anyone during regular business hours. The documents to be maintained generally include applications for a construction permit and for license renewal, assignment or transfer of control; ownership and employment reports; and quarterly lists of the community issues most significantly addressed by the station's programming during the preceding three months. A complete listing of the required documents and their mandatory retention periods is set forth in 47 C.F.R. Sections 73.3526 and 73.3527. Applicants that have not so maintained their file should provide an exhibit identifying the Items that are missing/late filed, and identifying steps taken to reconstruct missing information, and to prevent such problems in the future.

**Item 4: Violent Programming.** This question should be completed by commercial TV and Class A TV applicants. On February 8, 1996 the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) was approved. That legislation, among other things, amended Section 308 of the Communications Act

of 1934 to require television broadcast station renewal applicants to submit a summary of complaints received from the public regarding violent programming aired by their stations. Licensee certifies that no written comments or suggestions have been received from the public that comment on its station's programming and characterize that programming as constituting violent programming.

**Item 5: Children's Programming Commercial Limitations.** Commercial TV and Class A commercial television licensees must limit the amount of commercial matter in "children's programming", which is defined for this purpose as programming originally produced and broadcast primarily for an audience of children 12 years of age and under. The children's programming commercial limitations are no more than 12 minutes of commercial matter per hour on weekdays, and no more than 10.5 minutes of commercials on weekends. The limits also apply *pro rata* to children's programs which are 5 minutes or more and which are not part of a longer block of children's programming. There are no restrictions on how commercials within the limits are configured within an hour's block of children's programming, *i.e.*, it is not necessary to prorate the commercial limits for separate children's programs within the hour.

**Item 6: Children's Programming.** Each commercial TV and Class A TV licensee is required to describe in its renewal application its efforts to serve the educational and information needs of children. Programming directed to the educational and informational needs of children is an identifiable unit of program material that is not a commercial or promotional announcement, that is originally produced and broadcast for an audience of children 16 years of age and under, and that furthers the positive development of the child in any respect, including, but not limited to, the child's cognitive/intellectual or emotional/social needs.

Each year, on a quarterly basis, each commercial TV and Class A TV licensee is required to prepare and electronically file a Children's Television Programming Report (FCC Form 398), setting forth the efforts made by the licensee during the quarter, as well as efforts planned for the next quarter, to serve the educational and informational needs of the children. FCC Form 398 is required to be filed with the Commission and a copy placed in the station's public inspection file by the tenth day of the preceding calendar quarter (*i.e.*, by April 10 for the first quarterly report; by July 10 for the second quarterly report; by October 10 for the third quarterly report; and by January 10 for the fourth quarterly report). Incorporating by reference previously filed FCC Form 398s satisfies the children's program information thought to be elicited by the FCC Form 303-S.

**Item 7: CORE Programming.** CORE Programming is defined as programming that is specifically designed to serve the educational and informational needs of children and that also satisfies each of the following criteria:

- (1) the program has serving the educational and informational needs of children ages 16 and under as a significant purpose;
- (2) the program is aired between the hours of 7:00 a.m. and 10 p.m.;
- (3) the program is a regularly scheduled weekly program;
- (4) the program is at least 30 minutes in length;
- (5) the educational and information objective of the program and the target child audience are specified in writing in the licensee's Children's Television Programming Report, as described in 47 C.F.R. Section 73.3526(a)(8)(iii); and
- (6) instructions for listing the program as educational and informational, including an indication of the age group for which the program is intended, are provided to publishers of program guides.

When the licensee has broadcasted three hours per week (averaged over a six-month period) of CORE Programming, it will be deemed to have satisfied its obligation to meet the educational and informational needs of children. A licensee will also be deemed to have satisfied this obligation (and be similarly eligible for Commission staff approval of its children's programming showing), where the licensee sets forth in an

exhibit that it has aired an assortment of different types of educational and informational programming that, while somewhat less than three hours per week of CORE Programming, demonstrates a level of commitment to educating and informing children that it is at least equivalent to airing three hours per week of CORE Programming.

**Items 8, 9, and 10:** To assist parents in planning and selecting programs for their children to watch, the Commission has established various public information initiatives. In accord with these initiatives, a licensee is required to identify CORE Programming at the time those programs are aired in a form that is at the sole discretion of the licensee; to disseminate information identifying the station's CORE Programming to publishers of program guides and listings; and to publicize the existence and location where the public can access information regarding the station's informational and educational children's programming efforts.

**Item 11:** An applicant may provide any other comments or information it wishes the Commission to consider in evaluating whether the licensee has met its obligations under the Children's Television Act and the Commission's rules. This may include, but is not limited to, information on any non-CORE educational and informational programming that the station plans to air, as well as information on any existing or proposed non-broadcast activities that the licensee believes enhance the educational and informational value to children of the licensee's educational programming.

**Item 12: Continued Class A Eligibility.** On November 29, 1999, the Community Broadcasters Protection Act of 1999 was signed into law. That legislation provides that a low power television licensee may convert the secondary status of its station to the new Class A status, provided it can satisfy certain statutorily-established criteria. To become eligible for a Class A certificate of eligibility, the licensee's station must, during the 90-day period ending November 28, 1999, have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station or by a group of commonly-controlled low power television stations; and (3) been in compliance with the Commission's regulations applicable to the low power television service. The legislation also provided that a licensee obtaining Class A designation shall continue to be accorded primary status as a television broadcaster, as long as its station continues to meet the requirements of (1) and (2) above.

**Item 13: Discontinued Operations.** Section 312(g) of the Communications Act of 1934, 47 U.S.C. Section 312(g), states that if a broadcast station fails to transmit broadcast signals for any consecutive 12-month period, then the station license expires automatically, by operation of law, at the end of that 12-month period. The Commission has no discretion to reinstate a broadcast license that has expired pursuant to Section 312(g). *See OCC Acquisition, Inc.*, 17 FCC Rcd 6147 (2002). Additionally, a station that does cease broadcasting for nearly 12 months may not preserve its license by recommencing operation with unauthorized facilities. *See Letter to Idaho Broadcasting Consortium*. 16 FCC Rcd 1721 (M.M. Bur. 2001). Accordingly, this Item requires the licensee to certify that the station was not silent for any consecutive 12-month period during the preceding license term. By answering "Yes" to this question, the applicant is considered to be certifying that: (1) it was not silent for any consecutive 12-month period during the preceding license term; and (2) if the station was silent for any period of time during the preceding license term, it resumed broadcasting *with authorized facilities* before 12 months from the date on which that station went silent. If the applicant cannot make this certification, its license renewal application will be dismissed and the Commission's data base will be amended to reflect the expiration of the station's license.

**Item 14: Silent Station.** The Commission will not review the license of a station that is not broadcasting. *See Birach Broadcasting Corporation*, 16 FCC Rcd 5015 (2001). "Broadcasting" means "the dissemination of radio communications intended to be received by the public." 47 C.F.R. 153(6). Accordingly, this Item requires the applicant to certify that its commercial TV or Class A TV broadcast station is currently transmitting signals intended to be received by the public. An application may not answer "Yes" to this question if the station is transmitting only "test signals."



**Note:** A noncommercial educational TV broadcast station is expected to provide continuous service, except where causes beyond its control warrant interruption. Where causes beyond the control of the licensee make it impossible to continue operation, the station may discontinue operation for a period of 30 days without further authority from the FCC. However, notification of the discontinuance must be sent to the FCC in Washington, D.C. no later than 10 days after the discontinued operation. Failure to operate for a period of 30 days or more, except for causes beyond the control of the licensee, as well as the actual hours of operation during the entire license period, shall be taken into consideration in the renewal of the station's license. *See* 47 C.F.R. Section 73.1740(b).

**Item 15: Environmental Effects.** TV and Class A TV renewal applications must review the instructions for Section III, Item 5, of this form before completing this item.

**Item 16: Local TV Ownership Waiver.** Section 73.3555(b) of the Commission Rules limits the number of full-power commercial television broadcast stations in the same Nielsen Designated Market Area (DMA) in which a licensee may have a cognizable interest. That rule, however, may be waived by the Commission in cases where the station is "failing." The Commission presumes a waiver is in the public interest where the licensee has demonstrated that the station to be acquired has had a low all-day audience share, its financial condition is poor, and its acquisition will produce public interest benefits. In DMA's with 11 or fewer full-power commercial and noncommercial educational stations, the Commission will also consider waiver of its proscription of the common ownership of more than one of the four top-ranked commercial television stations in the market for "marginal" – but not yet "failing" stations. At renewal time, the licensee must briefly describe the "failing" or "marginal" station waiver granted by the Commission and submit a specific, factual showing of the program-related benefits that have accrued to the public as a result of that waiver.

## **INSTRUCTIONS FOR SECTION V: To Be Completed By FM and TV Translator and Low Power TV Licensees Only**

**Item 1. Station Information.** The equipment should identify the FM and TV translator and LPTV station(s) for which license renewal is requested. Licensees must specify the station's community of license, call letters, and facility identifier.

**Item 2. Operational Status.** A FM, TV translator, or LPTV station is expected to provide continuous service, except where causes beyond its control warrant interruption. Where causes beyond the control of the licensee make it impossible to continue operation, the station may discontinue operation for a period of 30 days without further authority from the FCC. However, notification of the discontinuance must be sent to the FCC no later than 10 days after the discontinued operation. Failure to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuation of operation and the licensee of the translator or LPTV station may be cancelled at the discretion of the FCC. See 47 C.F.R. Sections 74.763 and 74.1263. Item 2 requires licensee to certify that it is on the air.

Section 325(a) of the Communications Act of 1934, as amended, prohibits the rebroadcast of the programs of a broadcast station without the express authority of the originating station. Where the renewal applicant is not the licensee of the originating station, written authority must be obtained prior to any rebroadcasting. Also, where the licensee has changed the station being rebroadcast, written notification must be made to the Commission in accordance with 47 C.F.R. Section 74.784 or 74.1251.

**Item 2(a).** Requires an FM Translator, TV Translator and LPTV licensee to certify compliance with this requirement. When the primary station is co-owned, the applicant also should answer "Yes" to this Item.

**Item 3a.** The provisions of 47 C.F.R Section 74.1232(d) provide that an authorization for an other area FM translator (*i.e.*, **FM translator** station whose coverage contour extends beyond the protected contour of the commercial primary station) will not be granted to the licensee of a commercial FM radio broadcast station, or to any person or entity having any interest or connection with the primary FM station. For the purposes of this rule, interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members and business associates.

**Item 3b.** The provisions of 47 C.F.R. Section 74.2132(e) provide that an authorization for an other area FM translator (*i.e.*, **FM translator** station whose coverage contour extends beyond the protected contour of the commercial primary station) shall not receive any support, before, during or after construction, either directly or indirectly, from the commercial primary FM radio broadcast station, or from any person or entity having any interest or connection with the primary FM station. For the purposes of this rule, interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members, business associates, and advertisers.

**Item 4.** Each licensee of an LPTV broadcast station is required to afford equal employment opportunity to all qualified persons and to refrain from discrimination in employment and related benefits on the basis of race, color, religion, national origin, etc. *See* 47 C.F.R. Section 73.2080. Pursuant to these requirements, a license renewal applicant whose station employs five or more full-time employees must file a report of its activities to ensure equal employment opportunity. If a station employment unit employs fewer than five full-time employees, no equal employment opportunity program information need be filed. Additionally, each licensee must maintain with its station's records, AND POST ON THE STATION'S WEBSITE, if any, an annual report containing lists of (1) all full-time vacancies filled during the preceding year, identified by job title, (2) for each such vacancy, the recruitment source(s) utilized to fill the vacancy, (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number; (3) the recruitment source that referred the hiree for each full-time vacancy during the preceding year; (4) data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and (5) a list and brief description of initiatives undertaken pursuant to Section 73.2080(c)(2) during the preceding year.

**Item 5. Environmental Effects.** FM and TV translator and LPTV renewal applicants must review the Instructions to Section III, Item 6, of this form before completing this item.

#### **FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT**

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information provided in the application to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; (b) any employee of the FCC; or (c) the United States Government is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection.

If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset

your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you do not provide the information requested on this form, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authorization.

We have estimated that each response to this collection of information will take from 37 hours to 119 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERF, Paperwork Reduction Project (3060-0027), Washington, DC 20554. We will also accept your comments via the Internet if you send them to Judith-B.Herman@fcc.gov. Please **DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS**. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0027.

**THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.**

FOR  
FCC  
USE  
ONLY

**FCC 303-S**

**APPLICATION FOR  
RENEWAL OF BROADCAST STATION  
LICENSE**

FOR COMMISSION USE ONLY

FILE NO.

**Section I - General Information- TO BE COMPLETED BY ALL APPLICANTS**

1. Legal Name of Licensee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)
FCC Registration Number	Call Sign	Facility Identifier

2. Contact Representative		Firm or Company Name
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)

3. If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114):

Governmental Entity     Noncommercial Educational Licensee     Other \_\_\_\_\_

4. **Purpose of Application.**

Renewal of license

Amendment to pending renewal application  
If an amendment, submit as an exhibit a listing by Section and Item  
Number the portions of the pending application that are being revised.

Exhibit

5. **Facility Information:**  Commercial  Noncommercial Educational

6. **Service and Community of License**

a.  AM  FM  TV  FM Translator  LPFM  
 TV Translator  Low Power TV  Class A TV

Community of License/Area to be Served	
City	State

b. Does this application include one or more FM translator station(s), or TV translator station(s), LPTV station(s), in addition to the station listed in Section I, Question 1? (The call sign(s) of any associated FM translators, TV translators or LPTVs will be requested in Section V).

Yes  No

7. **Other Authorizations.** List call signs, facility identifiers and location(s) of any FM booster or TV booster station(s) for which renewal of license is also requested.

Exhibit No.

N/A

**NOTE: In addition to the information called for in Sections II, III, IV and V, an explanatory exhibit providing full particulars must be submitted for each item for which a "No" response is provided.**

**Section II - Legal -TO BE COMPLETED BY ALL APPLICANTS**

1. **Certification.** Licensee certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Licensee further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application, instructions, and worksheets.  Yes  No
  
2. **Character Issues.** Licensee certifies that neither the licensee nor any party to the application has or has had any interest in, or connection with:
  - a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or any party to the application; or  Yes  No See Explanation in Exhibit No.
  - b. any pending broadcast application in which character issues have been raised.  Yes  No See Explanation in Exhibit No.
  
3. **Adverse Findings.** Licensee certifies that, with respect to the licensee and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any laws related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.  Yes  No See Explanation in Exhibit No.
  
4. **FCC Violations during the Preceding License Term.** Licensee certifies that, with respect to the station(s) for which renewal is requested, there have been no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term. If No, the licensee must submit an explanatory exhibit providing complete descriptions of all violations.  Yes  No See Explanation in Exhibit No.
  
5. **Alien Ownership and Control.** Licensee certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.  Yes  No See Explanation in Exhibit No.
  
6. **Anti-Drug Abuse Act Certification.** Licensee certifies that neither licensee nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.  Yes  No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

**Section III - TO BE COMPLETED BY AM and FM LICENSEES ONLY**

1. **Biennial Ownership Report:** Licensee certifies that the station's Biennial Ownership Report (FCC Form 323 or 323-E) has been filed with the Commission as required by 47 C.F.R. Section 73.3615.  Yes  No See Explanation in Exhibit No.
2. **EEO Program:** Licensee certifies that:
- a. The station's Broadcast EEO Program Report (FCC Form 396) has been filed with the Commission, as required by 47 C.F.R. Section 73.2080(f)(1).  Yes  No See Explanation in Exhibit No.
- Specify FCC Form 396 File Number
- b. The station has posted its most recent Broadcast EEO Public File Report on the station's website, as required by 47 C.F.R. Section 73.2080(c)(6).  Yes  No  
 N/A See Explanation in Exhibit No.
3. **Local Public File.** Licensee certifies that the documentation, required by 47 C.F.R. Sections 73.3526 or 73.3527, as applicable, has been placed in the station's public inspection file at the appropriate times.  Yes  No See Explanation in Exhibit No.
4. **Discontinued Operations.** Licensee certifies that during the preceding license term the station has not been silent for any consecutive 12-month period.  Yes  No See Explanation in Exhibit No.
5. **Silent Station.** Licensee certifies that the station is currently on the air broadcasting programming intended to be received by the public.  Yes  No
6. **Environmental Effects.** Licensee certifies that the specified facility complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments. Unless the licensee can determine compliance through the use of the RF worksheets in the Instructions to this Form, **an Exhibit is required.**  Yes  No See Explanation in Exhibit No.

By checking "Yes" above, the licensee also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower, or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

**Section IV - TO BE COMPLETED BY TV AND CLASS A LICENSEES ONLY**

1. **Biennial Ownership Report.** Licensee certifies that the station's Biennial Ownership Report (FCC Form 323 or 323-E) has been filed with the Commission, as required by 47 C.F.R. Section 73.3615.

Yes  No

See Explanation in Exhibit No.

2. **EEO Program.** Licensee certifies that:

a. The station's Broadcast EEO Program Report (FCC Form 396), has been filed with the Commission, as required by 47 C.F.R. Section 73.2080(f)(1).

Yes  No

See Explanation in Exhibit No.

Specify FCC Form 396 File Number

b. The station has posted its most recent Broadcast EEO Public File Report on the station's website, as required by 47 C.F.R. Section 73.2080(c)(6).

Yes  No  N/A

See Explanation in Exhibit No.

3. **Local Public File.** Licensee certifies that the documentation required by 47 C.F.R. Sections 73.3526 or 73.3527, as applicable, has been placed in its station's inspection file at the appropriate times.

Yes  No

4. **Violent Programming.** Licensee certifies that no written comments or suggestions have been received from the public that comment on its station's programming and characterize that programming as constituting violent programming.

Yes  No  N/A

If No, **submit as an Exhibit** a summary of those written comments and suggestions received from the public.

See Explanation in Exhibit No.

5. **Children's Programming Commercial Limitations.** For the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 C.F.R. Section 73.670. (The limits are no more than 12 minutes of commercial matter per hour during children's programming on weekdays, and no more than 10.5 minutes of commercial matter per hour during children's programming on weekends. The limits also apply pro rata to children's programs which are 5 minutes or more and which are not part of a longer block of children's programming.

Yes  No

See Explanation in Exhibit No.

If No, **submit as an Exhibit** a list of each segment of programming 5 minutes or more in duration designed for children 12 years and under and broadcast during the license period which contained commercial matter in excess of the limits. For each programming segment so listed, indicate the length of the segment, the amount of commercial matter contained therein, and an explanation of why the limits were exceeded.

6. For the period of time covered by this applicant, the licensee certifies that it has filed with the Commission, **and incorporated by reference**, the Children's Television Programming Reports (FCC Form 398) as described in 47 C.F.R. Section 73.3526.

Yes  No

See Explanation in Exhibit No.

If No, **submit as an Exhibit** a statement of explanation.



7. For the period of time covered by this application, the licensee certifies that the average number of hours of CORE Programming per week broadcast by the station totalled 3 hours or more (averaged over a six-month period).  Yes  No

Exhibit No.

8. The licensee certifies that it identifies each CORE Program aired at the beginning of the airing of each program as required by 47 C.F.R. Section 73.673.  Yes  No

Exhibit No.

If No, **submit as an Exhibit** a statement of explanation.

9. The licensee certifies that it provides information identifying each CORE Program aired on its station, including an indication of the target child audience, to publishers of program guides as required by 47 C.F.R. Section 73.673.  Yes  No

Exhibit No.

If No, **submit as an Exhibit** a statement of explanation.

10. The licensee certifies that it publicizes the existence and location of the station's Children's Television Programming Reports (FCC Form 398) as required by 47 C.F.R. Section 73.3526(e)(11)(iii).  Yes  No

Exhibit No.

If No, **submit as an Exhibit** a statement of explanation, including the specific steps the applicant intends to implement to ensure compliance in the future.

11. The licensee may include as an exhibit any other comments or information it wants the Commission to consider in evaluating compliance with the Children's Television Act. This may include information on any other non-core educational and informational programming that the applicant aired or plans to air, or any existing or proposed non-broadcast efforts that will enhance the educational and informational value of such programming to children. See 47 C.F.R. Section 73.671, NOTE 2.  Yes  No

Exhibit No.

12. **Continued Class A Eligibility.** Licensee certifies that its station does, and will continue to, broadcast: (a) a minimum of 18 hours per day; and (b) an average of at least 3 hours per week of programming each quarter produced within the market area served by the station, or by a group of commonly controlled low power or Class A stations whose predicted Grade B contours are contiguous.  Yes  No See Explanation in Exhibit No.

13. **Discontinued Operations.** Licensee certifies that during the preceding license term, the station has not been silent for any consecutive 12-month period.  Yes  No See Explanation in Exhibit No.

14. **Silent Station.** Licensee certifies that the station is currently on the air broadcasting programming intended to be received by the public.  Yes  No

15. **Environmental Effects.** Licensee certifies that the specified facility complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments.  Yes  No

[See Explanation in Exhibit No.](#)

By checking "Yes" above, the licensee also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

16. **Local TV Ownership Waiver.** Has the licensee been granted a "failing" or "marginal" station waiver of 47 C.F.R. Section 73.3555(b)?  Yes  No

If Yes, **submit as an Exhibit** a specific factual showing of the program-related benefits that have accrued to the public as a result of that waiver.

[Exhibit No.](#)

**Section V - TO BE COMPLETED BY FM AND TV TRANSLATOR AND LOW POWER TV LICENSEES ONLY**

**1. Station Information:**

Call Sign	Facility Identifier	Area Licensed to Serve	
		City	State

**2. Operational Status:**

a. **Silent station:** Licensee certifies that the station is currently on the air.

Yes  No

See explanation in Exhibit No.

b. **Rebroadcast Status.** Licensee certifies that the station is currently rebroadcasting the signal of an FM, TV, or LPTV station.

Yes  No  N/A

See explanation in Exhibit No.

If Yes, identify the station being broadcast:

Call sign	Facility Identifier	Area Licensed to Serve	
		City	State

c. **Rebroadcast Consent.** Licensee certifies that it has obtained written authority from the licensee of the primary station identified above for retransmitting the primary station's programming.

Yes  No  N/A

See explanation in Exhibit No.

**3. For FM Translator Applicants Only:**

a. Licensee certifies that it is in compliance with 47 C.F.R. Section 74.1232(d) which prohibits the common ownership of a commercial primary station and a FM translator station whose coverage contour extends beyond the coverage contour of the commercial primary station being rebroadcast. This restriction also applies to any person or entity having any interest in, or any connection with, the primary FM station.

Yes  No

See explanation in Exhibit No.

b. Licensee certifies that it is in compliance with 47 C.F.R. Section 74.1232(e) which prohibits an FM translator station whose coverage extends beyond the protected contour of the commercial primary station being rebroadcast from receiving any support (except for specified technical assistance), before, during, or after construction, directly or indirectly, from the primary station, or any person or entity having any interest in, or any connection with, the primary station.

Yes  No  N/A

See explanation in Exhibit No.

4. **For Low Power TV Applicants Only.** Licensee certifies that it has filed with the Commission, the station's Broadcast EEO Program Report (FCC Form 396) and has posted the most recent Public File Report on the station's website, as required by 47 C.F.R. Section 73.2080(f)(1).  Yes  No  N/A

See explanation in Exhibit No.

5. **Environmental Effects.** Licensee certifies that the specified facility complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments.  Yes  No

See explanation in Exhibit No.

By checking "Yes" above, the licensee also certifies that, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower, or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

**FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT**

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this report. We will use the information you provide to determine if the benefit requested is consistent with the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your request may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your request may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection. If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized. If you do not provide the information requested on this report, the report may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authority. We have estimated that each response to this collection of information will average 3 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0110), Washington, D. C. 20554. We will also accept your comments via the Internet if you send them to Leslie.Smith@fcc.gov. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0110.

**THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.**

## **Exhibit C**

## FCC 323

### INSTRUCTIONS FOR OWNERSHIP REPORT

#### **GENERAL INSTRUCTIONS - SECTION I**

1. This report is to be filed by commercial AM, FM and Television broadcast stations and by International broadcast stations as indicated below (see 47 C.F.R. Section 73.3615).

- (a) By licensee at two-year intervals on the anniversary date of the station's renewal application filing date. Where the licensee, however, is a partnership that is composed entirely of natural persons, the biennial reporting requirement does not apply. Similarly, sole proprietorships (i.e., where the station is licensed to an individual(s)) are not required to file biennially.

If information submitted is equally applicable to each listed station, one biennial report may be filed for all such stations; otherwise, a separate report shall be filed for each station on the appropriate filing date.

If there has been no change since the filing of the last biennial report, a certification may be filed in lieu of a new report, stating that the previously filed report has been examined and is currently accurate.

- (b) By permittee or licensee following the consummation, pursuant to Commission consent, of a transfer of control or an assignment.
- (c) By permittee within 30 days after the grant of a construction permit for a new commercial radio or television broadcast station. The permittee is also required to update its initial report or to certify the continuing accuracy and completeness of that report when the permittee applies for a station license for that new station.

2. **Electronic Filing of Application Forms.** The Commission is currently developing electronic versions of various broadcast station application and reporting forms, such as this report form. As each application form and report goes online, the Commission will by Public Notice announce its availability and the procedures to be followed for accessing and filing the application form or report electronically via the Internet. For a six-month period following the issuance of the Public Notice, the subject application form or report can be filed with the Commission either electronically or in a paper format. Electronic filing will become mandatory, on a form-by-form basis, six months after each application form or report

becomes available for filing electronically.

3. File one copy of this report with the Federal Communications Commission. Form 323's not involving the payment of a fee can be hand-delivered or mailed to the FCC's Washington, D.C. offices. See 47 C.F.R. Section 0.401(a). For "biennial" ownership reports that must be submitted with a fee, see 47 C.F.R. Section 0.401(b) and Fee Instructions below.
4. This form is not to be used to report or request a transfer of control or assignment of license or construction permit (except to report a transfer of control or assignment made pursuant to prior Commission consent). The appropriate forms for use in connection with such transfers or assignments are FCC Forms 314, 315 and 316. See 47 C.F.R. Sections 73.3540 and 73.3541. It is the responsibility of the licensee or permittee to determine whether a given transaction constitutes a transfer of control or an assignment. However, for purposes of example only, and for the convenience of interested persons, there are listed below some of the more common types of transfers.

A transfer of control takes place when:

- (a) An individual stockholder gains or loses affirmative or negative (50%) control. (Affirmative control consists of control of more than 50% of voting stock; negative control consists of control of exactly 50% of voting stock.)
- (b) Any family group or any individual in a family group gains or loses affirmative or negative (50%) control. (See also Instruction 6, Section II.)
- (c) Any group in privity gains or loses affirmative or negative (50%) control.

The following are examples of transfers of control or assignments requiring prior Commission consent:

- (a) A, who owns 51% of the licensee's or permittee's stock, sells 1% or more thereof. A transfer has been effected.
- (b) X corporation, wholly owned by Y family, retires outstanding stock which results in family member A's individual holdings being increased to 50% or more. A transfer has been effected.

- (c) A and B, husband and wife, each owns 50% of the licensee's or permittee's stock. A sells any of his stock to B. A transfer has been effected.
- (d) A is the partner in the licensee. A sells any part of his interest to newcomer B or existing partner C. An assignment has been effected.
- (e) X partnership incorporates. An assignment has been effected.
- (f) Minority stockholders form a voting trust to vote their 50% or more combined stockholdings. A transfer has been effected.
- (g) A, B, C, D, and E each own 20% of the stock of X corporation. A, B, and C sell their stock to F, G, and H at different times. A transfer is effected at such time as 50% or more of the stock passes out of the hands of the stockholders who held stock at the time the original authorization for the licensee or permittee corporation was issued.

5. **Names/Addresses.** The name of the licensee or permittee should be stated exactly as it appears on the station's existing license or construction permit. The current street address or post office box used by the licensee or permittee for receipt of Commission correspondence should be set forth.

Any change in the name of the licensee or permittee, which does not involve a change in ownership requiring prior Commission approval, can be communicated to the Commission by letter. To report any changes in the mailing address previously used by the licensee or permittee, FCC Form 5072, entitled "Change in Official Mailing Address for Broadcast Station", should be promptly transmitted to the Commission. See 47 C.F.R. Section 1.5.

**FCC Registration Number (FRN).** To comply with the Debt Collection Improvement Act of 1996, the applicant must enter its FRN number, a ten-digit unique entity identifier for anyone doing business with the Commission. The FRN can be obtained through the FCC webpage at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html> or by calling 1-800-418-3676. Questions concerning the FCC Registration Number can be directed to the Commission's Registration System help desk at <http://www.CORES@fcc.gov> or by calling 1-877-480-3201.

**Facility ID Number.** Radio and TV Facility ID Numbers can be obtained at the FCC's Internet Website at [www.fcc.gov/mb](http://www.fcc.gov/mb). Once at this website, scroll down and

select CDBS Public Access. You can also obtain your facility ID number by calling: Radio - 202-418-2700, TV - 202-418-1600. Further, the Facility ID Number is now included on all Radio and TV authorizations and postcards.

6. If the licensee or permittee is directly or indirectly controlled by another entity or if another entity has an attributable interest in such licensee or permittee, a separate Form 323 should be submitted for such entity. For successive entities, interests are multiplied. See Ownership Instructions, 3.

7. **FEES.** By law, the Commission is required to collect charges for certain of the regulatory services it provides to the public. A fee is required to be paid and submitted with the filing of a licensee's "biennial" ownership report **only**. The "biennial" ownership report is the Form 323, or the aggregate Form 323's as the case may be when the licensee is directly or indirectly controlled by another entity or if another entity has an attributable interest in the licensee, that is submitted on behalf of the individual AM, FM, or TV broadcast station. Further, where there has been no change in information since the last filing of a station's "biennial" ownership report, a certification may be filed on behalf of the station in lieu of a new report, stating that the previously filed "biennial" ownership report has been examined and is currently accurate and complete. Such certification constitutes the station's "biennial" ownership report for that year and the required fee must also be submitted with the certification. The "biennial" ownership report (whether on Form 323 or as a certification) is filed on an individual station basis and the required fee is calculated thereon. It is the number of stations for which a report is filed that determines the total fee due; not the number of Form 323's filed in connection therewith.

When filing a fee-exempt FCC Form 323, the licensee/permittee must complete Question 4 and provide an explanation as appropriate.

FCC Form 323's NOT involving the payment of a fee must be hand-delivered or mailed to the FCC's Washington, D.C. offices. See 47 C.F.R. Section 0.401(a). Do not send fee-exempt applications to Mellon Bank because it will result in a delay in processing the report.

**FCC Form 159 must be submitted with any application or report subject to a fee received at the Commission.** Licensees or permittees who wish to pay for more than one filing in the same lockbox with a single payment can do so by submitting FCC Form 159. When paying for multiple filings in the same lockbox with a single payment instrument, you must list each filing as a separate item on FCC Form 159 (Remittance Advice). If additional entries are necessary, please use FCC Form 159C (Continuation Sheet).

The Commission's fee collection program utilizes a U.S. Treasury lockbox bank for maximum efficiency of collection and processing. All "biennial" ownership reports, which require the remittance of a fee, must be submitted to the appropriate post office box address. See 47 C.F.R. Section 0.401(b). A listing of the required fee, a copy of a Remittance Advice Form (FCC Form 159) and the addresses to which the "biennial" ownership report should be mailed or otherwise delivered is also set forth in the Mass Media Services Fee Filing Guide," which is obtainable either by writing to the Commission's Form Distribution Center, 9300 E. Hampton Drive, Capital Heights, Maryland 20743, or by calling Telephone No. 1-800-418-FORM and leaving your request on the answering machine provided for this purpose. See also 47 C.F.R. Section 1.1104.

Payment of any required fee must be made by check, bank draft, money order or credit card. If paying by check, bank draft or money order, your remittance must be denominated in U.S. dollars, and drawn upon a U.S. financial institution and made payable to the Federal Communications Commission. No postdated, altered or third-party checks will be accepted. DO NOT SEND CASH. Checks dated six months or older will not be acceptable for filing.

Procedures for payment of fees when applications and reporting forms are filed electronically will be announced by subsequent public notice. See General Instructions, 2. Payment of fees may also be made by Electronic Payment prior to the institution of electronic filing procedures, provided prior approval has been obtained from the Commission. Licensees interested in this option must first contact the Credit and Debt Management Center at (202) 418-1995 to make the necessary arrangements.

Parties hand-delivering "biennial" ownership reports may receive dated receipt copies by presenting copies to the acceptance clerk at the time of delivery. For mailed-in "biennial" ownership reports, a "return copy" of the report can be furnished provided the licensee clearly identifies the "return copy" and attaches to it a stamped, self-addressed envelope. Only one piece of paper per report will be stamped for receipt purposes. The "return copy" should be placed on top of the reporting form package. Failure to do so may result in your copy not being returned.

For further information regarding fees and payment procedures licensees should consult the "Mass Media Services Fee Filing Guide." Also see the Commission's Public Notice of June 6, 1990, entitled "Broadcast Annual Ownership Reports (Fee Requirements)", 67 RR 2d 1227.

## OWNERSHIP INSTRUCTIONS - SECTION II

1. As used in Question 6, the term "respondent" refers either to the licensee or permittee or to an entity controlling or holding an "attributable" interest in the licensee or permittee, as defined in Instruction 3 below.
2. Any contract or modification of contract relating to the ownership, control, or management of the licensee or permittee or to its stock must be filed with the Commission, as required by 47 C.F.R. Section 73.3613. Attention is directed to the fact that Section 73.3613 requires the filing of all contracts of the types specified and is not limited to executed contracts, but includes options, pledges, and other executory agreements and contracts relating to ownership, control, or management.
3. As used in Question 9, an "attributable" interest is an ownership interest in or relationship to a licensee or permittee which will confer on its holder that degree of influence or control over the licensee or permittee sufficient to implicate the Commission's multiple ownership rules. In responding to Question 9, licensees/permittees should review the Commission's multiple ownership attribution policies and standards which are set forth in the Notes to 47 C.F.R. Section 73.3555, as revised and explained in Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests, FCC 99-207, released August 6, 1999. See also Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984), reconsideration granted in part, 58 RR 2d 604 (1985), further modified on reconsideration, 61 RR 2d 739 (1986).

The following interests are attributable and the holder of such interest and should be reported in response to Question 9(a):

**If a Corporation:** Each officer, director and owner of stock accounting for 5% or more of the issued and outstanding voting stock of the respondent is considered the holder of an attributable interest. Where the 5% stock owner is itself a corporation, each of its stockholders, directors and "executive" officers (president, vice-president, secretary, treasurer or their equivalents) is considered a holder of an attributable interest, **UNLESS** the respondent submits as an exhibit a statement establishing that an individual director or officer will not exercise authority or influence in areas that will affect the corporate respondent or the station. In this statement, the respondent should identify the individual by name and title, describe the individual's duties and responsibilities, and explain the manner in which such individual is insulated from the corporate applicant and should not be attributed an interest.

A person or entity holding an ownership interest in the corporate stockholder of the corporate respondent is considered a party to this application **ONLY IF** that



interest, when multiplied by the corporate stockholder's interest in the respondent, would account for 5% or more of the issued and outstanding voting stock of the applicant. For example, where Corporation X owns stock accounting for 25% of the applicant's votes, only Corporation X shareholders holding 20 percent or more of the issued and outstanding voting stock of Corporation X have a 5% or more indirect interest in the respondent ( $.25 \times .20 = .05$ ) and, therefore, are considered holders of attributable interests. In applying the multiplier, any entity holding more than 50% of its subsidiary will be considered a 100% owner. Where the 5% stock owner is a partnership, each general partner and any limited partner that is not insulated, regardless of the partnership interest, is considered a party to the application.

Stock subject to stockholder cooperative voting agreements accounting for 5% or more of the votes in a corporate respondent will be treated as if held by a single entity and any stockholder holding 5% or more of the stock in that block is considered a holder of an attributable interest.

If a single entity holds more than 50% of the voting stock, and a simple majority is all that is required to control corporate affairs, no other stockholder need be reported, **unless that entity's interest is attributable under the Commission's Equity/Debt Plus attribution standard described below.**

An investment company, insurance company or trust department of a bank is not considered a holder of an attributable interest, and a respondent may properly certify that such entity's interest is non-attributable in response to Question 9(b), **IF** its aggregated holding accounts for less than 20% of the outstanding votes in the applicant **AND IF** such entity exercises no influence or control over the corporation, directly or indirectly; and such entity has no representatives among the officers and directors of the corporation.

**If a PARTNERSHIP:** Each partner, including all limited partners. However, a limited partner in a limited partnership is **not** considered a holder of an attributable interest **IF** the limited partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the respondent so certifies in response to Question 9(b). Sufficient insulation of a limited partner for purposes of this certification would be assured if the limited partnership arrangement:

(1) specifies that any exempt limited partner (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership if his or her functions, directly or indirectly, relate to the media enterprises of the company;

- (2) bars any exempt limited partner from serving, in any material capacity, as an independent contractor or agent with respect to the partnership's media enterprises;
- (3) restricts any exempted limited partner from communicating with the licensee or the general partner on matters pertaining to the day-to-day operations of its business;
- (4) empowers the general partner to veto any admissions of additional general partners admitted by vote of the exempt limited partners;
- (5) prohibits any exempt limited partner from voting on the removal of a general partner or limits this right to situations where the general partner is subject to bankruptcy proceedings, as described in Sections 402 (4)-(5) of the Revised Uniform Limited Partnership Act, is adjudicated incompetent by a court of competent jurisdiction, or is removed for cause, as determined by an independent party;
- (6) bars any exempt limited partner from performing any services to the limited partnership materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business; and
- (7) states, in express terms, that any exempt limited partner is prohibited from becoming actively involved in the management or operation of the media businesses of the partnership.

Notwithstanding conformance of the partnership agreement to these criteria, however, the requisite certification **cannot** be made **IF** the limited partner's interest is attributable under the Commission's **Equity/Debt Plus** attribution standard described below; or **IF** the respondent has actual knowledge of a material involvement of a limited partner in the management or operation of the media-related businesses of the partnership. In the event that the respondent cannot certify as to the noninvolvement of a limited partner, the limited partner will be considered as a holder of an attributable interest.

**If a LIMITED LIABILITY COMPANY:** The Commission treats a LLC as a limited partnership, each of whose members is considered to be a party to the application. However, where a LLC member is insulated in the manner specified above with respect to a limited partnership and where the relevant state statute authorizing the LLC permits a LLC member to insulate itself in accordance with the Commission's criteria, that LLC member is not considered a holder of an attributable interest. In such a case, the applicant should certify "Yes" in response to Question 9(b).

**Equity/Debt Plus Attribution Standard.** Certain interests held by substantial investors in, or creditors of, the respondent may also be attributable and the investor reportable as a holder of an attributable interest, if the interest falls within the Commission's **EDP** attribution standard. Under the **EDP** standard, the interest held, aggregating both equity and debt, must exceed 33% of the total asset value (all equity plus all debt) of the respondent, a broadcast station licensee, cable television system, daily newspaper or other media outlet subject to the Commission's broadcast multiple ownership rules **AND** the interest holder must either also hold an attributable interest in a media outlet in the same market or supply over 15% of the total weekly broadcast programming hours of the station in which the interest is held. For example, the equity interest of an insulated limited partner in a limited partnership respondent would normally not be considered attributable. However, under the **EDP** standard, that interest would be attributable if the limited partner's interest exceeded 33% of the respondent's total asset value **AND** the limited partner also held a 5% voting interest in a radio or television station licensee in the same market.

4. Among other things, Question 9(a) seeks information as to those persons to which the Commission's minority and female ownership policies have historically applied. In addition to gender information, the race/ethnic categories are:
  - a. **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
  - b. **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
  - c. **Black or African American.** A person having origins in any of the black racial groups of Africa.
  - d. **Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish Culture or origin, regardless of race.
  - e. **Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
  - f. **White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

### CERTIFICATION INSTRUCTIONS - SECTION III

1. The person certifying the accuracy of the information in this report must be the individual licensee or permittee, a general partner in the licensee or permittee partnership, or an appropriate officer in the licensee or permittee corporation or association. If this report is filed for a respondent and not for a licensee or permittee, the person certifying the accuracy of the information must be a general partner in the respondent partnership or an appropriate officer in the respondent corporation or association.

### **FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT**

If you do not provide the information requested on this form, the report may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authorization.

We have estimated that each response to this collection of information will take 7.5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0010), Washington, DC 20554. We will also accept your comments via the Internet if you send them to [pra@fcc.gov](mailto:pra@fcc.gov). Please **DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS**. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0010.

**THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.**

FOR  
FCC  
USE  
ONLY

**FCC 323**  
**OWNERSHIP REPORT**  
**FOR**  
**COMMERCIAL BROADCAST STATIONS**

FOR COMMISSION USE ONLY

FILE NO.

**SECTION I - GENERAL INFORMATION**

1. Legal Name of the Licensee/Permittee

Mailing Address

City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	
FCC Registration Number	Facility ID Number	Call Sign

2. Contact Representative (if other than Licensee/Permittee)      Firm or Company Name

Mailing Address

City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	

3. Name of entity, if other than licensee or permittee, for which report is filed

Mailing Address

City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	

4. If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114):
- Governmental Entity       Fee-exempt Report       Other \_\_\_\_\_

**SECTION II - OWNERSHIP INFORMATION**

5. All of the information furnished in this Report is accurate as of \_\_\_\_\_  
(Date must comply with 47 C.F.R. Section 73.3615(a), i.e., information must be current within 60 days of filing of this report, when 5(a) below is checked.)

This Report is filed for (check one)

- a.  Biennial      b.  Transfer of Control or Assignment of License/ Permit      c.  Other

for the following stations:

Call Letters	Facility ID Number	Location	Class of service

6. Respondent is:

- Sole proprietorship                       Not-for-profit corporation                       Limited partnership  
 For-profit corporation                       General partnership                       Other

If "Other," describe the nature of the respondent in an Exhibit.

Exhibit No.

7. List all contracts and other instruments required to be filed by 47 C.F.R. Section 73.3613. (Only licensees, permittees, or a reporting entity with a majority interest in or that otherwise exercises de facto control over the subject licensee or permittee shall respond.)

Description of contract or instrument	Name of person or organization with whom contract is made	Date of Execution	Date of Expiration

8. Capitalization (Only licensees, permittees, or a reporting entity with a majority interest in or that otherwise exercises de facto control over the subject licensee or permittee shall respond.)

Class of stock (preferred, common or other)	Voting or Non-voting	Number of Shares			
		Authorized	Issued and Outstanding	Treasury	Unissued

9. a. List the respondent, and, if other than a natural person, its officers, directors, stockholders and other entities with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in the respondent, list separately its officers, directors, stockholders and other entities with attributable interests, non-insulated partners and/or members. Create a separate row for each individual or entity. Attach supplemental pages, if necessary.

**(Read carefully - The numbered items below refer to line numbers in the following table.)**

- |  |   |
|--|---|
| <p>1. Name and address of respondent and each party to the respondent holding an attributable interest (if other than individual also show name, address and citizenship of natural person authorized to vote the stock or holding the attributable interest). List the respondent first, officers next, then directors and, thereafter, remaining stockholders and other entities with attributable interests, and partners.</p> <p>2. Gender (male or female).</p> <p>3. Ethnicity (check one).</p> <p>4. Race (select one or more).</p> | <p>5. Citizenship.</p> <p>6. Positional interest: Officer, director, general partner, limited partner, LLC member, investor/creditor attributable under the Commission's <b>equity/debt plus</b> standard, etc.</p> <p>7. Percentage of votes.</p> <p>8. Percentage of total assets (equity debt plus).</p> |
|--|---|

1.			
2.			
3.	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino
4.	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White
5.			
6.			
7.			
8.			

Supplemental Page for Question 9(a)

1.			
2.			
3.	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino
4.	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White
5.			
6.			
7.			
8.			

(b) Respondent certifies that equity and financial interests not set forth in response to Question 9(a) are non-attributable.  Yes  No See Explanation in Exhibit No.

N/A

(c) Is the respondent or any party holding an attributable interest in the respondent also the holder of an attributable interest in any other broadcast station, or in any cable or newspaper entities in the same market or with overlapping signals in the same broadcast service, as described in 47 C.F.R. Sections 73.3555 and 76.501?  Yes  No

If "Yes," submit an Exhibit identifying the holder of that other attributable interest, listing the call signs, locations and facilities identifiers of such other broadcast stations, and describing the nature and size of the ownership interest and the positions held in the other broadcast, cable or newspaper entities.

Exhibit No.

(d) Are any of the individuals listed in response to Question 9(a) related as parent-child, husband-wife, brothers and sisters?  Yes  No

If "Yes," submit an Exhibit setting forth full information as to the family relationship.

Exhibit No.

(e) Is respondent seeking an attribution exemption for any officer or director with duties unrelated to the licensee or permittee?  Yes  No

If "Yes," submit an Exhibit identifying that individual by name and title, fully describing that individual's duties and responsibilities, and explaining why that individual should not be attributed an interest.

Exhibit No.

**SECTION III - CERTIFICATION**

I certify that I am \_\_\_\_\_  
(Official Title)

of \_\_\_\_\_  
(Exact legal title or name of respondent)

and that I have examined this Report and that to the best of my knowledge and belief, all statements in this Report are true, correct and complete.

(Date of certification must be within 60 days of the date shown in Question 5, Section II and in no event prior to that date.)

Signature	Date
Telephone Number of Respondent (Include area code)	

**WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).**

## **Exhibit D**



## BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGRAM REPORT

(To be filed with broadcast license renewal application)

(For FCC Use Only)

Code No.

Legal Name of the Licensee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	
	Facility ID Number	Call Sign

**TYPE OF BROADCAST STATION :**

Commercial Broadcast Station

Noncommercial Broadcast Station

- Radio     TV  
                    Low Power TV  
                    International

- Educational Radio  
 Educational TV

List call sign and location of all stations included on this report. List commonly owned stations that share one or more employees. Also list stations operated by the licensee pursuant to a time brokerage agreement. Indicate on the table below which stations are operated pursuant to a time brokerage agreement. To the extent that licensees include stations operated pursuant to a time brokerage agreement on this report, responses or information provided in Sections I through IV should take into consideration the licensee's EEO compliance efforts at brokered stations, as well as any other stations, included on this form. For purposes of this form, a station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee.

Call Sign	Facility ID Number	Type (check applicable box)	Location (city, state)	Time Brokerage Agreement (check applicable box)
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No

**CONTACT PERSON IF OTHER THAN LICENSEE**

Name		Street Address	
City	State	Zip Code	Telephone No. ( )

**FILING INSTRUCTIONS**

Broadcast station licensees are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, national origin, religion, and sex. See 47 C.F.R. Section 73.2080. Pursuant to these requirements, a license renewal applicant whose station employment unit employs five or more full-time station employees must file a report of its activities to ensure equal employment opportunity. If a station employment unit employs fewer than five full-time employees, no equal employment opportunity program information need be filed. If a station employment unit is filing a combined report, a copy of the report must be filed with each station's renewal application.

A copy of this report must be kept in the station's public file. These actions are required to obtain license renewal. Failure to meet these requirements may result in sanctions or license renewal being delayed or denied. These requirements are contained in 47 C.F.R. Section 73.2080 and are authorized by the Communications Act of 1934, as amended.

DISCRIMINATION COMPLAINTS. Have any pending or resolved complaints been filed during this license term before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the station(s)?  Yes  No

If so, provide a brief description of the complaint(s), including the persons involved, the date of the filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

--

Does your station employment unit employ fewer than five full-time employees?  Yes  No  
Consider as "full-time" employees all those permanently working 30 or more hours a week.

If your station employment unit employs fewer than five full-time employees, complete the certification below, return the form to the FCC, and place a copy in your station(s) public file. You do not have to complete the rest of this form. If your station employment unit employs five or more full-time employees, you must complete all of this form and follow all instructions.

**CERTIFICATION**

This report must be certified, as follows:

- A. By licensee, if an individual;
- B. By a partner, if a partnership (general partner, if a limited partnership);
- C. By an officer, if a corporation or an association; or
- D. By an attorney of the licensee, in case of physical disability or absence from the United States of the licensee.

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT  
(U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT  
(U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify to the best of my knowledge, information and belief, all statements contained in this report are true and correct.

Signed	Name of Respondent
Title	Telephone No. (include area code)
Date	

**The purpose of this document is to provide broadcast licensees, the FCC, and the public with information about whether the station is meeting equal employment opportunity requirements.**

**GENERAL POLICY**

A broadcast station must provide equal employment opportunity to all qualified individuals without regard to their race, color, national origin, religion or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

**RESPONSIBILITY FOR IMPLEMENTATION**

A broadcast station must assign a particular official overall responsibility for equal employment opportunity at the station. That official's name and title are:

NAME	TITLE

It is also the responsibility of all persons at a broadcast station making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that no person is discriminated against in employment because of race, color, religion, national origin or sex.

**I. EEO PUBLIC FILE REPORT**

Attach as an exhibit one copy of each of the EEO public file reports from the previous two years. Stations are required to place annually such information as is required by 47 C.F.R. Section 73.2080 in their public files.

Exhibit No.
-------------

**II. NARRATIVE STATEMENT**

Provide a statement in an exhibit which demonstrates how the station achieved broad and inclusive outreach during the two-year period prior to filing this application. Stations that have experienced difficulties in their outreach efforts should explain.

Exhibit No.
-------------

**FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT**

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this report. We will use the information you provide to determine if the benefit requested is consistent with the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your request may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your request may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection. If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized. If you do not provide the information requested on this report, the report may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authority. We have estimated that each response to this collection of information will average 1 hour, 30 minutes. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0113), Washington, D. C. 20554. We will also accept your comments via the Internet if you send them to jboley@fcc.gov. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0113.

**THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.**

## **Exhibit E**

## INSTRUCTIONS FOR FCC 398

### CHILDREN'S TELEVISION PROGRAMMING REPORT

#### GENERAL INSTRUCTIONS

##### Introduction.

This FCC Form is to be used to provide information on the efforts of commercial television broadcast stations, including Class A television stations, to provide children's educational television programming as required by the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303a, 303b, 394, and the Commission's regulations implementing that statute. See Report and Order in MM Docket No. 93-48, 11 FCC Rcd 10660 (1996); Report and Order and FNPRM in MM Docket No. 00-167, 19 FCC Rcd (2004).

##### Applicable Rules and Regulations.

Before this form is prepared, the licensee should review the relevant portions of Sections 73.671, 73.673, and 73.3526(e)(11)(iii) in Title 47 of the Code of Federal Regulations (C.F.R.). Copies of Title 47 may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. You may telephone the GPO Customer Service Desk at (202) 512-1800 for current prices. Licensees should make every effort to file complete forms in compliance with the rules. Replies to questions on this form and the licensee's statements constitute representations on which the FCC will rely in considering the renewal of the licensee's television broadcast authorization. Thus, time and care should be devoted to all replies, which should reflect accurately the licensee's efforts to provide children's educational television programming as required by the Children's Television Act of 1990 and the Commission's rules.

##### Preparation and Retention of Reports.

Pursuant to 47 C.F.R. Section 73.3526(e)(11)(iii), each commercial television broadcast licensee must prepare a Children's Television Programming Report for each calendar quarter reflecting efforts made by the licensee during the quarter, as well as efforts planned for the next quarter, to serve the educational and informational needs of children. The licensee must place a copy of each quarterly report in its station's public inspection file by the tenth day of the succeeding calendar quarter (i.e., by April 10 for the first

quarterly report; by July 10 for the second quarterly report; by October 10 for the third quarterly report; and by January 10 for the fourth quarterly report). All entries on the report must be typed or legibly printed in ink. The signed original of each report should be retained in the station's non-public files, and a copy placed in the public inspection file. The reports must be separated from other material in the public inspection file, and the licensee must publicize in an appropriate manner the existence and location of these reports.

##### Filing Reports with the Commission.

FCC Form 398 must be filed electronically with the Commission on a **quarterly** basis on the following dates: April 10 for the first quarterly report; July 10 for the second quarterly report; October 10 for the third quarterly report; and January 10 of the succeeding year for the last quarterly report.

FCC Form 398 can be file electronically over the Internet by accessing the FCC Web site at <http://www.fcc.gov>, selecting Electronic filing from the menu (above the Headlines banner), then selecting the Children's Television Programming Report (FCC Form 398). Follow the instructions on that page for the electronic preparation and filing of the FCC 398 report.

No fee is required to file this report.

##### Incorporation by Reference.

Licensees may **NOT** incorporate by reference data, documents, exhibits, or other showings already on file with the FCC. All applicable items on this form must be answered without reference to a previous filing.

##### Children's Television Act Program Requirements.

Pursuant to the Children's Television Act and 47 C.F.R. Section 73.671(a), each television broadcast station licensee has an obligation to serve, over the term of its license, the

*All previous editions obsolete.*

educational and informational needs of children through both the licensee's overall programming and programming specifically designed to serve such needs. Licensees are required to publicize the availability of their programming specifically designed to educate and inform children in accord with 47 C.F.R. Section 73.673 and to report on these programs and related matters in accord with 47 C.F.R. Section 73.3526 (e)(11)(iii).

Educational and informational television programming is defined in 47 C.F.R. Section 73.671(c) as programming that furthers the educational and informational needs of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs. **Core Programming** is defined as educational and informational programming that is specifically designed to serve the educational and informational needs of children and that also satisfies the following criteria:

- (1) the program serving the educational and informational needs of children ages 16 and under as a significant purpose;
- (2) the program is aired between the hours of 7:00 a.m. and 10:00 p.m.;
- (3) the program is a regularly scheduled weekly program;
- (4) the program is at least 30 minutes in length;
- (5) the program is identified as specially designed to educate and inform children by the display on the television screen throughout the program of the E/I symbol;
- (5) the educational and informational objective of the program and the target child audience are specified in writing in the licensee's Children's Television Programming Report, as described in 47 C.F.R. Section 73.3526(e)(11)(iii); and
- (6) instructions for listing the program as educational/informational, including an indication of the age group for which the program is intended, are provided to publishers of program guides.

#### **For Assistance.**

For assistance with FCC Form 398, contact the Video Services Division of the Media Bureau at the FCC, Washington, D.C. 20554, Telephone Number (202) 418-1600.

#### **INSTRUCTIONS FOR SPECIFIC ITEMS ON FCC FORM 398**

**Question 1:** The licensee should provide its current call sign, channel number, and community of license, including city, state, county, and zip code, as set forth in its license authorization. The licensee should also provide its licensee name, indicate the station's license renewal expiration date,

indicate the call sign used on the preceding Children's Television Programming Report prepared for the station (if different from the current call sign), check the appropriate box indicating whether it is a network affiliate (if so, identify the affiliated network) or an independent station, and indicate the name of the Nielsen DMA in which the station is located. In addition, if the licensee has a World Wide Web home page, it should provide the address. The licensee should also provide the station's Facility ID Number.

**Question 2:** Indicate the average number of hours per week of core programming broadcast by the station over the past calendar quarter. Generally, in assessing whether a commercial television broadcast licensee has complied with its programming obligations under the Children's Television Act of 1990 (CTA), the Commission employs a processing guideline. For analog stations, a licensee that has aired at least three hours per week of **Core Programming**, as averaged over a six-month period, shall be deemed to have satisfied its obligation to serve the educational and informational needs of children and shall have the CTA portion of its license renewal application approved by the Commission's staff.

**Question 3:** Indicate whether the licensee provides information identifying each core program and its target child audience to publishers of program guides and, if so, list those program guide publishers.

**Question 4:** For each core program aired by the station during the calendar quarter for which this report is being prepared, set forth in Form Question 4 the following information: the title of the program; whether the program is originated by the station or its affiliated network, or is syndicated; the days and times the station regularly schedules the program; the program length (in minutes); the total number of times the program aired at its regularly scheduled time during the quarter; and the number of times the program was preempted during the quarter. If the program was preempted during the quarter, the station should complete a "Preemption Report," included in this form, for each preempted core program. The licensee should also indicate the ages of the target child audience; and include a description of the educational and informational objective of the program, as well as a discussion of how the program meets the definition of core programming set forth in 47 C.F.R. Section 73.671(c). For a qualifying regular series a general description of the series should be sufficient so long as the description is adequate to provide the public with enough information about how the series is specifically designed to meet the educational and informational needs of children.

**Question 5:** For each program aired by the station during the preceding calendar quarter that is specifically designed to meet the educational and informational needs of children

ages 16 and under, but does not meet one or more elements of Core Programming, set forth in Form Question 5 the following information: the title of the program; whether the program is originated by the station, its affiliated network, or is syndicated; the days and times the program aired during the quarter; the program length (in minutes); the total number of times the program aired during the quarter; if preempted and rescheduled during the quarter, the date and time the program aired; the ages of the target child audience (if applicable); a description of the program; and an indication of whether the program has educating and informing children ages 16 and under as a significant purpose. For any such program, state whether the licensee identifies the program with the symbol E/I and whether information is provided to publishers of program guides consistent with 47 C.F.R. Section 73.673.

**Question 6:** Pursuant to 47 C.F.R. Section 73.671(b), in addition to airing core and non-core educational and informational children's programming a licensee may contribute to satisfying its obligation under the Children's Television Act by engaging in special efforts to produce and support educational and informational television programming aired by another station in the licensee's marketplace. List the name(s) of any core program(s) aired by other stations that are sponsored by the licensee, and identify the call letters and channel number of the station(s) airing the sponsored core program(s). Indicate whether the amount of total core programming aired on the other station(s) has increased as a result of the sponsored programming. A licensee will receive credit for special sponsorship efforts only if it can demonstrate that its production or support of such core programming aired on another station in its market increased the amount of core programming on the other station. In addition, for each core program sponsored by the licensee, set forth in Question 6 the following information: the title of the program; whether the program is originated by the station for which this report is filed or its affiliated network, or is syndicated; the days and times the program was regularly scheduled; the program length (in minutes); the total number of times the program aired during the quarter; the number of times the program was preempted during the quarter; if the program was preempted and rescheduled during the quarter, the dates and times the program aired; the ages of the target child audience; and a description of the educational and informational objective of the program, as well as a discussion of how the program meets the definition of core programming in 47 C.F.R. Section 73.671(c).

**Question 7:** Commercial television broadcast station licensees providing digital programming are required to serve the educational and informational needs of children. On their main program stream, digital broadcasters are subject to the same three hours per week core programming processing guideline as applies to analog broadcasters. See Question 2.

**Question 8:** In addition to the core programming processing guideline that applies to the main program stream, DTV broadcasters that provide additional streams or channels of free video programming, beyond that provided on their main program stream, also have the following guideline applied to their additional programming: one-half hour per week of additional **Core Programming** for every increment of 1 to 28 hours of free video programming provided in addition to the main program stream.

**Question 9:** See Question 3.

**Question 10:** See Question 4.

**Question 11:** In addition, for purposes of the CTA processing guideline for digital stations, at least 50% of **Core Programming** counted toward meeting the additional programming guideline (applied to free video programming aired on other than the main program stream) cannot consist of program episodes that have already aired within the previous seven days either on the station's main program stream or on another of the station's free digital program streams. Any program stream that merely time shifts the entire **Core Programming** line-up of another program stream is exempt from this requirement. In addition, during the digital transition, **Core Programs** that are aired on both the analog station and a digital program stream are not considered repeated programs.

**Question 12:** See Question 5.

**Question 13:** See Question 6.

**Question 14:** For each analog and digital program the station plans to air during the next calendar quarter that meets the definition of core programming, set forth in Form Question 14 the following information: the title of the program; whether the program will be originated by the station or its affiliated network, or will be syndicated; the days and times the program will be regularly scheduled; the program length (in minutes); the total number of times the program will be aired during the quarter; the ages of the target child audience; and a description of the educational and informational objective of the program, as well as a definition of how it meets the definition of core programming set forth in 47 C.F.R. Section 73.671(c).

**Question 15:** Indicate whether the licensee publicizes the existence and location of the station's Children's Television Programming Reports as required by 47 C.F.R. Section 73.3526(e)(11)(iii).

**Question 16:** Pursuant to 47 C.F.R. Section 73.3526(e)(11)(iii), licensees must identify the individual at the station responsible for collecting comments on the station's compliance with the Children's Television Act. Provide the

name, address, telephone number, and the internet mail address (if available) of this individual.

**Question 17:** Provide any other comments or information you wish the Commission to consider in evaluating whether the licensee has met its obligations under the Children's Television Act and the Commission's rules. This may include, but is not limited to, information on any non-core educational and informational programming that the station plans to air during the next calendar quarter, as well as information on any existing or proposed non-broadcast activities that the licensee believes enhance the educational and informational value to children of the licensee's educational programming.

**Preemption Reports.** As indicated in Questions 4 and 10, if a core program was preempted during the quarter for any reason, the licensee should complete a Preemption Report for each preempted core program. The Report should include the following information: the title of the program; the total number of times the program was aired during the quarter (including the number of times the program aired at its regularly scheduled date and time and the number of times any rescheduled programs aired); the number of preemptions during the quarter; and the number of preemptions rescheduled during the quarter. The Report should also indicate, for each preempted episode of the core program: the date the episode was preempted; if rescheduled, the date and time the episode was rescheduled; if rescheduled, whether promotional efforts were made to notify the public of the rescheduled date and time; and whether the rescheduled date is the program's "second home" as described in letters, dated July 11, 1997, from Roy J. Stewart, Chief, Mass Media Bureau, to: Martin D. Franks, Senior Vice President, Washington, CBS, Inc.; Alan Braverman, Senior Vice President and General Counsel, ABC, Inc.; Rick Cotton and Diane Zipurky, NBC, Inc. The Report should also indicate for each preempted episode the reason for the preemption.

#### **FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PAPERWORK REDUCTION ACT**

We have estimated that each response to this collection of information will take 12 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERF, Paperwork Reduction Project (3060-0754), Washington, DC 20554. Please **DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS**. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid

OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0754.

**THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. Section 3507.**



**FCC 398**

**CHILDREN'S TELEVISION PROGRAMMING REPORT**

Report reflects information for quarter ending (mm/dd/yy)

--	--	--	--	--	--

<b>1. Call Sign</b>	<u>Channel Numbers</u>	<u>Community of License</u>									
	Analog _____ Digital _____	City	State	County	ZIP Code						
Licensee											
<input type="checkbox"/> Network Affiliation: _____ <input type="checkbox"/> Independent		Nielsen DMA	World Wide Web Home Page Address (if applicable)								
Facility ID Number	Previous Call Sign (if applicable)		License Renewal Expiration Date (mm/dd/yy)								
		<table border="1"> <tr> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> <td style="width: 25px; height: 25px;"></td> </tr> </table>									

**Analog Core Programming**

2. State the average number of hours of Core Programming per week broadcast by the station. See 47 C.F.R. Section 73.671(c).

--

3. a. Does the licensee provide information identifying each Core Program aired on its station, including an indication of the target child audience, to publishers of program guides as required by 47 C.F.R. Section 73.673?

Yes  No

b. Identify publishers who were sent information in 3.a.

--

4. Complete the following for each program that you aired during the past three months that meets the definition of Core Programming. Complete chart below for each Core Program.

Title of Program:		Origination		
		Local	Network	Syndicated
Days/Times Program Regularly Scheduled:	Total times aired at regularly scheduled time	Number of Preemptions	If preempted, complete Analog Preemption Report	
Length of Program:		(minutes)		
Age of Target Child Audience from _____ years to _____ years.				
Describe the educational and informational objective of the program and how it meets the definition of Core Programming.				
Does the Licensee identify the program by displaying throughout the program the symbol E/I? <input type="checkbox"/> Yes <input type="checkbox"/> No				

## Non-Core Educational and Informational Programming

5. Complete the following for each program that you aired during the past three months that is specifically designed to meet the educational and informational needs of children ages 16 and under, but does not meet one or more elements of the definition of Core Programming. See 47 C.F.R. Section 73.671. Complete chart below for each additional such educational and informational program.

Title of Program:			Origination		
			Local	Network	Syndicated
Days/Times Program Regularly Scheduled:	Total times aired	Number of Preemptions	If preempted and rescheduled, list date and time aired.		
			Dates	Times	
Length of Program: _____ (minutes)					
Age of Target Child Audience from _____ years to _____ years.					
Describe the program.					
Does the program have educating and informing children ages 16 and under as a significant purpose? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If Yes, does the Licensee identify each program by displaying throughout the program the symbol E /I? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If Yes, does the licensee provide information regarding the program, including an indication of the target child audience, to publishers of program guides consistent with 47 C.F.R. Section 73.673? <input type="checkbox"/> Yes <input type="checkbox"/> No					

## Sponsored Core Programming

6. List Core Programs, if any, aired by other analog stations that are sponsored by the Licensee and that meet the criteria set forth in 47 C.F.R. Section 73.671. Also indicate whether the amount of total Core Programming broadcast by another station increased.

Name of Program	Call Letters of Station Airing Sponsored Program	Channel Number of Station Airing Sponsored Program	Did total programming increase?
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

For each Core Program sponsored by the Licensee, complete the chart below.

Title of Program:			Origination		
			Local	Network	Syndicated
Days/Times Program Regularly Scheduled:	Total times aired	Number of Preemptions	If preempted and rescheduled, list date and time aired.		
			Dates	Times	
Length of Program: _____ (minutes)					
Age of Target Child Audience from _____ years to _____ years.					
Describe the educational and informational objective of the program and how it meets the definition of Core Programming.					
Was the program identified by the display throughout the program of the symbol E/I? <input type="checkbox"/> Yes <input type="checkbox"/> No					

## Digital Core Programming

7. a. State the average number of hours of Core Programming per week broadcast by the station on its main program stream.
- b. Did the Licensee broadcast on its main digital program stream the same Children's Core Programming provided on its analog channel?  Yes  No
- c. If Yes to 7b, the Licensee certifies that the representations and children's program information provided with respect to its analog channel apply equally with respect to its main digital program stream.  Yes  No

If No to 7c, submit as an Exhibit a Statement of Explanation.

See explanation in Exhibit No. \_\_\_\_\_

8. a. State the average number of hours per week of free over-the-air digital video programming broadcast by the station on other than its main program stream.
- b. State the average number of hours per week of Core Programming broadcast by the station on other than its main program stream. See 47 C.F.R. Section 73.671.
9. a. Does the Licensee provide information identifying each Core Program aired on its station, including an indication of the target child audience, to publishers of program guides as required by 47 C.F.R. Section 73.673?  Yes  No
- b. Identify publishers who were sent information in 9.a.

10. Complete the following for each program that you aired during the past three months that meets the definition of Core Programming. Complete chart below for each Core Program.

Title of Program:		Origination		
		Local	Network	Syndicated
Days/Times Program Regularly Scheduled:	Total times aired at regularly scheduled time	Number of Preemptions	If preempted, complete Digital Preemption Report	
Length of Program: <span style="float: right;">(minutes)</span>				
Age of Target Child Audience from _____ years to _____ years.				
Describe the educational and informational objective of the program and how it meets the definition of Core Programming.				
Does the Licensee identify the program by displaying throughout the program the symbol E/I?			<input type="checkbox"/> Yes <input type="checkbox"/> No	

11. Does the Licensee certify that at least 50% of the Core Programming counted toward meeting the additional programming guideline (applied to free video programming aired on other than the main program stream) did not consist of program episodes that had already aired within the previous seven days either on the station's main program stream or on another of the station's free digital program streams?  Yes  No

If No, submit as an Exhibit a Statement of Explanation setting forth the number of repeats in excess of the repeat limit and the times and dates the episodes involved were aired.

See explanation in Exhibit No. \_\_\_\_\_

## Non-Core Educational and Informational Programming

12. Complete the following for each program that you aired during the past three months that is specifically designed to meet the educational and informational needs of children ages 16 and under, but does not meet one or more elements of the definition of Core Programming. See 47 C.F.R. Section 73.671. Complete chart below for each additional such educational and information program.

Title of Program:			Origination		
			Local	Network	Syndicated
Days/Times Program Regularly Scheduled:	Total times aired	Number of Preemptions	If preempted and rescheduled, list date and time aired.		
			Dates	Times	
Length of Program: (minutes)					
Age of Target Child Audience from _____ years to _____ years.					
Describe the program.					
Does the program have educating and informing children ages 16 and under as a significant purpose?					<input type="checkbox"/> Yes <input type="checkbox"/>
If Yes, does the Licensee identify each program by displaying throughout the program the symbol E/I?					<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the Licensee provide information regarding the program, including an indication of the target child audience, to publishers of program guides consistent with 47 C.F.R. Section 73.673?					<input type="checkbox"/> Yes <input type="checkbox"/> No

## Sponsored Core Programming

13. List Core Programs, if any, aired by other stations that are sponsored by the Licensee and that meet the criteria set forth in 47 C.F.R. Section 73.671. Also indicate whether the amount of total Core Programming broadcast by another station increased.

Name of Program	Call Letters of Station Airing Sponsored Program	Channel Number of Station Airing Sponsored Program	Did total programming increase?
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

For each Core Program sponsored by the Licensee, complete the chart below.

Title of Program:			Origination		
			Local	Network	Syndicated
Days/Times Program Regularly Scheduled:	Total times aired	Number of Preemptions	If preempted and rescheduled, list date and time aired.		
			Dates	Times	
Length of Program: (minutes)					
Age of Target Child Audience from _____ years to _____ years.					
Describe the educational and informational objective of the program and how it meets the definition of Core Programming.					
Was the program identified by the display throughout the program of the symbol E/I?					<input type="checkbox"/> Yes <input type="checkbox"/> No

## Other Matters

14. Complete the following for each analog and digital program that you plan to air for the next quarter that meets the definition of Core Programming. Complete chart below for each Core Program, identifying whether it is to be broadcast on the station's analog or digital channel or both channels.

Title of Program:		Origination		
		Local	Network	Syndicated
Days/Times Program Regularly Scheduled:	Total times to be aired	Length of Program	Age of Target Child Audience:	
		(minutes)	from ____ years to ____ years	
Describe the educational and informational objective of the program and how it meets the definition of Core Programming.				

15. Does the Licensee publicize the existence and location of the station's Children's Television Programming Reports (FCC 398) as required by 47 C.F.R. Section 73.3526(e)(11)(iii)?  Yes  No

16. Name of children's programming liaison:

Name	Telephone Number (include area code)	
Address	Internet Mail Address (if applicable)	
City	State	Zip Code

17. Include any other comments or information you want the Commission to consider in evaluating your compliance with the Children's Television Act (or use this space for supplemental explanations). This may include information on any other non-core educational and informational programming that you aired this quarter or plan to air during the next quarter, or any existing or proposed non-broadcast efforts that will enhance the educational and informational value of such programming to children. See 47 C.F.R. Section 73.671, NOTES 2 and 3.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name of Licensee (print)	Signature
Date	

## ANALOG PREEMPTION REPORT

Complete the chart below for each Core Program listed in Question 4 of FCC 398 that was preempted during the last three months.

Title of Program:		
Total Times Aired	Number of Preemptions for other than Breaking News	Number of Preemptions Rescheduled
Date Preempted/Episode #	If rescheduled, date and time rescheduled	Is the rescheduled date the second home?  <input type="checkbox"/> Yes <input type="checkbox"/> No
If rescheduled, were promotional efforts made to notify the public of rescheduled date and time? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Reason for Preemption:  <input type="checkbox"/> Public Interest <input type="checkbox"/> Sports <input type="checkbox"/> Non-breaking News <input type="checkbox"/> Other		

## DIGITAL PREEMPTION REPORT

Complete the chart below for each Core Program listed in Question 9 of FCC 398 that was preempted during the last three months.

Title of Program:		
Total Times Aired	Number of Preemptions for other than Breaking News	Number of Preemptions Rescheduled
Date Preempted/Episode #	If rescheduled, date and time rescheduled	Is the rescheduled date the second home?  <input type="checkbox"/> Yes <input type="checkbox"/> No
If rescheduled, were promotional efforts made to notify the public of rescheduled date and time? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Reason for Preemption:		
<input type="checkbox"/> Public Interest <input type="checkbox"/> Sports <input type="checkbox"/> Non-breaking News <input type="checkbox"/> Other		

## **Exhibit F**



<b>4809</b>	<b>Total AM Renwal Applications</b>
<b>91</b>	<b>Pending</b>
<b>42</b>	<b>Dismissed</b>
<b>1</b>	<b>Canceled Licenses</b>
	<b>Returned</b>
	<b>Rescinded Grant</b>
<b>4675</b>	<b>Granted</b>
<b>977.02</b>	<b>Average days pending (Includes rescinded grant)</b>
<b>180.96</b>	<b>Average days to grant</b>

<b>8785</b>	<b>Total FM Renewal Applications</b>
<b>160</b>	<b>Pending</b>
<b>34</b>	<b>Dismissed</b>
<b>1</b>	<b>Canceled Licenses</b>
<b>2</b>	<b>Returned</b>
	<b>Rescinded Grant</b>
<b>8588</b>	<b>Granted</b>
<b>942.39</b>	<b>Average days pending (Includes rescinded and reintated apps)</b>
<b>177.24</b>	<b>Average days to grant</b>

<b>1754</b>	<b>Total TV Applications</b>
<b>495</b>	<b>Pending</b>
<b>0</b>	<b>Dismissed</b>
	<b>Canceled Licenses</b>
	<b>Returned</b>
<b>2</b>	<b>Rescinded Grant</b>
<b>1257</b>	<b>Granted</b>
<b>830.79</b>	<b>Average days pending (Includes rescinded grants)</b>
<b>302.73</b>	<b>Average days to grant</b>

<b>15348</b>	<b>Total Renewal Applications Filed</b>
<b>746</b>	<b>Pending</b>
<b>76</b>	<b>Dismissed</b>
<b>2</b>	<b>Canceled Licenses</b>
<b>2</b>	<b>Returned</b>
<b>2</b>	<b>Rescinded Grant</b>
<b>14520</b>	<b>Granted</b>
<b>916.73</b>	<b>Average days Pending</b>
<b>220.31</b>	<b>Aveage days to Grant</b>

# **Attachment B**

The attached stories are a sampling of what broadcasters having been doing only recently to serve their local communities, both on and off air.

These activities and efforts run the gamut. They range from free airtime to federal, state and local candidates and enhanced news coverage of the political process to charity drives and fundraisers for the needy to relief efforts for flood, storm and fire victims to blood drives and immunization fairs to on-air public service campaigns and programs on drug abuse to wall-to-wall storm coverage.

Belo Corporation, for example, recently announced that its television station group's *It's Your Time* program will offer free airtime for congressional and gubernatorial candidates for the seventh consecutive election cycle this fall, in addition to weekly political coverage prior to the general election which may include debates and interviews with local, state and federal candidates. Other station groups, including Post-Newsweek, Liberty, Scripps and Granite, have announced similar initiatives.

In another example of service to local communities, San Francisco radio station Energy 92.7 FM held a ceremony honoring local "Most Selfless People" who have dedicated themselves to the work of nonprofit organizations to turn a spotlight on people helping a range of causes. The station put out the call for submissions throughout the year and featured one story every week on air.

Just last week, seven Buffalo radio stations simultaneously aired, in morning drive time, a special radio spot aimed at raising awareness about the devastating effects of Shaken Baby Syndrome.

Nearly every Arizona television station, and some English and Spanish radio stations, joined together this month in a massive statewide simulcast of the documentary *Crystal Darkness* about methamphetamine addiction. Communities throughout the state held town-hall meetings for residents, schools held viewing sessions, and churches organized community gatherings to provide settings for discussion after the telecast. Phone banks were set up to take calls from anyone with questions or seeking help. Other cities have participated in the *Crystal Darkness* campaign with measurable success.

Sacramento CA television stations aired this same documentary this March, with stations featuring news stories about Meth addiction for the days leading up to the broadcast. Professional drug counselors were on hand to staff a call-in center following the program.

From on-air programs and free political time to off-air efforts such as blood, food and fundraising drives to storm tracking and disaster relief, the nation's radio and television stations present the finest of public service efforts to their local communities.

TVNEWSDAY

## BELO OFFERING FREE AIRTIME TO CANDIDATES

TVNEWSDAY, Apr. 21, 4:11 PM ET

*The station group makes it seven consecutive election cycles of providing time to congressional and gubernatorial candidates. Its stations will also televise at least one hour of political coverage each week in the six weeks prior to the general election on Nov. 4.*

By Staff

Belo Corp. announced Monday that it will offer the group's *It's Your Time* program offering free airtime for congressional and gubernatorial candidates for the seventh consecutive election cycle this fall.

It also announced election coverage plans, stating that Belo's news-producing stations will televise at least one hour of political coverage each week in the six weeks prior to the general election on Nov. 4.

The company's election coverage in 2008 may include debates, issue- and ad-watch programming and interviews with local, state and federal candidates. Debates and *It's Your Time* spots will be streamed and archived on Belo Web sites through Election Day.

In 2006, Belo stations broadcast more than 150 hours of election coverage from mid-September through Election Day in November, including several congressional and gubernatorial debates.

Candidates participating in *It's Your Time* each receive five minutes of free airtime four minutes to tell viewers why they should be elected and one minute to answer a question specific to the candidate's individual race.

In 2006, 146 qualified candidates for U.S. House, U.S. Senate and state gubernatorial offices participated in *It's Your Time*, receiving more than 13 hours of free airtime. Since the program's inception, Belo has provided free airtime to almost 700 candidates.

Belo's coverage plans prior to the election include:

News-producing television stations in Belo markets will broadcast at least one hour of issue- or candidate-centered election coverage per week. Most stories will be locally produced, with assistance from Belo's Capital Bureau in Washington, and will cover federal, state and local races.

Belo Web sites will make the information readily available to voters in each of Belo's markets. For example, candidate issue statements and question-and-answer sessions will be posted through Election Day, and e-town meetings will be hosted on several of Belo's Web sites, allowing voters to express their opinions and gather information on relevant local issues in an online setting. Belo Web sites also will provide voter registration information and links to helpful voting-related sites.

Belo's regional and local cable news channels will offer a variety of programming, including one-on-one candidate interviews, single-issue debates, and replays of *It's Your Time* segments and Belo election coverage.

## Radio stations target Shaken Baby Syndrome

Updated: 04/20/08 6:58 AM

<http://www.buffalonews.com/cityregion/buffaloerie/story/327509.html>

Seven local radio stations will simultaneously air a special radio spot Monday aimed at raising awareness about the devastating effects of shaking a baby, known as Shaken Baby Syndrome.

The 30-second segment will be broadcast at 8:58 a.m. Monday on WBEN-AM (930), WGR-AM (550), WKSE-FM (98.5), WLLK-FM (107.7), WTSS-FM (102.5), WWKB-AM (1520), WWWS-AM (1400), all Entercom Radio stations.

This event is part of a campaign by Upstate New York Shaken Baby Syndrome Education Program of Women and Children's Hospital of Buffalo.

<http://www.azcentral.com/news/articles/2008/04/15/20080415crystaldarkness0408.html>

Arizona Republic

# TV stations band together tonight against meth

## Broadcasters, state officials team up with massive simulcast

by **Lisa Nicita** - Apr. 15, 2008 06:30 PM  
The Arizona Republic

The phone usually rings for David Winn on Father's Day, and it did last year. Only it was not from his son, Robert, but about him.

Robert, high on methamphetamine, dived out of a third-story window and landed head first. David's only son was brain dead at age 38.

"Devastating," said David Winn, 58, of Prescott alley.

Robert's meth addiction is a snapshot of a statewide problem that is having far-reaching impacts on law enforcement, family life, neighborhoods and rehab facilities.

Now, Arizona broadcasters and police agencies are teaming up to do something about it.

Tuesday, nearly every network-affiliated or independent television station in the state will broadcast the documentary *Crystal Darkness*. A few radio stations, both English and Spanish, will also broadcast the program. *Crystal Darkness* DVDs will be shipped to remote areas where television service is spotty.

"We're trying to cover every base," said John Misner, general manager at Channel 12 (KPNX).

The air time has been donated. The cooperation among competing stations is unprecedented. The program has been broadcast previously in other cities and regions, but never statewide.

The half-hour telecast is meant to spur conversation, encourage people to seek help and shine a light on the leading drug law-enforcement problem in the country.

Communities throughout the state will hold town-hall meetings for residents, schools will hold viewing sessions, and churches have organized community gatherings to provide settings for discussion after the telecast. Phone banks will take calls from anyone who has questions or is seeking help.

The idea is to get people talking about methamphetamine.

## **Wide impact**

Meth has had a crippling impact, from dangerous labs that produce it to the crimes of those trying to support their habits. But understanding the magnitude of the drug's grip can be difficult for those unaffected by it.

Chris Crockett, commander of public affairs for Phoenix police, is well aware of meth's tremendous punch. Crockett said 60 percent of violent and non-violent crimes in Arizona are tied to meth, and nearly two-thirds of the state's child abuse and neglect cases are related to meth.

The show is geared to kids in their early teens, those in junior high and older. If it seems young, Robert Winn was 12 when he started using meth. He wasn't an anomaly.

In 2006, meth use among Arizona eighth-graders rose to 2.6 percent, according to local law-enforcement reports compiled by *Crystal Darkness*. Five percent of tenth-graders reported using meth, and 6.6 percent of high-school seniors used the drug.

Lee Pioske, executive director at the Phoenix-based Crossroads Inc. rehab facility, said statistics show that the drug is becoming more popular among young people.

Meth is a synthetic stimulant that makes users feel good and energized. It's made from amphetamine, and other household products.

Meth can be swallowed, smoked, injected and snorted. The drug releases high levels of dopamine, which stimulates brain cells and otherwise makes you happy. The high can last up to 24 hours.

A repeat meth user loses the ability to produce dopamine organically. The only way to reach that feeling is by using more meth.

When users are off the drug, they often experience depression. Robert Winn did. Even with several visits to rehab, he still returned to meth.

"The drug is so powerful," David Winn said. "It reaches in with a hand and grabs your mind. You almost need 24-hour supervision to get off that stuff."

## **Show's reach**

Arizona broadcasters are hoping the severity of the state's meth problem, and Tuesday's media blitz, will convince people to pay attention.

Other cities have participated in the *Crystal Darkness* campaign with measurable success. When the documentary aired in Las Vegas, it became the city's most-watched television program ever. About 200 calls poured into phone banks when the show aired in northern Nevada. And 100 calls were received the next day.

When the show aired on about six stations in San Diego in December, it reached 76,000 households, or about 13 percent of television-viewing households at the time, according to San Diego Drug Enforcement Administration spokesperson Eileen Zeidler.

Call centers received 471 calls that night. Months later, they are still getting calls requesting copies of the program on DVD.

Zeidler called the campaign a success but predicted the reaction in Arizona would be amplified because more broadcasters are involved.

Craig Allen, an associate professor at Arizona State University's Walter Cronkite School of Journalism and Mass Communication, said it's a nice thought to believe that a media blitz will force people to watch the program.

But he said that even a massive simulcast can't guarantee viewership. Too many people have too many other channels to choose from, not to mention the daily distractions of life, dinner, a long commute and family time, he said.

Allen said a simulcast might be more effective later in the evening, in prime time, once everyone is home from work, school and done with dinner.

Allen also questioned why crystal meth is receiving such attention, when there are equally troubling problems that need attention.

"If they do it for one, they need to do it for every other problem," Allen said, suggesting the issues of global warming and other substances that are abused. "That's not to undercut the problem. All the problems need equal consideration."



Crockett labeled the broadcast a "once in a lifetime" event, citing the cooperation among law enforcement, broadcasters, service providers and the community. Misner said he felt gratified just seeing every other general manager at competing television stations jump onboard.

"With many of us, there's so little we can do about the bad things that are happening," Misner said. "This is an actionable thing (we can do) . . . as broadcasters."

If you have questions or are in crisis, please call 888-METH-AID. The Crystal Darkness phone line is open until 11 tonight. If it's an emergency situation call 911.

**Reach the reporter at [lisa.nicita@arizonarepublic.com](mailto:lisa.nicita@arizonarepublic.com) or 602-444-8546**

## Local DJ stays awake for 175 hours



Story Created: Apr 9, 2008 at 2:38 PM MDT

By Kiersten Throndsen

 Video

BOISE - A local DJ has spent the past seven days awake and on the airwaves.

But there's more to this stunt. He wants to send a message.

"Sexual, physical and mental abuse - it's not something you walk around talking to people about," said local KISS Radio DJ Keke Love, who's stayed away for 175 hours.

The DJ opted to stay awake for that time period to promote a non-profit organization called Idaho's Heart, which is striving to build the Treasure Valley's first ever crisis nursery for parents struggling to care for their children.

The nursery would be modeled after one in Spokane that's open 24 hours a day, seven days a week and provides free care for children up to five years old.

"We hope to be where maybe child protection says yeah there is something where this family needs this help but it's not serious enough where the child would be removed, that's where we would get referrals from the state," said Sunny Reed of Idaho's Heart.

Health and Welfare said last year there were 1,997 physical abuse cases reported and almost 5,500 cases of child neglect. That number has grown by almost 900 in the last three years.

Radio officials say they've received numerous calls from listeners who want to help.

For information: <http://www.idahosheart.org/index.htm>



### **Boise is Local**

RBR's consistent call for station promotions demonstrating the value of local radio, Peak Broadcasting's 103.3 Kiss Fm Radio is going for a record. Afternoon host and program director KeKe Luv (Steve Kicklighter) will broadcast for 175 consecutive hours (7 days) without sleep to mark April as child abuse prevention month while raising money and awareness for this significant local cause. Ms. Sunny Reed, Executive Director of Idaho's Heart said "The Safe Haven Crisis Nursery is modeled after very successful programs offered in many different states. By supporting parents in any type of crisis we can prevent our children from being harmed. The most important part of starting this nursery and preventing child abuse in general is getting the word out to the concerned public about abuse and how it can be stopped. We are very pleased to be teaming up with 103.3 KISS FM and KeKe Luv to bring awareness to such a serious public issue"

**RBR observation:** Congratulations to Peak Broadcasting's Sr. VP Kevin Godwin and his entire staff for doing not just talking. For a listen to the 103.3 Kiss Fm Radio on-air promotion go to [RBR.com Media Center](http://RBR.com Media Center).

## **Hearst-Argyle Sacramento stations to air meth documentary**

The methamphetamine crisis is gripping Sacramento and the whole region and is "threatening to destroy the fabric of our society," says Hearst-Argyle's KCRA 3 and KQCA My58 TV and other local television stations who will air a documentary called "Crystal Darkness." The 30-minute documentary filmed in Northern California tells powerful stories of young people who have gone through the dark and lonely depths of Meth addiction. The program features heart-wrenching stories from victims of Meth addiction told with raw honesty about their personal tragedy. The program will air on Wednesday at 6:30 p.m. on both KCRA 3 and KQCA My58 TV. The KCRA 3 News team will also feature news stories about Meth addiction for the days leading up to the broadcast of the documentary. Professional drug counselors will be on hand to staff a call-in center and answer calls from the community following the program.

Crain's Detroit Business

12:48 pm, March 3, 2008

## **Radiothon raises \$2.3 million for Salvation Army**

By [Sherri Begin](#)

The **Salvation Army Eastern Michigan Division and WOMC FM 104.3** raised \$2.3 million during the annual Dick Purtan Radiothon.

That amount was just shy of the \$2.4 million the 16-hour event brought in last year.

Proceeds from the radiothon, which featured Purtan broadcasting live from **Oakland Mall** in Troy, benefit the Salvation Army's Bed and Bread program.

The program provides food, shelter and other emergency services.

The Salvation Army said in a release that it provides over 4,900 meals each day to the hungry at shelters and through food pantries, and by deliveries to some of the Detroit area's poorest neighborhoods.

The Bed and Bread program also provides shelter for 565 men, women and children each day.

Excerpts from AP story [full text below]: "Weather conditions were ripe for tornadoes and forecasters were ready with warnings and in many hard-hit areas, sirens and TV warnings were credited with helping keep the death toll from being even worse."

## **Southern Towns Look to Cleanup, Recovery**

By DAN SEWELL – 1 hour ago

LAFAYETTE, Tenn. (AP) — County Mayor Shelvy Linville could only shake his head at the horrific toll left by a deadly series of tornadoes that pounded across the South.

"It really is unbelievable that Mother Nature can create that much devastation," he said Wednesday evening at his Macon County home. "We need your prayers."

Before rebuilding can begin, residents must first tackle cleanup in this northern Tennessee community and in the others where dozens of tornadoes ripped across Arkansas, Mississippi, Tennessee, Kentucky and Alabama, killing at least 55 people and injuring hundreds more in the nation's deadliest set of twisters in more than two decades.

"I'm surprised that I'm alive," said Telia Sorrells, 24, who survived one twister that left only parts of two walls standing in her home. A gash on her head required eight staples at a hospital to close.

Federal and state emergency teams poured into the hardest-hit areas, along with utility workers and insurance claims representatives. Hundreds of homes were demolished across the region and officials were only beginning to tally how much the tornadoes would cost.

President Bush, who said he called the governors of the affected states to offer support, plans to come to Tennessee on Friday. "Prayers can help and so can the government," Bush said.

Thirty-one people were killed in Tennessee, 13 in Arkansas, seven in Kentucky and four in Alabama, emergency officials said. It was one of the 15 worst tornado death tolls since 1950, and the nation's deadliest barrage of tornadoes since 76 people were killed in Pennsylvania and Ohio on May 31, 1985.

Among the most remarkable survival stories: in Castalian Springs, Tenn., a baby was discovered unscathed in a field across from a demolished post office. A bystander swaddled the crying child in his shirt. There was no word on the child's parents' fates.

"He had debris all over him, but there were no obvious signs of trauma," said Ken Weidner, Sumner County emergency management director.

The National Weather Service issued more than 1,000 tornado warnings from 3 p.m. Tuesday to 6 a.m. Wednesday in the 11-state area where the weather was heading. The Storm Prediction Center in Norman, Okla., put out an alert six days in advance.

There were no comprehensive estimates yet on damages, but the tornadoes' paths left behind flattened streets and treelines, shredded mobile homes, flipped-over tractor-trailers and trucks, and concrete floors where homes, garages and carports once stood.

Tennessee Gov. Phil Bredesen, who viewed the northern Tennessee damage by helicopter, said after his aerial tour: "It looks like the Lord took a Brillo pad and scrubbed the ground."

**Weather conditions were ripe for tornadoes and forecasters were ready with warnings and in many hard-hit areas, sirens and TV warnings were credited with helping keep the death toll from being even worse.**

In the mostly rural area of Lafayette, there are no tornado sirens. Linville, the county mayor, said he didn't think they would have made much difference because of the way the 23,000 residents are spread out.

"You don't really think it's going to hit you until you realize it's on top of you, then it's too late," he said.

Just outside town, Melissa Bryant watched as friends picked through the heavily damaged home where her 78-year-old mother Dorothy Collins survived in a bathroom.

"It's devastating and terrible," Bryant said. "But she's very lucky; she's alive."

The two-story garage was gone, and in a yard filled with debris, the bellows of a bull that neighbors said had been injured by a fallen tree could be heard from hundreds of yards away.

Students took cover in dormitory bathrooms as the storms closed in on Union University in Jackson, Tenn. More than 20 students at the Southern Baptist school were trapped behind wreckage and jammed doors after the dormitories came down around them.

With five minutes' warning from TV news reports, Nova and Ray Story huddled inside their home outside Lafayette and came out unscathed. But nearby, their uncle, Bill Clark, was injured in his toppled mobile home.

They put him in the bed of their pickup to take him to a hospital, and neighbors with chain saws tried to clear a path. What normally would have been a 30-minute drive to the

hospital took well more than two hours because the roads were clogged with debris. Clark died on the way.

"He never had a chance," Nova Story said. "I looked him right in the eye and he died right there in front of me."

Sorrells, who with her mother and her mother's boyfriend filled garbage bags with belongings pulled from the rubble of her home Wednesday evening, said she was sitting on her couch watching storm coverage on television and talking with her mother by cell phone when the power abruptly went out.

"Something is hitting the house," she told her mother. Then, "It's here!"

The next thing she knew, she said, "I was looking up at sky."

*Associated Press writers Jon Gambrell in Atkins, Ark.; Holbrook Mohr in Jackson, Miss.; Seth Borenstein in Washington, D.C.; Murray Evans in Oklahoma City; Ryan Lenz in Lafayette, Tenn.; and Woody Baird in Memphis, Tenn., contributing to this report.*



AllAccess.com

## **Tornados Hit The Southeast; Radio Responds**

Strong storms that created numerous tornado's struck the Southeastern U.S. YESTERDAY. ARKANSAS, TENNESSEE and MISSISSIPPI were hardest hit, with 47 fatalities reported.

In times of local crisis, radio always jumps in to help. THOMAS MEDIA RADIO GROUP/JACKSON, TN OM SHANE CONNOR told ALL ACCESS, "We simulcast wall-to-wall coverage on all five of our stations last night -- WFKX, WHHM, WJAK-A, WWYN and WZDQ. We were live with instant weather alerts, reports from emergency management personnel, and listener calls and reports from all over WEST TENNESSEE. Our coverage began with the first watch yesterday afternoon and continued until all warnings had expired after midnight. We then aired a 20-minute press conference by the JACKSON-MADISON COUNTY Emergency Management Agency this morning at 8a to update everyone on the situation and relief effort."

The stations established the WEST TENNESSEE TORNADO RELIEF FUND this morning at all WEST TENNESSEE REGIONS BANK locations. All help is being asked to be made in monetary form to this fund.

» **Good Deeds Well Done:** Kudos to the crew at **Cox Radio News/Talker WDBO/Orlando**, as the station's recent holiday fundraiser netted more than \$200,000 in donations to the Russell Home For Atypical Children. The non-profit group has been in continuous operation for more than 50 years, assisting severely handicapped children in Central Florida. "We are delighted that our listeners have, once again, helped us help this worthwhile organization in such a big way," said WDBO PD **Steve Holbrook**.



**Virginia Blood Services and Cox Radio-Richmond partner in record setting blood drive**  
***Blood drive raises more blood than any other in Richmond***

📅 | Thursday, January 10, 2008

RICHMOND, VA – JANUARY 9, 2008 - Virginia Blood Services and Cox Radio-Richmond partnered together on Monday, January 7th for a record setting blood drive raising 322 qualified blood donations.

January is an important time of year when the area's blood supply is always at its lowest. The blood bank had a critically low state of O positive and B negative blood. After this one blood drive, Virginia Blood Services now has an acceptable level of both blood types.

"It was the most successful blood drive in Virginia Blood Services history in Richmond," said Nancy Conry, Director of Public Relations for Virginia Blood Services.

All four of Cox Radio-Richmond's stations supported the blood drive, including 96.5 the Planet, Y101.1, K95 and Mix 103-7.

"This event really shows how all of our listeners are willing to help when the community needs it most," said K95 program director Buddy Van Arsdale. "I was proud to see how our staff was able to work together to create such a flawless event."

<http://www.poynter.org/column.asp?id=2&aid=134342>

by Al Tompkins

## Radio in a Time of Need

Oklahomans are used to turning to their portable radios in the tornado season. The ice storm reaffirms the importance of local radio in a time of crisis.

Blaise Labbe, KWTW-TV news director, says his company, Griffin Communications, relies on two networks of radio stations to connect to viewers who cannot watch their TVs. Griffin owns 45 radio stations around Oklahoma and has agreements with a number of metro radio stations in Oklahoma City. The TV station alerts the radio station when it is about to cover major events like press conferences from the power company or announcements and updates from Emergency Management Agency officials.

Glenn Schroeder, news anchor for KRMG Radio in Tulsa said his station's storm coverage has been "virtually non-stop since Sunday night. We realize that we are the source of information for a lot of people in times like this. Even when we go to our syndicated programs during the day, we come back every 15 minutes to update people on where they can get firewood, about new shelters opening up or where they can get something to eat."

Schroeder says people have come up to him to thank him for the station's work during and after the storm. "I was at a church yesterday and I ran into a number of people who thanked KRMG for letting them know where they could come to get help. They found the shelter because of radio."

"People still appreciate radio," Schroeder said. "It is old school communication, but it is something they know they can count on. One person told me yesterday they listened to us on an old hand crank radio."

### Getting Low-Tech to Reach People

Brent Hensley, general manager of KOCO-TV, says his station recognized that large numbers of people could not see the station's coverage, so the station installed special phone lines for viewers to call to get hourly updates on emergency, shelter and forecast information.

Hensley said KOCO, a Hearst-Argyle owned station, learned a lot about disaster coverage when a sister station in New Orleans endured Hurricane Katrina. In addition, it learned coverage tips, such as how to keep the online site constantly updated for people who had electricity at work.

"We realized the need to have a big supply of diesel fuel on hand before the storm since we have been on our own generator power since Sunday," he said. "We just

can't trust that the power won't go right back off once it is restored. We learned from other stations how to think of this as a marathon, not just something that we cover over a few days."

Stations know that viewers and online users may be watching their coverage at friend's houses elsewhere and at shelters. Worried families outside the coverage area can watch entire TV programs and listen to radio coverage all over the state.

#### Living at the Office

Newsrooms are finding space for their families during the storm. KWTW's Labbe said overnight producers and even the station's general manager did their best to grab some sleep in the general manager's conference room and office. "The GM slept in his office chair," Labbe said.

After a short warm-up today, another storm carrying up to five inches of snow is in the forecast for the Midwest this weekend. Newsrooms in more than a dozen states won't be putting away the cots anytime soon.

*The Poynter Institute is a school dedicated to teaching and inspiring journalists and media leaders. It promotes excellence and integrity in the practice of craft and in the practical leadership of successful businesses. It stands for a journalism that informs citizens and enlightens public discourse. It carries forward Nelson Poynter's belief in the value of independent journalism in the public interest.*

*Founded in 1975 by Nelson Poynter, chairman of the St. Petersburg Times and its Washington affiliate, Congressional Quarterly, the Institute was bequeathed his controlling stock in the Times Publishing Co. in 1978. As a financially independent, nonprofit organization, The Poynter Institute is beholden to no interest except its own mission: to help journalists seek and achieve excellence.*

Fishing for wheels: Radio station, car dealer help stroke survivor, mother of 3



Cathryn Hollabaugh and her new Ford Taurus courtesy of Carriage Nissan and 104.7-FM The Fish. Hollabaugh, a mother of three, won the car through the station's Fish Christmas Wish program.

**SCOTT ROGERS** (The Times)

1 of 2 [View Larger](#)



[Previous](#) [View Slides](#) [Next](#)

RELATED CONTENT

[Watch as Cathryn Hollabaugh explains how she came to be the owner of a 1998 Ford Taurus.](#)

**By Jessica Jordan**

[jjordan@gainesvilletimes.com](mailto:jjordan@gainesvilletimes.com)

POSTED Dec. 28, 2007 4:01 a.m.



Thanks to an Atlanta radio station, Cathryn Hollabaugh and Bob Powers traded in their walking shoes for car keys.

Last Friday, Hollabaugh, from Habersham County, and Powers, from Cumming, were told they each would get a car from Hall and Carriage Automotive Group in Gainesville through the radio station 104.7-FM, also called The Fish. Beginning in November, the Atlanta radio station's Fish Christmas Wish program fielded Christmas wish requests through its Web site.

Chad Davis, promotions director for The Fish, said the station received more than 1,200 wishes, and worked with listeners and advertisers to grant more than 300 Christmas wishes. Davis said requests ranged from help paying utility bills to dental services.

Jim Russum, vice president of Hall and Carriage Automotive Group on Browns Bridge Road, said that this year was the first his auto dealership joined the radio station in granting Christmas wishes. He said he aimed to give cars away that got good gas mileage and weren't too expensive to insure.

Hollabaugh and Powers didn't know it, but their names were submitted to the radio station as people who were in dire need of a car.

Michelle Barbree filled out the Fish Christmas Wish form for her good friend, Hollabaugh, who is a mother of three daughters. Hollabaugh's husband, Adam, serves in the National Guard in Winder and likely will be deployed to Afghanistan within the next year. Before receiving a red 1998 Ford Taurus from Carriage Automotive, the couple took turns driving their one car. It often put a strain on their jobs and in shuffling the children around.

"Me and my husband have shared one vehicle as long as I can remember ... and it was very trying as far as employment," Cathryn Hollabaugh said. "It has caused (my husband) to lose a lot of jobs. Getting to and from work is harder than it sounds when you have a big family and two working parents."

Cathryn Hollabaugh also said that while her husband went to drill in Winder for two to three days each month, she and the girls were stranded at home without a car. They had no means of transportation when they needed groceries or wanted to go to the park.

But last Friday, Cathryn Hollabaugh got a phone call from the "Kevin and Taylor in the Morning" show on 104.7 The Fish. She was told that Barbree secretly made a wish for her, and the radio station was going to make that wish come true.

"For The Fish to help with this was amazing," Hollabaugh said. "With this car, I can see things going in only one direction — forward. Every time I get in the car, I'm like 'Woo-hoo!'"

The mother of three added now that she has her own car, she is making plans to return to school.

The Hollabaughs weren't the only ones to be surprised with a car by the radio station. Zach Abernathy also secretly nominated his father-in-law, Bob Powers, 59. Powers suffered a stroke six years ago. His car broke down four months ago, putting him walking a mile each way from home to work five days a week.

Once the auto dealership and radio station selected Powers as one of its two car recipients, the station contacted Abernathy. He then phoned Powers to tell him he was the new owner of a dark green 1999 Oldsmobile.

"I was flabbergasted," Powers said. "It was a shock, a pleasant one, but still a shock. It was quite a thing for somebody to do."

Powers said having the car means an easier trip to work and to get groceries and medicine. It will also allow him to visit the doctor without inconveniencing family members for a ride.

"It's going to make my life a whole lot easier," he said. "And it will save some wear and tear on my legs. I can't thank them enough for it. I'm very grateful they chose me."



## **WPLR's Chaz & AJ raise 76,000 in cash and toys for needy kids**

This past Friday morning was the 5th Annual Cox Radio's 99.1 FM PLR Chaz & AJ Toy Drive for the Kids of Connecticut. The event raised nearly 76,000 dollars in cash and toys for needy children in Connecticut. Chaz & AJ collected new unwrapped toys for the children at the Rushford Center in Middletown, Children's Center in Hamden, The Boys & Girls Village in Milford, AIDS Project New Haven and countless families across Connecticut. Special guests that appeared included AG Richard Blumenthal performing his rendition of Santa Baby and "The Political Choir" with Secretary of State Susan Bysiewicz, The Mayors of New Haven, East Haven, West Haven, Shelton and Ansonia. There was also music provided by The Smithereens' Pat Dinizio. Live from LA, Bill Cosby, RC Smith from the Rachel Ray Show, local media stars, Santa, Mrs. Claus, Scrooge and more.

## Radio Show Host Launches Fundraiser for Fallen Officers' Families

Jim Canale, the Host of a Real Estate Show on WWDB AND WPEN, Has Come up with a Novel Way to Help the Families of Officers Killed in the Line of Duty.

PHILADELPHIA, Dec. 17 /PRNewswire-USNewswire/ -- Over the past fourteen years, 14 police officers have been killed in the line of duty in the City of Philadelphia. These brave men and women put themselves in harm's way to protect innocent people from violent criminals and, sadly, sometimes pay the ultimate price for their heroism. What most people don't know is that many of the slain officers have little, if any, personal life insurance, and the \$100,000 death benefit their families receive is inadequate to pay for future expenses.

That's why Canale, in conjunction with the Philadelphia Fraternal of Police, is hosting the first fundraiser to help families of slain police officers called, "Cashflow for Cops!--Helping the Families of our Fallen Heroes." It will take place on Friday, January 4, 6:30 PM to 10:30 PM at the Michael G. Lutz FOP Lodge # 5, 1336 Spring Garden Street in Philadelphia. For an entry fee of \$79.00 per person, participants will have a chance to play the popular board game "Cashflow 101" which is often described as "Monopoly on Steroids." Canale, who has personal and professional relationships with local law enforcement, will match the initial \$14,000 raised from registrations, with \$14,000 of his own money. (Seventy dollars from each \$79.00 fee will be donated to the FOP's Hero Scholarship Fund.) He will also donate an additional \$5,000 to the Cassidy Family Memorial Trust Fund in memory of Officer Charles Cassidy who was gunned down while trying to prevent a robbery at a Dunkin' Donuts.

In addition to playing the board game, there will be guest speakers and refreshments. Participants can also meet families of some of the slain officers, and learn some helpful tips for long-term financial stability. (Mayor-elect Michael Nutter has been invited to attend.)

"At some point you have to step up to the plate, and do what you can to support these brave men and women, who literally put their lives on the line everyday," said Canale. "When you look at the financial hardships the families of fallen officers have to face, you realize lack of money is a very real problem. Because of what they do, most companies won't even issue a life insurance policy to them, so when a tragedy occurs, it can mean financial ruin for the family," he added.

Canale was a former crisis specialist for the City of Philadelphia, and met his wife when she was the president of a non-profit organization called Concerns of Police Survivors. Together, they have dealt with many families of slain officers, including Officer Robert Hayes in 1993, among others. Canale's wife, Debbie lost her own father --- Philadelphia Police Officer David Sampson --- when he was hit by a drunk driver while assisting a motorist.

"Helping families has become a family affair for me, and also for my business partner, Joe Hurst, whose father was the past president of the FOP. I hope everyone will come out for this very special fundraiser, which means so much to the families we are supporting," Canale said.

For more information or to register for the event, visit [www.cashflowforcops.com](http://www.cashflowforcops.com), or call toll free (866) 522-2621 or (267) 231-3920.

Jim Canale is the host of The Real Estate Lifestyle Show on WPEN 950 AM, and WWDB 860 AM. He is also the author of Live the Real Estate Lifestyle: Seven Steps You Can Take Today to Leave the Rat Race and Start Living the Lifestyle You've Always Wanted.

Canale is a major real estate investor in the City of Philadelphia and is dedicated to helping working class people find safe, comfortable and affordable housing. Through his training programs, he also teaches people how to invest wisely and profitably in real estate.

Coverage is invited.

First Call Analyst:  
FCMN Contact:

Source: Jim Canale

CONTACT: Dava Guerin, Guerin Public Relations, Inc., +1-215-293-9020,  
+1-215-262-0740, for Jim Canale

Web Site: <http://www.cashflowforcops.com/>

Radio station helps bring entertainment to soldiers

[JOHNATHAN L. WRIGHT](#)

RENO GAZETTE-JOURNAL

Posted: 12/16/2007

A dozen local soldiers and sailors, as well as the units in which they serve, will soon be able to tune in and [phone](#) home.

The service members, all of whom are stationed in the [Middle East](#), will share more than 3,400 CDs and DVDs and more than \$1,000 in prepaid phone cards, donated by listeners of Cub Country 94.5 FM and other Northern Nevadans.

For the past two weeks, Tim Lynah and Malayna Kerton, hosts of Cub's Tim and Malayna Show, have urged listeners and others to fill collections boxes at the radio station, schools and [businesses](#) as part of their fourth annual Adopt-a-Troop Program.

Folks responded, and the boxes brimmed.

"By far, by leaps and bounds, this is the most successful Adopt-a-Troop we've ever had," Lynah said Saturday. "I'm astounded -- and grateful for the generosity of the community."

Family, friends and colleagues nominated service members and their troops for adoption. Kathy Hamilton, mother of Lance Cpl. Jeremy Z. Long, a Spanish Springs High School graduate and Marine killed in Iraq in August 2006, nominated her late son's unit. Another woman, while on air last Friday, nominated the troop of a relative recently deployed to the Middle East.

In all, 12 nominations were received, and 12 troops were adopted.

"There was just no way we could say no to anyone," Kerton said.

Some donated items were used, Lynah said, but many were new -- and highly desirable.

"We didn't get copies of 'Ishtar' and 'Leonard Part 6,'" Lynah continued, laughingly referring to two of the biggest stinkers in Hollywood history. "People were bringing in the latest 'Pirates of the Caribbean.' One man brought down actual DVD players. He said, 'Well, the troops better have something to play the movies on.'"

Lynah estimated the [value](#) of the donations at \$40,000.

Adopt-a-Troop grew out of conversations Lynah and Kerton had with service members who appeared on air when they returned home after tours of duty.

"One thing everyone said they really wanted was a source of entertainment between their long hours of duty," Lynah said.

Lynah attributed the surge in donations this year to the fact that after years of war in the Middle East, "everybody knows somebody over there at this point -- relative, friend, colleague, neighbor. People want to show the troops they're not forgotten."

On Monday, Lynah and Kerton will begin packing the donations for shipping (the cost of which will be paid, Lynah said, by the local [office](#) of the Jones Vargas law firm).

Once the CDs, DVDs and gift cards are packed, Lynah said he'll get his desk back.

"I don't have one anymore because it's buried under donations. But it's the best use that desk has ever had."

<http://www.albertleatribune.com/articles/2007/12/16/news/news2.txt>

## **Radio host meets food collection goal early**

*By Sarah Light, staff writer*

Saturday, December 15, 2007 3:26 PM CST

Though living outside in freezing temperatures isn't something KQPR-FM's Ron Hunter plans on doing again anytime soon, in the end the experience was worth it, he said.

On Friday, the Power 96 disc jockey's quest to collect 5,000 pounds of food for the Albert Lea Salvation Army came to an end after he received 8,640 pounds of food.

"The people of this county are unbelievable," Hunter said. "The people didn't turn their backs on their neighbors; they really stepped up."

The 5,000-pound goal was met at about 10 a.m. Friday, but by about 3 p.m. that same day the numbers had surpassed 8,000 pounds.

"The food just kept coming in," he said.

Talking from inside the Power 96 radio station just a few hours after he completed his quest to raise the food, Hunter recounted his experiences out in the cold.

He talked about the generosity he received from people he didn't even know who brought him coffee and hot chocolate to stay warm in his shed outside the radio station. Other families brought warm food to him.

From across the community, he saw businesses and students from area schools step up to the plate by having food drives for the cause, and many gave even when they had little to give, he said.

"Doing something like this helps you restore your faith in humanity," Hunter said.

Several nights he said he woke up thinking, "What am I doing?" He would look down at his legal pad that had the number of pounds donated on it, and then he would begin to wonder if he would ever make the goal.

"It was so cold," he said.

But in the end, the unfavorable conditions paid off.

Salvation Army Capt. Jim Brickson said the food raised should go to serve about 180 families.

"I'm touched mentally and emotionally by the outcome," Brickson said. "This really was very successful."

The captain said when the idea for Hunter's food drive first came up, he didn't think it would be possible to reach the goal. But the people throughout the community proved him wrong, he said.

"Just to be asking for 5,000 and to have 8,000 show up," Hunter said. "It's unbelievable."

The food drive came at a time of shortages in food shelves across the country.

According to a Salvation Army news release, the organization nationwide “is seeing an unprecedented level of need this Christmas season. Between the mortgage crisis, home heating price increases and overall economic uncertainty, we are concerned that this need will continue into the New Year and beyond.”

This unprecedented level of need is hitting the Salvation Army’s Red Kettle Campaign hard as well.

Locally this year through the campaign, the goal is to raise \$131,000 for a myriad of assistance programs for the community. This includes after school and summer day care programs for low-income families, temporary shelter, rental and fuel assistance, a food pantry and budget counseling to help families achieve economic independence.

With just 10 days left in the campaign, only 61 percent of the total goal had been raised, Brickson said. And Angel Tree donations are down 15 to 18 percent of what they have been in previous years.

“But I have faith we’re going to make it,” he said.

This year, 328 families — including 625 children — have signed up for Christmas assistance through the Salvation Army. The distribution of toys and food baskets to this families will be Dec. 19 and 20.

To find out more about donating or volunteering with the Salvation Army, contact 373-5710.

<http://www.kotv.com/news/local/story/?id=141456>

## Radio Station Gives Families Warmth For One Night

KOTV - 12/12/2007 9:10 PM - Updated 12/12/2007 9:54 PM

While there are plenty of loose limbs around, dry wood is in short supply. The News On 6's Joshua Brakhage reports those outside the path of the storm are helping Tulsans keep warm tonight. When the power's out, a radio can be your only lifeline. On Wednesday, a radio station was more than that.

"This has affected everybody in Tulsa and we're just trying to meet the needs of this community any way we can," said Cox Radio Tulsa Vice President Dan Lawrie.

KRMG went looking for logs and found them.

"We have some friends in McAlester radio who got on the air and we purchased all this wood from families and people who were willing to drive up to Tulsa and sell us firewood," said Lawrie.

Dan Lawrie has been without power himself for three days and knows how much a warm fire can mean to families in the cold.

Car after car lined up for logs. More supplies came, courtesy of listeners willing to share their surplus. Volunteers stocked folks up with enough firewood to fight the cold and warm wishes to last even longer.

Watch the video: Tulsa Radio Station Helps Those In The Cold

<<http://www.kotv.com/e-clips/?id=10750>>



**More Aid For Northwest Flood Victims:** This time it's coming by the truckload, as **Fisher/Seattle** stations **KOMO** Radio and TV combined for a relief effort to aid victims of last week's killer floods in the region. The event was held in the parking lot of a local IKEA store and was by all accounts an overwhelming success. "Our goal was to fill one semi-truck with food, clothing, water, clean-up supplies, etc.," Fisher AM Group PD **Dennis Kelly** told **NTS Aircheck Today**. "Instead, we filled up *seven* semi-trucks with supplies! We actually ran out of trucks! Kelly reports that while seeing all the giving was gratifying, it was one very special donation that really touched him. "One little girl donated her favorite marble," reports Kelly. "I hand-delivered it myself last Friday in Centralia." KOMO's distribution of supplies to victims continues this week.

## Entravision to Hold 'Jugue-ton 2007'

### 12 Hour Charity Radiothon and Toy Drive Starts December 13

SANTA MONICA, Calif., Dec. 12 /PRNewswire-FirstCall/ -- Entravision Communications Corporation (NYSE:EVC) announced today the details for "Jugue-ton 2007," its 12-hour radiothon and holiday toy drive that supports local charities and families in need. Entravision's Spanish-language radio stations and television stations in each market will join together for the event, which is being held on Thursday, December 13.

Listeners and viewers can drop off a new toy or other donated goods like new clothes or canned food with Entravision's radio street teams at different locations throughout the day. Contributors can learn more about donating and additional details on specific drop-off locations by listening to and watching Entravision's participating radio and television stations.

Entravision's Super Estrella, La Tricolor, and Jose radio formats will all be participating in "Jugue-ton 2007." These radio stations, which total 34 nationwide, will be joined by 22 Entravision television stations in these markets. Together, they will be collecting toys and other goods to support local charities like the March of Dimes and the Lanterman Foundation in Los Angeles, the United Way in Monterey and Salinas, Toys for Tots in El Paso and the Chamber of Commerce in Denver.

"We're very proud of our ability to successfully bring our communities together for worthy causes and our 'Jugue-ton 2007' is no exception," said Jeffery Liberman, President of Entravision's radio division. "We are looking forward to Thursday's events and appreciate everyone's hard work, support and contributions for this noble cause."

Entravision's past fundraising initiatives have been tremendously successful. Most recently, dozens of radio and television stations participated in "Este 15 Va Por Tabasco," a charity initiative that raised money for the Red Cross to support the victims of flooding cause by Tropical Storm Noel in Tabasco, Mexico. The "Este 15 Va Por Tabasco" Radiothon raised more than \$52,000 in cash and more than two tons of canned food.

The markets that are participating in "Jugue-ton 2007" are:

- Albuquerque, NM - Super Estrella KRZY 105.9 FM and Jose KRZY 1450 AM;  
Univision KLUX Ch. 41 and Telefutura KTFQ Ch. 14
- Aspen, CO - La Tricolor KPVW 107.1 FM

- Denver, CO - Super Estrella KJMN 92.1 FM, La Tricolor KXPB 96.5 FM and Jose KMXA 1090 AM; Univision KCEC CH. 50 and 43, Telefutera KTFD Ch. 14
- El Centro/Yuma, CA - Super Estrella KSEH 94.5 FM, La Tricolor KMXX 99.3 FM; Univision KVYE Ch. 47 and Telefutera KAJB Ch. 54
- El Paso, TX - Super Estrella KYSE 94.7 FM, Jose KINT 93.9 FM; Univision KINT CH. 26 and Telefutera KTFN Ch. 65
- Los Angeles, CA - Super Estrella KSSE/KSSC/KSSD 107.1 FM and Oye 97.5 FM
- Las Vegas, NV - Super Estrella KRRN 92.7 FM, La Tricolor KQRT 105.1 FM; Univision KINC Ch. 15 and Telefutera KELV Ch. 27
- Lubbock, TX - Super Estrella KAIQ 95.5 FM, La Tricolor KBZO 1460 AM; Univision KBZO Ch. 51
- McAllen, TX - Que Pasa KKPS 99.5 FM, Super Estrella KNVO 101.1 FM, Mix KVLV 107.9 FM, "Q" KFRQ 94.5 FM The Rock Station; Univision KNVO Ch. 48, Telefutera KTFV Ch. 32 and KVTF Ch. 20, Fox Rio KHRIO Ch. 2
- Monterey/Salinas, CA - Super Estrella KSES 107.1 FM, La Tricolor KLOK 99.5 FM, Jose KMBX 700 AM; Univision KSMS Ch. 67 and Telefutera KDJT Ch. 33
- Palm Springs, CA - Super Estrella KLOB 94.7 FM; Univision KVER Ch. 4, KVES CH. 28 and Telefutera KEVC Ch. 5
- Phoenix, AZ - Super Estrella KVVA 107.1/KDVA 106.9 FM, La Tricolor KLNZ 103.5 FM
- Reno, NV - La Tricolor KRNK 102.1 FM; Univision KNVC Ch. 48 and KVVV Ch. 41
- Sacramento, CA - Super Estrella KYSE 104.3 FM, La Tricolor KRCX 99.9 FM
- Stockton/Modesto CA - Super Estrella KTSE 97.1 FM, La Tricolor KMIX 100.9 FM and Jose KCVR 98.9 FM and 1570 AM

About Entravision

Entravision Communications Corporation is a diversified Spanish-language media company utilizing a combination of television, radio and outdoor operations to reach Hispanic consumers across the United States, as well as the border markets of Mexico. Entravision is the largest affiliate group of both the top-ranked Univision television network and Univision's TeleFutura network, with television stations in 20 of the nation's top 50 Hispanic markets. The company also operates one of the nation's largest groups of primarily Spanish-language radio stations, consisting of 48 owned and/or operated radio stations. The company's outdoor operations consist of approximately 10,600 advertising faces concentrated primarily in Los Angeles and New York. Entravision shares of Class A Common Stock are traded on The New York Stock Exchange under the symbol: EVC.

First Call Analyst:  
FCMN Contact:

Source: Entravision Communications Corporation

CONTACT: AJ Goodman of Brainerd Communicators, Inc., +1-212-986-6667,  
for Entravision Communications Corporation

Web site: <http://www.entravision.com/>

## **Liberty Corporation Television Stations to Provide Free Air Time to Federal Political Candidates; Enhanced News Coverage of Political Process Planned**

GREENVILLE, S.C. -- The Liberty Corporation (NYSE:LC) today announced that its 15 television stations, all network affiliates, will provide free air time to federal candidates as well as qualified candidates in significant state and local races with the goal of raising awareness and understanding of issues important to the electorate in Liberty's markets. Liberty Corporation is also announcing a commitment to enhanced daily news coverage of the political process on air and online throughout the campaign period.

In markets with contested federal races and significant state and local contests, Liberty stations will provide a minimum of 60 minutes of dedicated air time per week during the 30 days prior to the general election. That time will take the form of interviews, debates, forums, town hall meetings, and interactive question and answer sessions where viewers have an opportunity to put questions directly to candidates.

As part of its 2004 political awareness commitment, each Liberty station has developed a comprehensive on air and online political news coverage plan. Each plan is tailored to the unique needs of the market calling for enhanced, in-depth coverage of local candidates and issues.

Voters in Liberty's markets will benefit from air time dedicated to political programming as well as enhanced news coverage of election issues and political developments as part of regularly scheduled news programming and web content leading up the general election.

A major group broadcaster, Liberty owns fifteen network-affiliated television stations, including eight NBC affiliates (WAVE-TV, Louisville, KY; WIS-TV, Columbia, SC; WLBT-TV, Jackson, MS; WFIE-TV, Evansville, IN; WSFA-TV, Montgomery, AL; KCBD-TV, Lubbock, TX; WALB-TV, Albany, GA and KPLC-TV, Lake Charles, LA); five ABC affiliates (KLTV-TV, Tyler, TX; KTRE-TV, the satellite affiliate of KLTV in Lufkin, TX; WLOX-TV, Biloxi, MS; WWAY-TV, Wilmington, NC and KAIT-TV, Jonesboro, AR); and two CBS affiliates (WTOL-TV, Toledo, OH and KGBT-TV, Harlingen, TX).

For further information about Liberty, visit the corporate website, <http://www.libertycorp.com>.

The Private Securities Litigation Reform Act of 1995 provides a "safe harbor" for forward-looking statements. Certain information contained herein or in any other written or oral statements made by, or on behalf of the Company, is or may be viewed as forward-looking. The words "expect," "believe," "anticipate" or similar expressions identify forward-looking statements. Although the Company has used appropriate care in developing any such forward-looking information, forward-looking information involves risks and uncertainties that could significantly impact actual results. These risks and uncertainties include, but are not limited to, the following: changes in national and local markets for television advertising; changes in general economic conditions, including the performance of financial markets and interest

rates; competitive, regulatory, or tax changes that affect the cost of or demand for the Company's products; and adverse litigation results. The Company undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future developments, or otherwise.

COPYRIGHT 2004 Business Wire

COPYRIGHT 2004 Gale Group

## **Scripps Giving Free Airtime to Presidential Candidates**

### **Democracy 2008 Initiative to Provide Five Minutes for Each Candidate on Nine Stations for 30 Days Prior to Election**

*By Alex Weprin -- Broadcasting & Cable, 2/27/2008 3:41:00 PM*

As part of its "Democracy 2008" initiative, the nine [E.W. Scripps](#) broadcast stations will make free primetime space available for the eventual 2008 presidential candidates.

The stations will make five minutes of airtime available to both candidates from 5 p.m.-11:35 p.m. for the 30 days prior to the general election.

"Democracy 2008 was developed in support of our responsibility as journalists and broadcasters to promote public discourse and a strong democracy," said [Bill Peterson](#), senior vice president for the Scripps television-station group. "This initiative will concentrate on bringing individual citizens and groups of citizens into an active dialogue with candidates."

Rather than simply filling the time with campaign ads, the networks are hoping to form a more constructive dialogue by featuring extended interviews, issue statements and responses to citizens' inquiries during the airtime allotted for the initiative. When possible, issues of local importance will be emphasized.

Scripps will launch Democracy 2008 sections on participating station sites to coincide with the on-air initiative.

The company used a similar free-airtime policy during the 2000, 2002, 2004 and 2006 elections.

The participating stations are the company's six ABC-affiliated stations ([WXYZ Detroit](#); [WCPO Cincinnati](#); [WEWS Cleveland](#); [WFTS Tampa](#)

## GRANITE TO OFFER FREE TIME TO CANDIDATES

TVNEWSDAY, Mar. 17, 11:34 AM ET

Every week during the six weeks preceding the general election, major candidates will have two minutes to respond to specific questions regarding issues of local and national significance.

By Staff

Granite TV stations in New York, California, Illinois, Indiana, Minnesota, Wisconsin and Michigan will again offer free air time to political candidates in the weeks leading up to elections.

The stations will select the federal, state and/or local political races to be featured in the program series.

Every week during the six weeks preceding the general election, major candidates will have two minutes to respond to specific questions regarding issues of local and national significance. Stations will make their production facilities readily available for the candidates to record their statements. Following production, Granite said the candidates' statements will be heavily publicized and regularly scheduled during newscasts or other highly viewed programming.

In addition to on-air exposure, candidate responses will also be available for viewing on station Web sites through Nov. 4. The production, promotion and airing of the statements will all be provided free-of-charge as a public service to the local communities.

W. Don Cornwell, chairman-CEO of Granite, said: "We're excited to be able to extend our journalistic responsibility by providing the local communities we serve with this level of informative political coverage. By showcasing the various candidates across our television station group, we continue to expand our dialogue with the voting public."

Additional information about the candidate political program will soon be available on individual station Web sites.

---

Copyright 2008 TV Newsday, Inc. All rights reserved.

This article can be found online at: <http://www.tvnewsday.com/articles/2008/03/17/daily.10/>.  
Please visit <http://www.tvnewsday.com/> for more on this and other breaking news concerning the TV broadcasting industry.



# **POST-NEWSWEEK**

## **S T A T I O N S , I N C .**

April 24, 2008  
For Immediate Release

Contact: Alan Frank  
Phone Number: (313) 223-2260

### **ELECTION 2008**

#### **POST-NEWSWEEK STATIONS BUILDS ON STRONG TRADITION OF ELECTION COVERAGE ON-AIR AND ON THE WEB**

POST-NEWSWEEK STATIONS, a long time leader in comprehensive election coverage, continues that tradition this election year with a focus on connecting voters with candidates. This focus continues not only over the air, but also with comprehensive interactive components through station websites.

“We understand the importance of providing access to the candidates and we also know that there are significant issues voters want the candidates to hear,” said Alan Frank, President, Post-Newsweek Stations. “Our goal is to bring the two sides together so that voters can make the most informed decisions. That’s our responsibility as news and public affairs leaders.”

“It’s all about the voter,” said Deborah Collura, VP of News, Post-Newsweek Stations. “This is an emotionally charged election year for the people in our communities, and voters are deeply interested in the economy, the future of our country, and how the next person in office will affect their jobs, housing, and their families. We must strive to capture those interests and concerns in our everyday political reports.”

The campaign for 2008 will feature innovative ways to get the message out to voters. As a dominant part of Post-Newsweek’s successful program, once again each station will devote at least ten minutes per weekday to locally

produced political news coverage during this political season. The coverage will continue throughout the entire broadcast day from the all important early morning news to the early evening and late newscasts.

In addition to offering candidates the opportunity for **On-air Debates**, Post-Newsweek stations will continue their ground-breaking program offering **Free Air Time** and **Free Web Time** opportunities to candidates, giving candidates a unique ability to directly address viewers and describe why voters should cast their vote for them.

Stations will gauge what voters really think of important issues in their communities. Other unique ways Post-Newsweek stations are getting the message out are by choosing items from a menu that includes: **Voter's Voice** – allowing viewers to ask questions directly to candidates through the stations; **Voter Video Patrol** – giving cameras to voters to take into their neighborhoods and document issues facing their communities to show candidates what voters are concerned about; **Ad Watch** and **Truth Test** – checking the facts on political ad claims; **Candidate Comparisons** – comparing candidates history and political positions side by side; and **The Ultimate Voter Guide** – a step-by-step complete resource guide designed to help voters sort through their ballot type, operation of their voting machine, and information regarding their polling location.

In addition, Post-Newsweek stations will continue to expand their already extensive on-line coverage of the elections with a high-profile political section featuring candidate biographies, political blogs, streaming video and **The Ultimate Voter Guide**.

At the center of all Post-Newsweek's efforts – within newscasts, primetime debates, free air time programs, and interactive coverage on their websites – will be the goal of facilitating the direct connection between voters and candidates.

Post-Newsweek Stations owns and operates WDIV in Detroit, WPLG in Miami, WKMG in Orlando, WJXT in Jacksonville, KPRC in Houston and KSAT in San Antonio. Post-Newsweek is the broadcast division of the The Washington Post Company.

# **Attachment C**



## **Unattended Station Operations “Best Practices” Synopsis**

During the summer of 2007, the NAB’s Radio Operations Department polled radio station executives representing four hundred and eighty plus radio stations, large and small, all of which run unattended for some period on a weekly basis. We asked them to identify what procedures they had in place for alerting the public when an emergency occurs during unattended hours. The following “Best Practices” are recommended:

- I. Have designated station points of contact for local emergency officials. Update and confirm regularly.
- II. Train at least three station employees (normally the engineer, general manager, program director, and/or the operations manager) in their emergency procedures for periods of unattended operation.
- III. Identify specific individuals or departments in the local police and fire department, in local government, and in local schools, that can serve as a communication point in times of an emergency. Have this contact information distributed to designated responsible personnel. Post the FAA Hotline number (877-487-6867), in case a tower light goes out.
- IV. Use audio failsafe systems that alert station staff (normally the engineer, general manager, program director, and/or the operations manager) if the station goes off air. Current technology allows stations to be put back on the air via an off-site computer or cell phone.
- V. Use “on-call” procedures for monitoring local weather. Some stations supply staff (normally the engineer, general manager, program director, and/or the operations manager) with weather radios. When bad weather arises, the on-call staff member monitors the station to make sure emergency information is delivered to the public and/or goes to the station to keep the public informed.
- VI. Include copies of severe weather/emergency procedures either in employee manuals, on program logs, or in studios.
- VII. Train entire staff to help serve the public during emergencies. In these cases, the sales, promotions, and support staffs can man the phones and field concerned citizen calls in emergencies. This frees up programming personnel to focus solely on reporting all pertinent information in a timely manner to the entire listening audience and frees up engineering to ensure the station will stay on the air for the duration of the emergency.

- VIII. Have back-up power generators at the studio sites as well as the transmitter sites. Typically, the generators have the ability to run for twenty-four to forty-eight hours. Stations should have backup fuel plans in place.
- IX. Have comprehensive news department procedures for handling information collection and dissemination whenever inclement weather or regional emergencies occur.
- X. Conduct regular staff meetings to discuss and update their emergency procedure station policies. These meetings should happen monthly or quarterly.
- XI. Make sure all station personnel are familiar with the recommendations of the Media Security and Reliability Council (<http://www.mediasecurity.org/>).
- XII. Test the Emergency Alert System on a weekly basis and use it in emergencies.

Best Practices were distributed to the Joint Board members, and have been posted on the NAB's members-only website.

# **Attachment D**

## **DECLARATION OF MARCIA K. BURDICK**

Marcia K. Burdick, hereby states and declares, under penalty of perjury:

1. I am the Senior Vice President-Broadcast of Schurz Communications, Inc. I submit this Declaration in support of the Comments of the National Association of Broadcasters in Federal Communications Commission Media Bureau Docket No. 04-233, to discuss the effect of two of the proposals in that proceeding on stations owned by Schurz.

2. In South Bend, Indiana, Schurz has its corporate headquarters, owns and operates the *South Bend Tribune*, and a Schurz subsidiary is the licensee of WSBT-TV and two radio stations. These stations are all licensed to South Bend. Schurz is currently constructing a new facility to house its corporate offices, the newspaper, and the studios for all three broadcast stations. This 35 million dollar facility will include state-of-the-art digital production and distribution facilities and will make possible the introduction of local HDTV programming and, ultimately, digital radio service. The new facility is located in Mishawaka, Indiana. The new studios will be less than five miles by road from the existing broadcast studios. Mishawaka is literally adjacent to the central area of South Bend; indeed it is possible to move from South Bend to Mishawaka and back again while walking down a street. If the Commission limits main studios to stations' communities of license, and applies that rule retroactively, new facilities for all three stations would have to be located and constructed, including relocation of studio-transmitter and electronic news-gathering links. Further, much of the capital investment in the new facility would be lost.

3. In the Wichita, Kansas area, Schurz subsidiary Sunflower Broadcasting, Inc. is the licensee of two television stations. One, KWCH-TV, is licensed to Hutchinson, Kansas and is the leading news station in the market; and the other, KSCW(TV), is licensed to Wichita. Both operate from a combined facility in Wichita that Sunflower recently expanded to accommodate



both stations. If KWCH-TV were required to operate a main studio in Hutchinson, that studio would be less convenient to many of the people served by the station and would also result in loss of much of the capital investment Sunflower has made in its existing facilities. Sunflower also is the licensee of three full-power satellite stations that provide over-the-air television service to Western Kansas. One operates without a main studio pursuant to a temporary waiver; the others have staffed main studios but none of them are staffed around the clock as the Commission proposes to require. These satellite stations operate in rural areas with small populations and poor economic bases. Sunflower is already making enormous capital investments in these stations to convert them to DTV, and the further costs of 24/7 staffing would ultimately place into question the viability of keeping these stations in operation, or else require turning them off for part of the day.

4. In the Lafayette, Indiana area, Schurz subsidiary, WASK, Inc., is the licensee of five radio stations, all operated from common studio facilities. Three are licensed to Lafayette, one is licensed to Battle Ground, Indiana, and one to Delphi, Indiana. The proposed rule would require construction of new facilities for two stations that would significantly diminish the ability of the stations to share news and weather resources and reduce the benefits of shared costs that the FCC has long concluded flow from common ownership.

5. Schurz subsidiary New Rushmore Radio, Inc. is the licensee of six full-power radio stations and three translators serving Western South Dakota and the Black Hills. Three of the full-power stations are licensed to Rapid City, South Dakota, and the other two are licensed to Sturgis, South Dakota. All of them share one main studio location in Rapid City, a location central to the area served by all of the stations. This common location permits them to share resources and to provide agricultural news that is important to listeners across the area. The

common main studio location also facilitates other efficiencies that would be lost if the two Sturgis stations had to construct and operate a separate studio. Doing so would not improve service to the public in the Rapid City area; indeed the increased costs that would result would have the effect of diminishing service.



*M. Burdick*

---

Marcia K. Burdick

April 28, 2008

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

Broadcast Localism

)  
)  
)  
)  
)  
)

MB Docket No. 04-233

**DECLARATION OF JERALD N. FRITZ**

1. My name is Jerald N. Fritz. I am the Senior Vice President for Legal and Strategic Affairs for Allbritton Communications Company ("Allbritton"). In addition to my duties as General Counsel for Allbritton's eight ABC-affiliated television stations, three newspapers, cable news channel, web hosting facility, video game venture and specialty newspaper/website, I oversee government relations and strategic planning for the group.

2. I joined Allbritton in 1987 after serving as Chief of Staff to FCC Chairman Mark Fowler. With almost 40 years in and around the broadcasting business, I have been employed in many station jobs including news reporting, promo writing, control room and studio operations, selling and buying ad time, programming and community relations. I have been involved in start-up broadcast operations, station acquisitions and relocations and refurbishing stations destroyed in natural and man-made disasters. I also have been intimately involved in the expansion of traditional lines of business for broadcasters, including 24-hour local cable news, web-casting and synergistic publications.

3. The purpose of this declaration is to describe the synergies and efficiencies arising from Allbritton's current operations, which are facilitated, in part, by

the current main studio rule, and to identify problems that would result if the rule were made more restrictive.

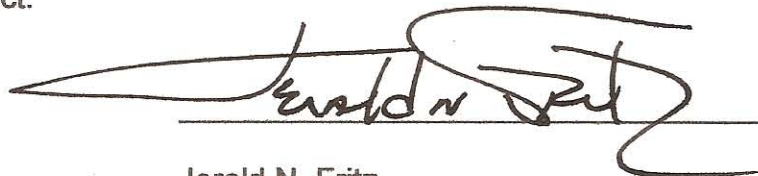
4. Allbritton Operations in the Washington, D.C. Market: Allbritton, through its subsidiary, is the licensee of Station WJLA(TV), Washington, D.C. The station's main studio is located in Arlington, Virginia, near the banks of the Potomac River and literally a few hundred yards away from the jurisdictional limits of its community of license. (In fact, the FCC's headquarters can be seen from the station's main studio.) Allbritton has integrated the operations of a variety of media outlets at this location, including: broadcast television station WJLA; local 24-hour cable news network *NewsChannel 8*; specialty newspaper and website *POLITICO* and *politico.com*; digital sub-channels *Local POINT TV* and *Weather Now*, and its computer hosting operation, *Irides*. Allbritton has operated its broadcast station, news channel and web hosting business from this location since 2002. The complex, integrated facility houses nearly 350 Allbritton employees, two state-of-the-art, 24-hour studios, a massive technology core to support the sophisticated computer infrastructure, satellite uplinks and downlinks, and the web hosting facility. As individual Commissioners and many FCC staff members have observed on field visits to the station, Allbritton's 103,000 square-foot facility is almost the size of two football fields. Like many licensees, Allbritton is operating from this facility pursuant to a long-term, 15-plus-year lease. Even if Allbritton could identify comparable space within its community of license, lawfully break its lease, and design, equip and relocate its main studio, the increased costs would total many millions of dollars — to move only a few hundred yards.

5. Allbritton Operations in the Birmingham-Anniston-Tuscaloosa Alabama Market: A wholly-owned Allbritton subsidiary owns and operates stations WCFT-TV,

Tuscaloosa, Alabama, WJSU-TV, Anniston, Alabama, and WBMA-LP, a low power television station licensed to Birmingham, Alabama. Allbritton serves the entire market by simultaneously transmitting identical programming from its main studio in Birmingham over WCFT, WJSU and WBMA-LP. Although Allbritton's primary news and sales presence is at the main studio in Birmingham, it also maintains a news and sales presence in both Tuscaloosa and Anniston. If the pre-1987 main studio rule were back in effect, Allbritton would be forced to split up its integrated operations in Birmingham and establish full-fledged, fully staffed main studios in all three locations. Such a change would eliminate the economic and technical efficiencies which currently enable Allbritton to offer local and ABC Network programming to viewers throughout the entire DMA.

6. Allbritton Operations in the Charleston, South Carolina Market: Another Allbritton affiliate is licensed to operate Station WCIV, Charleston, South Carolina. The station's main studio is located in the adjacent town of Mt. Pleasant and has been for over four decades in two separate locations. The station is located on one end of the 2.7-mile Arthur Ravenel Jr. Bridge that spans the Cooper River separating Mt. Pleasant from Charleston. Relocating from one side of the Bridge to the other would generate no benefits for residents of the station's community of license, who have accepted the studio location in Mt. Pleasant for close to a half century.

7. I, Jerald N. Fritz, declare under penalty of perjury that the foregoing declaration is true and correct.

A handwritten signature in black ink, appearing to read "Jerald N. Fritz", written over a horizontal line.

Jerald N. Fritz  
Executed on April 25, 2008

# **Attachment E**

**OVER-THE-AIR RADIO SERVICE  
TO DIVERSE AUDIENCES –  
AN UPDATE**

Mark R. Fratrick, Ph.D.

Vice President

BIA Financial Network

April 28, 2008



# TABLE OF CONTENTS

<b>Executive Summary</b> .....	<b>1</b>
<b>Introduction</b> .....	<b>3</b>
<b>Specific Programming to Diverse Audiences</b> .....	<b>4</b>
Spanish–Language Programming .....	4
Urban Programming.....	6
News Talk Programming .....	8
<b>HD Radio Service</b> .....	<b>10</b>
<b>Conclusions</b> .....	<b>13</b>
<b>Appendix 1 – List of Formats Being Offered Via Multicast Signals</b> .....	<b>15</b>



## Executive Summary

In their continuing battle to attract listeners and generate advertising revenues, local radio stations are vitally interested in improving the attractiveness of their programming. Facing competition from numerous radio stations as well as other sources of audio programming, radio broadcasters continually seek to adjust their programming services offered in local markets. As a result of this marketplace competition, radio broadcasters are increasingly providing service to more diverse audiences, including different demographic groups, in their local markets.

The purpose of this paper is to examine the diversity of programming resulting from radio broadcasters' efforts to attract audiences in a competitive marketplace. We will update a prior report that analyzed some of these same issues. Additionally, we will examine the extent of digital radio service, specifically examining the number of stations on air, the number utilizing the multicasting capabilities of that new technology, and the various types of programming being offered.

The results of this update clearly show that the trend for greater service to local markets continues:

- ❖ The number of Spanish-language stations continues to increase, with the number having grown by nearly 56% in just the past eight years.
- ❖ 53.3% of the Hispanic population in Arbitron markets now resides in markets with 10 or more Spanish-language stations, with over 90% located in markets with at least three such stations.
- ❖ The percentage of African Americans in Arbitron markets with six or more Urban programmed stations increased to 22.8% in April 2008 from 14.3% in 2006 and 6.6% in 2000. About 72% of African Americans in Arbitron markets now reside in markets with three or more Urban programmed stations, compared to only approximately 62% in 2000.
- ❖ Six of ten people residing in Arbitron markets are in markets with at least six news/talk stations, and over three-quarters of the population in these markets are in markets with at least four news/talk stations. Since 2000, the number of news/talk stations has increased 23.7%.
- ❖ The number of radio stations broadcasting in digital has increased dramatically to over 1,700, with 786 additional multicast programming streams now being provided.
- ❖ Nearly one-half (45.6%) of the population located in Arbitron markets are in markets with 10 or more digital multicast signals, and nearly three-quarters (71.6%) are in markets with at least three.
- ❖ Multicast signals are bringing more diverse programming into local markets. For example, of the 46 markets with new Classical multicast signals, 14 had no other Classical stations in the market; similarly, of the 28 markets with new multicast Smooth Jazz signals, 21 had no other Smooth Jazz stations in the market; and, of the 18 markets

with new Rhythm/Blues signals, 15 previously had no other Rhythm/Blues stations in the market.

It is quite apparent that over-the-air radio stations are continuing to search for new and different programming in response to competitive pressures in today's digital, multichannel marketplace. Whether it is adjusting their program elements (e.g., play lists, personalities) or changing entire program formats, radio broadcasters are always seeking to improve their programming to attract larger audiences. As the findings summarized above show, one option has been for radio stations to provide increased programming appealing to specific demographic groups, and another to expand the provision of news/talk programming. Also, radio stations that are broadcasting in digital expand the diversity of programming by providing new types of programming in their local markets so as to attract new listeners.

## LOCAL RADIO SERVICE TO DIVERSE AUDIENCES – AN UPDATE

### Introduction

In their continuing battle to attract listeners and generate advertising revenues, local radio stations are vitally interested in improving the attractiveness of their programming. Facing competition from other radio stations as well as other sources of audio programming, radio broadcasters continually seek to adjust their programming services and differentiate their programming from that of their competitors. As a result of this marketplace competition, local radio broadcasters are increasingly providing service to more diverse audiences, including different demographic groups, in their local markets.

The provision of more diverse programming has also resulted from radio stations broadcasting digitally, with many of these stations also multicasting one or two additional programming streams. Airing additional programming streams allows broadcasters to experiment in their programming choices and to provide programming on a local level that would not have been financially viable and sustainable on their main signal.

The purpose of this paper is to examine the diversity of programming in local markets resulting from radio broadcasters' efforts to attract audiences in a competitive marketplace. In a previous paper,<sup>1</sup> we examined the delivery of programming targeted at diverse audiences, including various demographic groups and including specifically news/talk/informational

---

<sup>1</sup> Mark R. Fratrick, *Over-the-Air Radio Service to Diverse Audiences*, October 23, 2006, submitted as Appendix G, NAB Comments in MB Docket 06-121 (“*2006 Radio Diversity Study*”).

programming. We will update those results since that earlier analysis. Additionally, we will examine the growth of digital radio service, specifically examining the number of stations on air, the number utilizing the multicasting capabilities of that new technology, and the various types of programming being offered.

Clearly, the earlier study and this updated report demonstrate that radio stations are serving increasingly diverse audiences in their local markets, and, with expected growth in digital services, this trend should only continue. Faced with continually increasing competition in the audio marketplace, local radio stations are reacting by offering new and varied programming while continuing to provide news and informational services.

### **Specific Programming to Diverse Audiences**

To evaluate the extent of local radio stations' provision of service to specific audiences, we examined the number of radio stations providing Spanish language, Urban, and News/Talk programming, as well as the coverage of these stations.

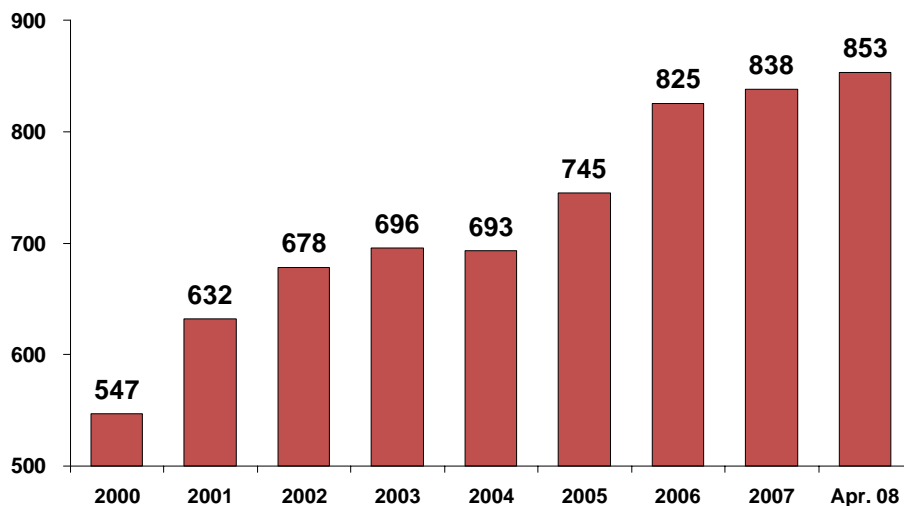
#### **Spanish-Language Programming**

The radio industry continues to increase the amounts of Spanish language programming throughout the U.S. Increasing populations of Hispanics in many markets have led more radio stations to provide programming targeted to this population, including in smaller and more rural markets.<sup>2</sup> Figure 1 below shows the number of radio stations providing Spanish-language programming over the last eight years.

---

<sup>2</sup> For example, in the Birmingham, AL radio market, where only 2.8% of the population is of Hispanic descent, there are now five radio stations airing Spanish-language programming.

**Figure 1**  
**# of U.S. Spanish-Language Radio Stations**



Source: Media Access Pro, BIA Financial Network

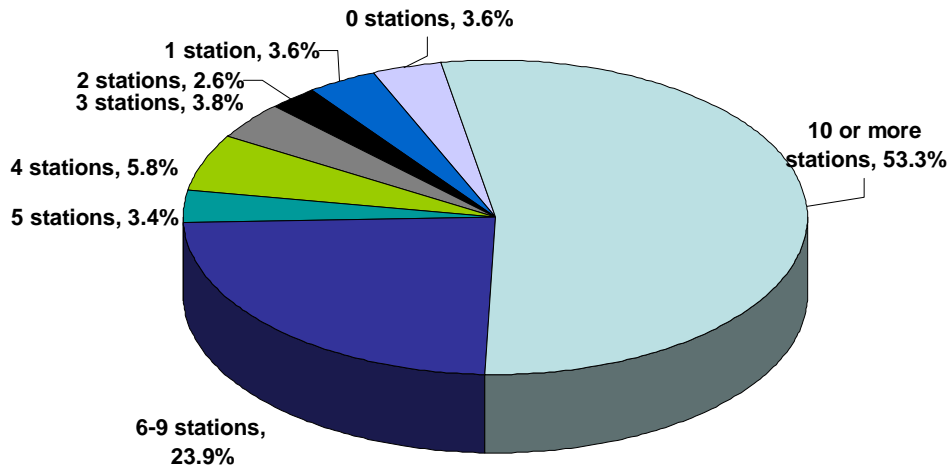
In just eight years, the number of U.S. Spanish-language radio stations has increased nearly 56%.<sup>3</sup> These Spanish-language stations are offering varied programming, including different types of music – Mexican, Tejano, Tropical, Ranchero, etc. – and news/talk programming.

Another way of evaluating the service being provided to the Hispanic community is to examine the number of stations in each market providing Spanish-language programming. In particular, examining the percentage of the Hispanic population in Arbitron metro markets with

<sup>3</sup> This number actually understates the number of Spanish-language radio stations as it does *not* include the Mexican radio stations airing this programming and serving U.S. populations in markets along the U.S.-Mexican border.

varying number of Spanish-language stations provides a clear picture of the widespread provision of this programming to this demographic group. Figure 2 shows that distribution.

**Figure 2**  
**Percentage of Hispanic Population Receiving Spanish Programmed Stations**



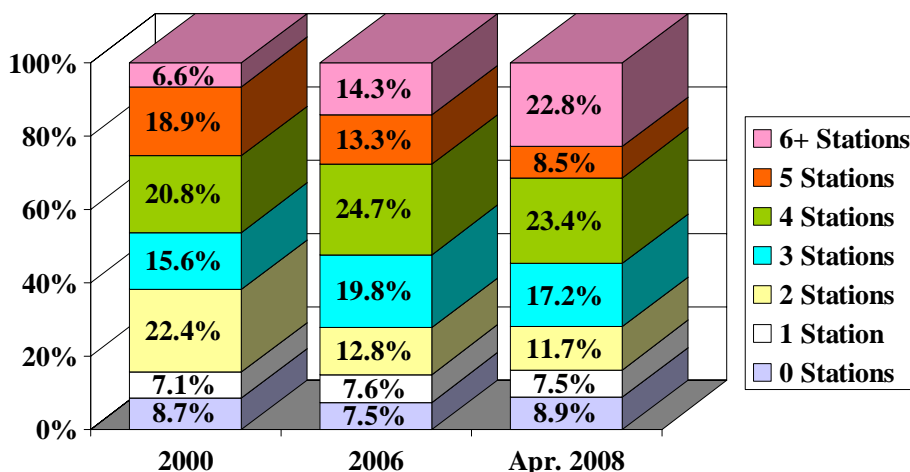
These percentages have not changed significantly since the *2006 Radio Diversity Study*. Still, 53.3% of the Hispanic population in Arbitron markets now reside in markets with 10 or more Spanish-language radio stations, an increase of nearly three percentage points (from 50.4% in 2006). Currently, over 90% (90.2%) of the Hispanic population located in Arbitron markets are in markets with at least three Spanish language stations.

### Urban Programming

In the earlier study, it was shown that African American listeners were being provided with increased amounts of targeted programming, as more radio stations in local markets offered

Urban programming.<sup>4</sup> The increase in service to this demographic group from 2000 to 2006 was noteworthy, and radio broadcasters have continued to increase programming designed to serve the African American audience since that time. Figure 3 shows the percentage of African Americans within Arbitron radio markets that are served by varying numbers of Urban programmed stations for 2000, 2006 and 2008.

**Figure 3**  
**Percentage of African American Population**  
**Receiving Urban Programmed Stations**



While the share of African Americans in Arbitron markets with three or more Urban programmed stations has not changed substantially in the past year and a half (71.9% in April 2008 and 72.1% in October 2006), the percentage in markets with 6 or more stations has shown a

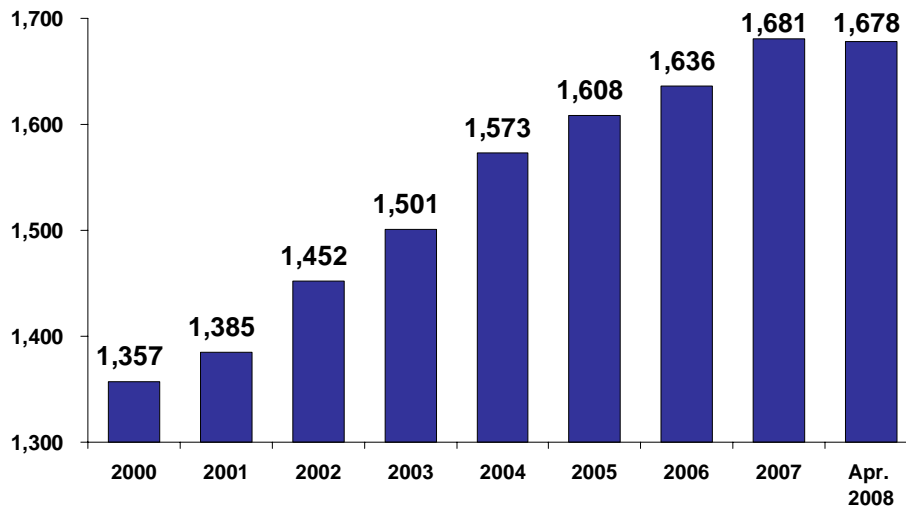
<sup>4</sup> See *2006 Radio Diversity Study* at 11-12. As previously noted, Urban stations, like Spanish-language ones, are quite varied, with stations targeting different demographic groups within the African American community by offering programming ranging from Urban/Talk to diverse music formats, including Urban AC, Urban CHR, Urban/Jazz, Rhythm and Blues and even Urban/Gospel.

dramatic increase, growing from 14.3% to nearly one quarter (22.8%). Significantly, in 2000 only 61.9% of African Americans located in Arbitron markets were in markets with three or more Urban programmed stations, compared to 71.9% today, and a mere 6.6% were in markets with six or more Urban stations in 2000, compared to 22.8% today.

### News/Talk Programming

Beyond providing expanded services to specific demographic groups as shown above, radio broadcasters continue to increase the news and information being provided to their local communities. The number of radio stations airing news and talk programming has steadily increased. Figure 4 shows the number of news/talk programmed stations over the past eight years.<sup>5</sup>

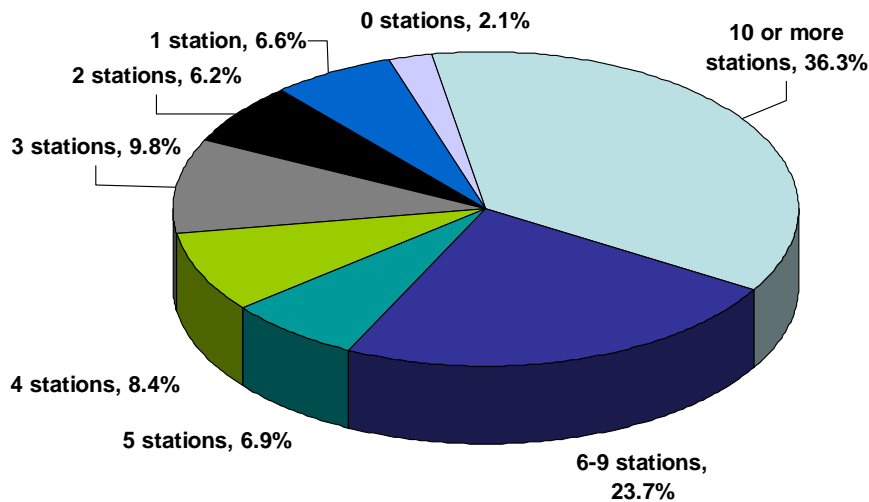
**Figure 4**  
**# of U.S. News/Talk Radio Stations**





Over the last eight years, the number of news/talk local radio stations has grown by over 300, a 23.7% increase. Just citing the number of news/talk stations may, however, not fully demonstrate the true level of service being afforded by these stations in local markets. As with Spanish-language and Urban stations, the widespread service afforded by news/talk stations is best shown by examining the percentages of the population in Arbitron markets receiving service from different numbers of news/talk radio stations. Figure 5 shows this distribution.

**Figure 5**  
**Percentage of Population Receiving**  
**News/Talk Programmed Stations**



The availability of news/talk programming in local markets clearly continues to increase. Six of ten people (60.0%) residing in Arbitron markets are in markets with at least six news/talk stations (2006 value: 55.5%). Three quarters (75.3%) of the population in Arbitron markets are in markets with at least four news/talk stations (2006 value: 70.8%).

<sup>5</sup> It should be pointed out that these totals do *not* include stations that are either sports or

## HD Radio Service

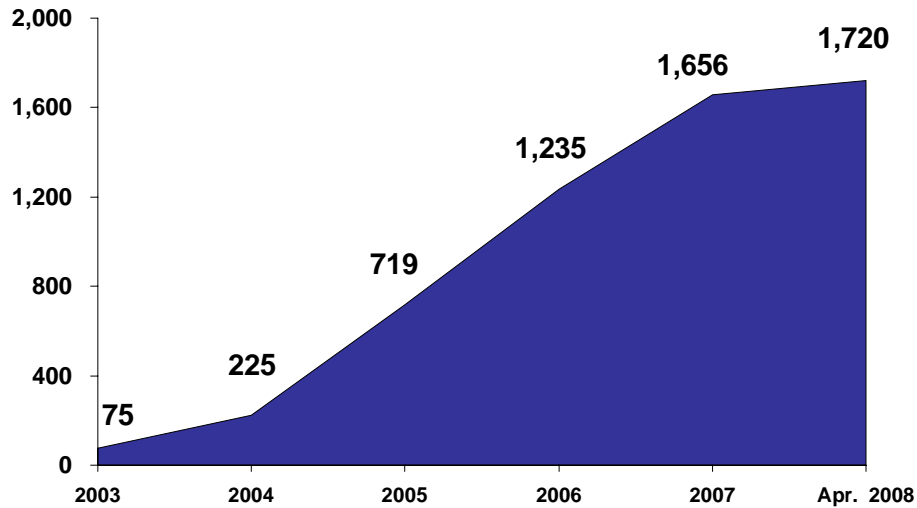
In addition to adjusting their programming to respond to competitive conditions, the radio industry has made significant investments in improving its technical facilities and expanding programming services. Investment in the new digital radio service, HD Radio, has been widespread and significant by radio broadcasters across the country. Although the number of HD radio receivers in the marketplace is still relatively small, many radio stations are presently broadcasting in digital, with the expectation that the new and improved services provided by this technology will lead to more widespread consumer acceptance of digital radio in the next few years, just as digital television has gradually been embraced by consumers.<sup>6</sup> Figure 6 shows the number of digital radio stations on the air for each of the past 6 years.

---

sports/talk stations.

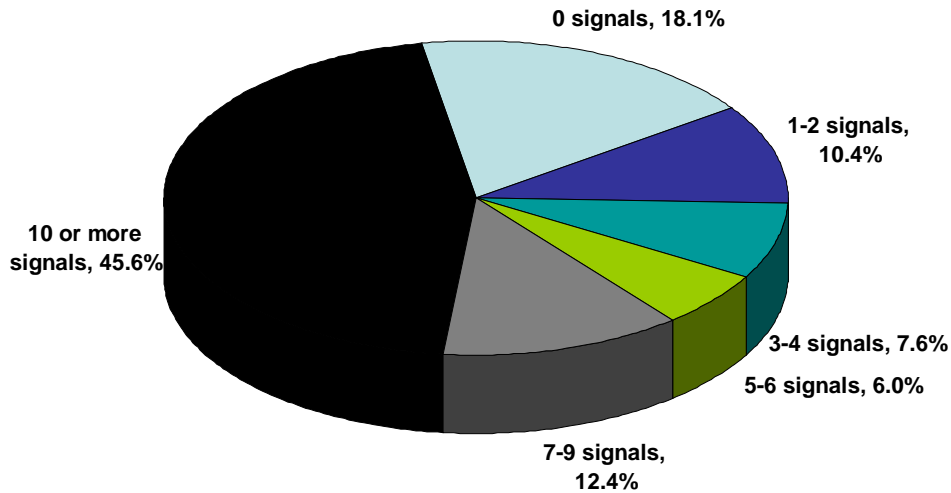
<sup>6</sup> Many broadcasters are currently streaming their multicast programming over the Internet, providing this new programming service to consumers who have not yet purchased an HD Radio receiver.

**Figure 6**  
**Number of HD Radio Stations at Year End**



Local radio stations are offering digital service for several reasons. One is to improve the quality of their sound in an era where consumers have many choices for audio entertainment. Another is the ability to provide additional programming through multicasting. Currently, 786 additional multicast programming streams are being provided to audiences by their local radio stations. To see the breadth of this service, Figure 7 shows the percentages of the population in Arbitron markets served by varying numbers of multicast radio signals.

**Figure 7**  
**Percentage of Population Receiving**  
**Multicast Signals**



Nearly one half (45.6%) of the population located in Arbitron markets are in markets with at least ten multicast signals, and nearly three-quarters (71.6%) are in markets with at least three. This number will grow as more stations that are already operating in digital determine the types of programming best suited for their multicast signals and as more stations convert to digital.

To attract listeners to these new multicast signals, many radio stations are offering programming that differs from any programming presently being offered in their local markets. Appendix 1 identifies the various types of programming now being offered in local markets via these multicast signals. After analyzing some local markets in detail, it is clear that multicasting has significantly enhanced the diversity of programming available to consumers. For example:

- Of the 46 markets with new multicast Classical signals, 14 had no other Classical stations in the market;

- Of the 28 markets with new multicast Smooth Jazz signals, 21 had no other Smooth Jazz stations in the market;
- Of the 30 markets with new Alternative signals, 9 had no other Alternative stations in the market; and
- Of the 18 markets with new Rhythm/Blues signals, 15 had no other Rhythm/Blues stations in the market.

## Conclusions

It is quite apparent that over-the-air radio stations are continuously searching for new and different programming in response to competition from both over-the-air radio stations and other audio programming sources. Whether it is adjusting their program elements (e.g., play lists, personalities) or changing entire programming formats, radio broadcasters are always seeking to improve their programming to attract larger audiences. One option for radio stations has been to provide increased programming appealing to specific demographic groups. This paper confirms the findings of an earlier study showing increases in the number of stations offering services targeted to specific audience segments.

As a result of the development and adoption of digital technology, stations are also now able to expand their services to local communities by airing multiple programming services on multicast signals. While provision of certain programming services that appeal to smaller numbers of listeners may not make financial sense on the main signal of a radio station, and could not be sustained, such niche programming may well be economically viable on one of a station's multicast signals.

Further expansion of free over-the-air radio services to diverse local audiences is also likely to occur as the radio industry’s transition to digital broadcasting continues and the number of multicast programming streams grows. Radio stations have a strong economic incentive to expand their reach by offering more niche programming on these streams, thereby greatly expanding radio service in local markets. These expanded services will be necessary for local radio stations to respond to growing competition and will also benefit local listeners and communities.

**Appendix 1 – List of Formats Being Offered Via Multicast Signals**

70's & 80's	Ethnic	Rhythmic & Blue
70s Hits	Gospel	Rhythm/Blue
70s Oldies	Hip Hop	Rhythmic
80s Hits	Hot AC	Rock
AAA	Hip Hop/R&B	Rock & Roll
AAA/Folk	Hurban	Rock AC
AC	Info/News	Rock/Alternative
AC/Rhythmic	Information	Rock/Variety
AC/Urban/Oldies	Inspiration	SAC/News/Talk
Adult Hits/Variety	International	Smooth Jazz
Adlt Stndrd	Jack	Soft AC
Adult Std/Easy	Jazz	Southern Gospel
Adult CHR	Jazz/Classical	Span/AC
Adult Hits	Jazz/NPR	Span/CHR
Alternative	Kids/CHR	Spanish/Oldies
Americana	Lite AC	Span/Talk
AOR	Lite Rock	Spanish/Tejano
Big Band	MdRck/PubSv	Span/Variety
Blue Grass/Americana	Mexican	Spanish
Blue Grass	Mix AC	Spanish AC
Bright AC	Modern AC	Spanish/CHR
CHR	Modern Rock	Spanish/News/Talk
CHR/Rhythmic	New Rock	Spanish/Variety
Christian	News	Spanish AC/Rhythmic
ChrsContemporary	News/Alternative	Sports
Christian/AC	News/Info	Sports/Talk
Christian/CHR	News/Talk	Talk
Christian/Hip Hop	NPR	Talk/News
Christian/Inspiration	NPR/Classical	Talk/Sports
Christian/Rock	NPR/News	Tejano
Classical	NPR/News/Information	Top 40
Classical/News/Inf	NPR/News/Talk	Top40/Dance
Classic Hits	New Rock/Alternative	Top40/Rhythmic
Classic Rock	News/Jazz/NPR	Tropical/Oldies
Classical/AAA	News/Talk/Information	Urban
Classical/Jazz	News/Talk/Jazz	Urban AC
Classical/News	News/Talk/Sport	Urban/Gospel
Country/Rock	Oldies	Urban/Rhythmic
Country/Variety	Pop	Urban/Variety
Comedy	Pop/Dance	Variety
Country	Public	Variety/Hip Hop
Cst/Hip Hop/Urban	R&B	
Cst/Rock/Alternative	Rock/Hip Hop	
Dance	Reggaeton	
Diverse	Rhythmic/AC	