

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Policies to Promote Rural Radio Service and to	)	MB Docket No. 09-52
Streamline Allotment and	)	RM-11528
Assignment Procedures	)	

**COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (“NAB”)<sup>1</sup> offers these brief comments on the above-captioned Notice of Proposed Rulemaking.<sup>2</sup> As explained below, NAB respectfully submits that a primary focus of the Commission’s effort to evaluate the efficiency and impact of its rules governing radio frequency allotments and assignments should be whether a policy change would promote a healthy, diverse broadcasting industry.

The Notice seeks comment on a wide range of rules changes. *Notice* at ¶¶ 1. Some of these proposals involve altering the Commission’s reliance on population size as a dispositive preference between competing applications for frequency assignments. *Id.* at ¶¶ 2-12. Others concern limiting the circumstances where licensees may move their community of license from smaller communities to more urbanized communities,

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<sup>1</sup> NAB is a nonprofit trade association that advocates on behalf of more than 8,300 free, local radio and television stations and also broadcast networks before Congress, the Commission and the Courts.

<sup>2</sup> *Policies to Promote Rural Radio and to Streamline Allotment and Assignment Procedures*, Notice of Proposed Rulemaking, FCC 09-30, MB Docket No. 09-52, RM-11528 (*rel.* April 20, 2009)(Notice).

*Id.* at 15-18, and creating a unique Section 307(b) priority for American Indian Tribes and Alaska Native Villages (Tribes). *Id.* at 19-24. Additionally, the Commission seeks comment on a variety of procedural changes intended to streamline and improve the accuracy of Section 307(b) determinations. *Id.* at ¶¶ 28, 30, and 33.

To evaluate these proposals, NAB suggests that the Commission should consider the underlying purpose of Section 307(b) of the Communications Act: to provide a fair, efficient and equitable distribution of radio service to American's communities. 47 C.F.R. § 307(b) (1982). This provision has guided the assignment, modification and renewal of broadcast facilities in local communities for decades, and regardless of how the Notice is ultimately decided, the Commission must take care to preserve the integrity of Section 307(b). This statutory obligation, as well as the four priorities for assigning frequencies the Commission uses to implement Section 307(b),<sup>3</sup> have served both consumers and the broadcasting industry by fostering a competitive, diverse industry. But, to provide service to local communities, radio stations must have the ability to attract both listeners and advertisers. As such, the Commission should carefully evaluate any change it may consider to the four priorities on the basis of how it will affect the ability of new entrants to be viable in the radio market.

For example, the Commission expresses concerns that the allotment priorities may skew Section 307(b) determinations toward the assignment or reassignment of radio frequencies to suburban communities near larger cities, and away from service in smaller or rural communities. *Id.* at ¶ 5. Therefore, it proposes to change how it

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<sup>3</sup> The four priorities are: (1) First fulltime aural (reception) service; (2) Second fulltime aural service; (3) First local (transmission) service; and (4) Other public interest matters. *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982).

measures and weighs population size as a factor in assigning or reassigning frequencies to correct this alleged imbalance. *Id.* at ¶¶ 7-10. In this vein, the Commission also proposes an absolute ban on community of license changes that would leave a community with zero or only one reception service. *Id.* at ¶ 16. In general, these proposed changes would make it harder to assign or reassign frequencies to relatively more urbanized areas.

NAB observes that the public policy ramifications of the contemplated changes are not clear. On the one hand, it could help new entrants seeking to install new service in smaller communities, or maintain competition and diversity among radio interests in smaller communities. On the other hand, such a change could decrease radio competition and diversity in suburban and other larger areas when a new entrant might seek to serve an underserved population. Listeners in such areas would be denied an additional radio service they otherwise might receive. It may also be that the smaller community is not an economically viable host for a new station.

Like other industries, radio broadcasting is facing difficult economic challenges, and the ability of radio broadcasters to maximize their assets must not be unduly constrained. The broadcasting industry is experiencing substantial declines in revenues, and many stations are going dark.<sup>4</sup> According to BIA Advisory Services, LLC, radio revenues declined by more than eight percent in 2008 alone, and are predicted to decline by an additional 10% in 2009.<sup>5</sup> To combat these circumstances, broadcasters must have reasonable flexibility to improve their service and expand their

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<sup>4</sup> See [http://www.broadcastingcable.com/article/277999-FCC\\_Says\\_35\\_Stations\\_To\\_Go\\_Dark\\_June\\_12.php](http://www.broadcastingcable.com/article/277999-FCC_Says_35_Stations_To_Go_Dark_June_12.php) (last visited July 8, 2009).

<sup>5</sup> See <http://www.rwonline.com/article/77120> (last visited July 8, 2009).

audiences as a means of maintaining revenues, and in turn, their ability to provide the critical news, information and entertainment that listeners have come to expect. Also, given the difficult employment market nationwide, the Commission should be wary of taking any steps that could hinder the preservation or expansion of jobs at radio stations.

Accordingly, NAB broadly supports the Commission's efforts to enhance radio diversity and help new entrants and we respectfully submit that any rule changes arising out of the Notice must not hinder or jeopardize broadcasters' ability to provide unique, attractive programming and thereby survive in the increasingly competitive media marketplace.

Respectfully submitted,

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