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RECEIVED
APR 20 1992
Federal Communications Commission
Office of the Secretary

April 20, 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: Supporting Comments of the New Jersey Broadcasters Association RM-7932

Dear Ms. Searcy:

Transmitted herewith on behalf of the New Jersey Broadcasters Association is an original and one copy of its supporting comments in RM-7932. The comments being submitted in RM-7932 are identical to the comments in RM-7933. Accordingly, pursuant to Section 1.419(c) of the Commission's Rules, as referenced in Section 1.405, two copies of the comments submitted in RM-7933 are being submitted for the record in RM-7932. These supporting comments are respectfully directed to the full Commission.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,

John F. Garziglia

John F. Garziglia

Enclosures

No. of Copies rec'd 2+1
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

In the Matter of	)	
	)	
Request for Temporary Suspension of New Commercial FM Allotment and Application Processing	)	RM-7932
	)	
Request for Review of the Commission's Commercial FM Allotment and Licensing Policy	)	RM-7933

TO: The Commission

**SUPPORTING COMMENTS OF THE
NEW JERSEY BROADCASTERS ASSOCIATION**

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April 20, 1992

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SUMMARY

The New Jersey Broadcasters Association in these comments describes the unique situation of radio stations in New Jersey. Because of this unique situation, New Jersey Broadcasters are especially sensitive to the continuing proliferation of new radio facilities across the state. The New Jersey Broadcasters Association supports the National Association of Broadcasters in its request for a review of the Commission's allotment policies and priorities.

In particular, the New Jersey Broadcasters Association advocates that the Commission revise the present FM allotment policies. Section 307(b) of the Communications Act of 1934, as amended, will be better served by encouraging a redistribution of radio facilities across the United States in order to assure that radio facilities are fairly and equitably distributed. To this end, a preference for station upgrades and improvements in allotment proceedings should be given except in situations where a new allotment will provide new service to a community that is encompassed by the service area contours of two or fewer other radio stations. To provide an orderly transition of new allotment rules, the Commission should immediately impose a freeze on new FM allotments. The Commission should continue to accept, however, allotment petitions seeking upgrades in existing FM stations, as such petitions clearly serve the Section 307(b) goals of a fair and equitable distribution of radio facilities.

Additionally, the Commission should provide tax certificates in order to give an incentive for the voluntary deletion of failing and unbuilt FM stations. Stations that are presently off the air or unbuilt, by their very nature, suggest that the underlying allotments are not the result of a fair and equitable distribution of radio facilities. A radio station that is off the air or unbuilt does not serve the public interest.

Finally, the Commission should begin to strictly enforce its rules on unbuilt construction permits and authority for stations to be off the air. In many cases, stations that are off the air or unbuilt occupy portions of the spectrum that could be used for an enhancement of an existing station that is serving the public interest. Unbuilt stations and off the air stations who do not strictly abide by the Commission's rules for constructing or returning the station to the air should have authorizations canceled and underlying allotments deleted.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

In the Matter of	)	
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Request for Temporary Suspension of New Commercial FM Allotment and Application Processing	)	**RM-7932**
	)	
Request for Review of the Commission's Commercial FM Allotment and Licensing Policy	)	**RM-7933**

TO: The Commission

SUPPORTING COMMENTS OF THE NEW JERSEY BROADCASTERS ASSOCIATION

The New Jersey Broadcasters Association ("NJBA")[1], by its attorneys and pursuant to Section 1.405 of the Rules of the Commission and the Public Notice, Report No. 1882, released March 20, 1992, hereby submits its Comments in support of the above-captioned Request filed by the National Association of Broadcasters ("NAB") on February 10, 1992 ("Request").

I. DEPRESSED ECONOMICS IN THE RADIO INDUSTRY HAVE HAD A DEVASTATING EFFECT ON SMALL MARKET STATIONS

1. New Jersey broadcasters are in an unusual, if not unique competitive situation. Stations in the northern part of the state compete with powerful, well-financed broadcasters licensed to the New York metropolitan area, the largest radio market in the country. Stations in southern New Jersey must compete with equally powerful and well-financed broadcasters licensed to the Philadelphia metropolitan area, the fifth largest

[1] NJBA is a non-profit association formed in 1946. Its membership includes the licensees of 39 broadcast stations, all but four of which are radio stations.

radio market in the country. Thus, New Jersey broadcasters licensed to much smaller markets are competing with stations licensed to major markets. The downturn in the radio economy has made a difficult situation that much worse. These small market stations have been hardest hit.

2. The current state of affairs in radio was thoroughly documented in the "Overview of the Radio Industry," prepared by the Policy and Rules Division of the Mass Media Bureau in January, 1992 ("Overview") and attached as Exhibit 1. The Overview reports at p. 5 that "small stations -- which represent the bulk of the industry's operations -- lost money on average in 1990." The Overview also cites the "dramatic" 31 percent increase in the number of FM broadcast stations between 1980 and 1991. Id. at p. 1.

3. The impetus for the dramatic increase in FM allocations may be traced to the boom in FM listening, which began with the introduction of FM stereo broadcasting during the 1960's. The Commission's Docket 80-90 proceeding, which resulted in the allocation of 689 new FM stations in the 1980's spurred further growth. Construction permits have now been issued for many of the allocations authorized in Docket 80-90. Escalating prices for FM stations in the 1980's made the industry an attractive investment. Computer technology made it possible for persons other than skilled engineers to determine where new FM stations could be allocated. Together, all of these factors resulted in a flood of petitions to amend the FM Table of Allotments. The

Commission's liberal allocation policies, which allow for allotments to virtually any community so long as the minimum spacing requirements of Section 73.207 of the Rules of the Commission are met, has resulted in FM assignments in all but the tiniest of communities.[2/]

4. Now the radio economy is in decline. Real dollar revenues per station are eroding. As the Overview notes at p. 5, radio revenues increased until 1988, but the dramatic increase in the number of stations resulted in a decline in revenues per station beginning in 1989. Since 1988 AM station revenues have declined 50 percent and FM revenues have declined 37 percent. Id. Other media, principally television and cable, have eroded radio's share of the advertising dollar. More than half of all radio stations lost money in 1990 -- the inevitable result of more stations chasing fewer revenue dollars. Id. The prices paid for FM stations are declining from an average of $2 million in 1990 to $1.6 million in 1991. Id. Most alarming of all is the fact that 287 radio stations are currently dark, more than half having gone off the air in the past year. Id. With this number of stations authorized, but not operating, it is hard to imagine how in the current environment additional radio stations could be in the public interest.

[2/] The Overview's findings are mirrored in Appendix B to NAB's Request. NAB reports that in 1990, the most recent year for which data is available, the average FM standalone station lost nearly $15,000 and this was before the downturn in the economy. Appendix B at unnumbered page 2. Net revenues were down 0.9% in the period 1987-90. Id.

II. THE GOVERNMENT HAS A LEGITIMATE INTEREST IN A HEALTHY RADIO ECONOMY

5. It might be argued by some that it is not the Government's role to ensure the profitability of a private enterprise such as a radio station. That is true. But commercial radio stations are a business unlike any other. Commercial radio stations are licensed to operate in the "public interest, convenience and necessity." 47 U.S.C. Section 309. A station that is dark does not serve the public interest convenience and necessity. A station that is losing money or is marginally profitable can meet its public interest obligations in only the most minimal manner. A robust, healthy broadcast station is free to meet and exceed its obligations under the Communications Act. Moreover, radio stations serve discrete communities, unlike television stations, which are more regional in nature. Thus, the public interest in the private business of commercial radio broadcasting is substantial. The public interest is well served by a healthy radio industry. Stations that are dark and stations that are struggling to remain on the air cannot serve the public interest.

III. THE PUBLIC INTEREST DEMANDS PROTECTION OF FM RADIO'S TECHNICAL INTEGRITY

6. If these economic problems were not enough of a threat, FM radio also faces increased technical difficulties. The growth and success of FM radio is due in large measure to its superior audio quality. It is -- or was -- virtually interference-free. Unlike AM, FM offered listeners a crystal clear signal free of electro-magnetic interference from natural or man-made causes.

The inherent technical qualities of the FM band and the Commission's spacing requirements protected the integrity of the FM signal. But, NAB suggests at pp. 9-10 of its Request that FM is in danger of "taking the same interference-plagued economically devastating path of AM" if stations are packed together ever more tightly.

7. Section 307(b) of the Communications Act of 1934, as amended, mandates a "fair, efficient and equitable" distribution of radio services throughout the country. As NAB demonstrates at pp. 12-14 of its Request, that goal has been reached. The Commission should declare that the goal of Section 307(b) has been achieved. Indeed, it would appear that if the Commission were to continue along its present course, the goal of Section 307(b) will be breached in that there will be an <u>inequitable</u> distribution of radio services. If, as the separate studies of the Commission and the NAB have both found, the radio industry is in a state of economic decline, then the addition of more radio stations in the face of overwhelming economic evidence that these stations (or their existing competitors) are doomed to failure is neither efficient nor equitable within the meaning of Section 307(b).

IV. THE COMMISSION HAS THE LEGAL AUTHORITY TO CONSIDER THE ECONOMIC IMPACT OF NEW STATIONS ON EXISTING FACILITIES

8. It is well settled that economic injury is not grounds for denying a new application. <u>Federal Communications Commission v. Sanders Brothers Radio Station</u>, 309 U.S. 470, 473, 60 S. Ct. 693, 696 (1940). But the <u>Sanders Brothers</u> Court also observed

that economic injury and the public interest are separate matters and the Commission is free to consider the question of competition between a proposed station and an existing station. Id. The Court observed that this question "may have a vital and important bearing upon the ability of the applicant adequately to serve the public." Id. The Sanders Brothers Court concluded that if both the existing and proposed stations were to go under the listening public would either be left without adequate service or both stations would render inadequate service. Id.

9. This issue was addressed many years later in Carroll Broadcasting Co. v. Federal Communications Commission, 258 F.2d 440 (D.C. Cir. 1958) when the court held that when an existing licensee offers to prove that the granting of a license to a new station would be detrimental to the public interest, the Commission was obligated to hear the evidence. The court held that the Commission was not always required to consider economic impact. Id. at 443. But, the court found that, "competitive effects may under some sets of circumstances produce detriment to the public interest. When that happens the public interest controls." Id. As a result, the Commission took such testimony pursuant to what became known as "the Carroll doctrine."

10. The Commission subsequently abandoned the Carroll doctrine on the ground that it no longer served the public interest. Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations, 3 FCC Rcd 638 (1988), recon. denied, 4 FCC Rcd 2276 (1989). In abolishing the Carroll

doctrine the Commission noted that it was not prevented from revisiting the issue even though it was judicially imposed. 3 FCC Rcd at 641. The Commission noted then that the court had reminded it "of its obligation to be aware of the consequences of its policies and alter them if it determines that time or changed circumstances demonstrate that the public interest is no longer served." Id. In 1988 the economics of radio were far different than they are today. The Commission, therefore, is free to revisit the Carroll doctrine and reimpose it as consistent with the public interest in today's changed environment.

V. SUGGESTED CHANGES

11. As demonstrated above, the radio broadcast industry is at a watershed. As it has done with television, which is in a similar dilemma[3/], the Commission should adopt NAB's Request and issue a wide-ranging Notice of Proposed Rule Making. NJBA, in this connection offers several proposals.

A. ALLOTMENT CRITERIA SHOULD BE REVISED

12. To fulfill the goals of Section 307(b), it is now time to make a shift in policy goals for new allotments and assignments to put into effect a policy encouraging a redistribution of radio facilities pursuant to Section 307(b). To encourage a redistribution of radio facilities, rather than giving an overriding priority for first local aural transmission service to a community in FM table of allotment proceedings, a preference for

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[3/] See OPP Working Paper No. 26, Broadcast Television in a Multichannel Marketplace, 6 FCC Rcd 3996 (1991) and Notice of Inquiry, 6 FCC Rcd 4961 (1991).

new allotments should be available only when a proposal will provide new service to a community that is encompassed by the service area contours of two or fewer other radio stations.

13. Any other proposal for additional new aural transmission service to a community should be considered second in priority to an upgrade or modification of an existing radio facility. When any proposal for a change or a modification of an existing facility is filed, the upgrade or modification proposal should take priority over the allotment of a new service unless the new service is being proposed to a community with reception service from two or fewer radio stations. This will allow for a more fair, efficient and equitable redistribution of radio facilities pursuant to the goals of Section 307(b) of the Communications Act of 1934, as amended.

B. THE COMMISSION SHOULD IMPOSE A FREEZE ON NEW ALLOTMENTS

14. The Commission should immediately issue a freeze on the filing of applications for presently vacant FM allotments. In making any additional new FM allotments, the Commission should also freeze the filing of applications for such new allotments until such time as the proceeding adopting these new rules is terminated. The Commission should not cease making all allotments, however, as such a cessation of allotment activity may affect stations applying for upgrades in their facilities which would fulfill the redistribution policies of Section 307(b). Accordingly, new allotments should be made subject to the outcome

of this proceeding and no windows should be opened for the filing of applications until this proceeding is terminated.

C. THE COMMISSION SHOULD PROVIDE INCENTIVES TO DELETE FAILING AND UNBUILT FACILITIES

15. The proliferation of new radio facilities has resulted in a number of failing, failed and unbuilt radio facilities. In order to remedy this situation and to provide for a more efficient use of the spectrum, incentives should be provided to present holders of unbuilt construction permits or to permittees or licensees of failing or failed stations to turn in their authorization to the Commission for cancellation, and (for FM stations) to have the allotment deleted. Many of these unbuilt, failing or failed stations now occupy portions of the spectrum that prohibit or impede other stations from upgrading facilities to more efficiently use the spectrum and better serve the public.

16. The incentive may be as follows: the holder of an authorization for an unbuilt, failing or failed station should be allowed to assign or transfer that authorization, no matter what the circumstances of the authorization, where the purpose of the assignment or transfer would be to assign or transfer the authorization to an entity who would immediately turn in the authorization for cancellation. An unbuilt permit holder could assign the permit for more than legitimate and prudent expenses as long as the sole purpose of the assignment or transfer was to transfer or assign the permit to an entity who would immediately turn in the permit for cancellation. The permittee or licensee of the unbuilt, failing or failed facility would receive a tax certifi-

cate for entering into a transaction that would result in the cancellation of its failing authorization. Such a tax certificate would encourage a reinvestment of the proceeds in other media interests, having the effect of strengthening the broadcasting industry generally.

17. Under these new rules, a priority will be given to any existing FM station that seeks to change the FM Table of Allotments either to upgrade its facilities or to change its city of license so as to use the spectrum more efficiently. In making upgrades or changes, stations may propose any arrangement of allotments that results in a more efficient use of the spectrum, as long as the change is in accord with spacing and interference rules. If two or more stations propose changes that are mutually exclusive, the station filing first has priority in making the change.

18. In order to provide for an orderly upgrade of existing facilities, an existing station desiring to make an upgrade will be able to simultaneously file for an upgrade while filing for an assignment or the transfer of an authorization proposed to be canceled. Through this concurrent filing, assuming that no other licensee or permittee has a conflicting proposal already pending, the permittee or licensee will be assured of obtaining the upgrade once the assignment or transfer of the conflicting authorization is approved, the transaction is closed, the permit or license is canceled and the underlying allotment, if any, is deleted. This first-in-time priority for upgrading allotments

will reduce the present tremendous workload of the Allotment Branch as there will be fewer mutually exclusive proposals to be considered.

D. THE COMMISSION SHOULD ENFORCE ITS RULES ON UNBUILT CP'S AND SILENT AUTHORITY

19. The Commission should also begin to strictly enforce its present rules on extensions and replacements of unbuilt construction permits and on permission for stations to be off-the-air. Existing permittees of unbuilt construction permits should have a period of six months after the effective date of the new rules in which to either construct the station or to assign or transfer the permit for cancellation. Thereafter, a very high threshold showing should be required to demonstrate that construction has not been completed because of reasons clearly beyond control of the permittee. If such a showing is not made, the permit will be canceled (by the Commission's refusal to grant the extension request) and, for FM permits, the allotment deleted. In addition, should a permittee fail to file for an extension of the permit and the permit expires, the permit will be automatically forfeited and the allotment canceled 30 days after the expiration date of the permit. Stations that go off-the-air and seek permission to remain dark should have to show that such a condition is temporary and is for reasons beyond the control of the licensee. In that absence of that showing, the licensee should have 30 days in which to assign or transfer the license, either for a cancellation and a deletion of the allotment, or to immediately return to the air. Failing that,

the license will be revoked and the allotment deleted. Any station that fails to timely seek the authorization of the Commission to remain dark will have its license automatically revoked and its allotment deleted.

VI. CONCLUSION

20. In summary, the change in the rules will fulfill several Commission policy goals resulting in an overall benefit to the public interest. First, for radio facilities that have failed, are failing or have never been built, it will allow the holders of the authorizations for those radio facilities to reap a benefit from turning in the authorization for cancellation and the deletion of the underlying allotment, if any. For FM broadcasting, the deletion of facilities and cancellation of allotments will allow healthy facilities that are now serving the public to expand or modify facilities in such a way that a more efficient use of the spectrum may be had and the public better served. Finally, giving tax certificates to those permittees and licensees who turn in authorizations under this policy provides an incentive to reinvest the proceeds received back into broadcasting, thus resulting in a financially strengthened industry.

21. At the same time, the Commission's own processes will be enhanced as the rule making process for the Table of Allotments will be much simplified by the first-in-time proposal for upgrading stations. Further, new allotments for new facilities will not be made injudiciously with the result that the broadcasting industry is further weakened.

For the forgoing reasons, the New Jersey Association of Broadcasters respectfully requests that the Commission issue a Notice of Proposed Rule Making in response to the NAB Request incorporating the proposals outlined above.

Respectfully submitted,

NEW JERSEY BROADCASTERS ASSOCIATION

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April 20, 1992

EXHIBIT 1

OVERVIEW OF THE RADIO INDUSTRY

RECEIVED
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OFFICE OF THE SECRETARY

OVERVIEW OF THE RADIO INDUSTRY

Policy and Rules Division

Mass Media Bureau

January 1992

OVERVIEW OF THE RADIO INDUSTRY

I. Introduction

This paper reviews major developments in the radio industry, focusing on changes over the course of the last decade. It highlights industry size, growth and profit performance; radio programming and usage trends; and the growth of other media. Several attachments provide more detail on selected items.

II. Number of Stations

The number of radio stations has steadily increased.

The number of AM stations increased from 4589 in 1980 to 4988 in 1991, an increase of 9%. The number of FMs increased a dramatic 31% in the same period, from 4599 to 6036. (See attachment 1 for trend 1948-1991).

III. Concentration

The radio industry remains extremely fragmented.

When evaluating proposed mergers, the Department of Justice considers an industry unconcentrated if the post-merger level of concentration results in an Herfindahl-Hirschman Index (HHI), a standard measure of industry concentration, below 1000. (An industry or market of 10 equally-sized firms would have an HHI of 1000.) Based on revenue, the HHI for the radio industry, on a nationwide basis, was 49 in 1990, having declined from 77 in 1980.[1]

The top 10 radio group owners accounted for about 15% of industry revenue in 1980 and again in 1990.[2] (See attachment 2).

At the local level, smaller markets are characterized by fewer stations -- and thus higher concentration -- than large markets. For example, the average top

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[1] It should be noted that when the Commission adopted its 7 AM station, 7 FM station ownership limits in 1953, one individual or entity could own 0.3% of all AM radio stations and 1.2% of the FM stations. At the time the current rules were adopted in 1983, these percentages were 0.2 and 0.2, respectively. While the absolute number of stations an individual or entity can own has increased with this rule change, the share of the industry that may be controlled by any one entity has decreased. If the rules had been maintained at the same percentage level as 1953, it would be possible for an entity to now own approximately 54 FM stations and 15 AM stations.

[2] The current rules permit an individual or entity to own up to 12 AM and 12 FM radio stations. If two of its stations are minority controlled, however, an individual or entity may own up to 14 AM and 14 FM stations. A number of entities have reached the 12 AM-12 FM station limit. In addition, one minority entity owns 10 AM and 13 FM stations and another minority firm has 12 AM and 14 FM stations.

25 market has 13 television stations and 50 radio stations. It is necessary to reach the 176th market, on average, to drop below 14 radio stations. Markets ranked 176-200 have on average 3 television stations and 9 radio stations. (See attachment 3 for average number of stations by market size and attachment 4 for selected markets).

IV. Radio Stations Are Generally Very Small Businesses

Approximately 50% of all radio stations have 10 or fewer full time employees; 90% have 30 or fewer. (See attachment 5).

An NAB survey indicates that 75% of all radio operations have annual revenues of less than $1 million. The Small Business Administration defines a radio operation with revenues below $3.5 million as a small business.

V. Usage of Radio

Consumption of radio declined throughout the 1980s; radio is decreasingly relied on as a source of news.

Time spent listening to radio decreased throughout the decade, from 3 hours: 24 minutes daily in 1980 to 3 hours: 0 minutes today.[3] Average household usage of TV, in contrast, increased from 6 hours: 44 minutes to 7 hours: 2 minutes during the same period. In 1959, 34% of Americans reported that radio was one of their primary sources of news; in 1980 this figure was 18%; today it stands at 14%.

VI. Shift From AM Listening

AM radio has continued to lose audience share to FM.

The AM-FM audience share split, which began the 1980s at 43-57, moved to 23-77 by 1990.

VII. Growth of Other Media

Alternative media outlets grew explosively in the 1980s, increasing the programming choices available to consumers and the competition faced by radio licensees.

The number of homes subscribing to cable television continues to grow as does the number of cable programming networks and the audience to such programming available only through cable service. Cable penetration (*i.e.*, the number of homes subscribing to cable as a percent of all TV homes) was 25% in 1980, 41% in 1984, and is currently 64%. The number of national basic cable programming networks grew from 34 in 1982 to 80 in 1991. For the 1984-1985 television season, basic cable programming, including superstations, attained a 14% share

[3] Much of this trend is due to the fact that the "over 50" listening group, which historically has the lowest radio listenership, is now a larger percentage of the U.S. population.

of the total audience. During the 1989-1990 season, that audience share rose to 24%.

Local spot advertising on cable increased from approximately $8 million in 1980 to $396 million in 1990. Local cable advertising rates are often competitive with rates charged by radio stations, introducing a new element of competition not previously a factor for radio.

Popular music, a mainstay of radio programming, is now available to 55.1 million households from MTV and to 41.8 million households from VH-1.

In 1984, there were 6 cable radio networks distributing 24-hour-a-day programming services to cable systems. Since that time, 9 additional services have begun operation. These services generally offer music formats that cable operators include as part of their basic cable service. The newest cable radio services are three digital networks. While they eventually will have the capability to offer as many as 250 channels, each network currently offers about 30 channels of CD quality music and simulcasts the audio portion of pay cable networks, such as HBO and Showtime, as a premium cable service. At this time, the largest of these digital radio networks reaches approximately 1 million cable homes.

VCRs became an important part of the home entertainment market during the 1980s. The proportion of households with VCRs increased from 14% in 1984 to 77% in 1991. Gross expenditures on the sale and rental of videocassettes went from $1.4 billion in 1984 to $9.6 billion in 1989.

VIII. Program offerings

Radio station formats have become highly specialized and continue to multiply; radio networks have multiplied and grown robustly; music is the predominant radio content.

Increased competition has forced stations to tailor their programming to more segmented audiences and demographics. In the mid-1970s, Katz Radio Group, a leading industry rep firm, placed stations into 8 major format classifications. Today Katz tracks 35 major formats -- including 8 that have emerged in the last two years -- and approximately two dozen other minor formats.

A few illustrations suggest the extent to which niche programming has developed. Within the Spanish format, for example, there is now Ranchero (Mexican Country), Nortena (Northern Mexican Country), Contemporary Spanish, and Tropical (Salsa). There are also Spanish language News/Talk, Sports, and All-News stations. Within "Album-oriented rock (AOR)/Rock," there is AOR, Classic Rock, Eclectic Rock, Modern Rock/New Wave, Rock Contemporary Hit Radio (CHR)/Rock 40, and Z-Rock (Heavy Metal).

Radio networks (i.e., organizations providing programming on a simultaneous basis to two or more stations) have also grown substantially since 1980. Network revenues have risen 11% annually, from $156 million in 1980 to $432 million in 1990. Networks have also developed increasingly specialized formats as they have grown. In 1984, 9 national companies offered 15 program services; today 33 national companies offer 63 different services. There are also 105 regional networks in operation today. 91% of stations today use network programming to some degree.

As for typical radio content, a 1987 NAB Radio Programming study found that 86% of the average FM hour and 70% of the average AM hour (excluding commercials) was music.

IX. Industry Revenue Growth

Real dollar revenues per station are declining. Revenues had been increasing up until 1988. This trend reflects the continuing growth in the number of stations and the decline in real total revenues.

Radio station industry revenues grew from an estimated $3.1 billion in 1980 to $7 billion in 1990, in current dollars, but less than 4% annually in real terms. Between 1980 and 1985, radio revenues grew 11% annually -- more than twice as fast, in real terms, as the Gross National Product (GNP). Between 1985 and 1990, however, radio's rate of growth dropped almost in half to 6%, slower than the economy as a whole.[4] (See attachment 6)

Despite revenue growth that slightly outperformed the economy over the decade, the increase in the number of stations during the same period means that revenue per station grew on a compound annual basis at approximately 3% yearly, in real terms, from 1980 to 1985, and remained virtually unchanged on a compound annual basis between 1985 and 1990.

Revenue per station and income per station in real terms fluctuated over the last three decades. These trends (and those for station profitability below) reflect, to some extent, changes in the general business cycle and election years, including especially the current recession which began in July 1990. (See attachment 7) Both values, however, peaked in 1988 before declining in 1989 and 1990.

In the first three quarters of 1991, reported radio industry revenues dropped by 3%.

From 1980 to 1990, radio's share of the total amount of advertising revenue remained relatively constant, representing 6.9% and 6.8% of all such revenues in those years, respectively. (See attachment 8)

Local advertising's share of total mass media (radio, television and cable television) advertising revenues increased from 38% in 1980 to 40% in 1990. Over this period, local radio advertising's share declined slightly from 18.1%

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[4] These rates of change are compound annual average rates of change. The statement that radio revenues grew 11 percent annually between 1980 and 1985 means that, on average during the period, each year's revenue was 11 percent higher than that of the previous year. This descriptive measure is based on the growth which occurred over the entire period and is not meant to imply that actual revenues increased by this amount every year.

to 17.8%; local television advertising increased from 19.6% to 21.2%; and the cable share grew from 0.1% to 1.1%. (See attachment 9)

Dynamic changes in the nature of the retail business also appear to negatively impact radio revenues. Wal-Mart, for example, is a large and growing discount retailer who buys almost no advertising on radio. Once it enters a market, Wal-Mart typically displaces a number of smaller retailers who did advertise on radio because of its relatively low cost.

X. Profitability

There is a vast disparity between large and small station profitability. Large stations are highly profitable; small stations — which represent the bulk of the industry's operations — lost money, on average, in 1990. While aggregate industry profit has grown modestly since 1980, there has been a dramatic erosion since the election year peak in 1988.

Industry revenue and profit are overwhelmingly concentrated in the small number of large radio stations, while most small stations struggle to remain solvent. The top 50 revenue-producing radio stations, for example, accounted for over 11% of total radio revenue in 1990, and an estimated 50% of total industry profit.

Stations with over $16 million in revenue had an average operating margin of 35% in 1990; stations with between $5 and $6 million in revenue had margins of 26%. (See attachment 10A) Yet radio station operations with less than $1 million in revenue (representing 75% of all operations), on average, lost money in 1990. This stark difference between large and small station performance has perennially characterized the industry, and is consistent with the high-fixed cost nature of the business. (See attachments 10B and 10C)

In addition, while overall industry operating profit (earnings before taxes and interest) has grown at 2.3% compounded annually in real terms from 1980 to 1990 (see attachment 7), dramatic erosions have occurred since the peak in 1988. Since 1988, in current dollar terms, average AM station operating profits have plummeted by 50%; the average FM station decline has been 36%. The recent drop in real revenues and rising programming, sales and general and administrative (G&A) costs, have caused operating margins for the average radio station to decline sharply.

Average operating margins for FM stations, for example, dropped from 12.4% in 1987 to 8.3% in 1990; full-time AM stations fell from 10.1% to 8.1%, and daytime AMs dropped from 9.5% to virtual breakeven. More than half of all radio stations lost money in 1990.

As a result of these profit pressures, 287 radio stations are currently "dark", with 153 (53%) of them going dark in just the last 12 months. It has been reported that radio station trading activity has fallen off in the past year and average station prices have fallen. For example, an average FM sold for $1.6 million in 1991 compared to $2 million in 1990.