

Common Frequency  
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October 22, 2017

Ajit Pai, Chairman  
Mignon Clyburn, Michael O'Rielly, Brendan Carr, Jessica Rosenworcel, Commissioners  
Bill Lake, Chief, Media Bureau  
Barbara Kreisman, Video Division  
Peter Doyle, Audio Division  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

*Via Electronic Mail / ECFS*

RE: Elimination of the Main Studio R&O, MB Docket No. 17-106  
*For Immediate Review*

***Nearly three weeks after Maria ripped through the Caribbean on Sept. 20, only 16% of Puerto Rico's 3.34 million residents have regained electricity, making radio an essential communications lifeline. "Our fellow Americans in the Caribbean now face a once-in-a-generation humanitarian crisis, and radio is one of the only communications resources available," NAB president and CEO Gordon Smith said in a release announcing the initiative.<sup>1</sup>***

Dear Federal Communications Commission:

On May 18, 2017 the Federal Communication Commission released Notice of Proposed Rulemaking ("NPRM") MB Docket No. 17-106.<sup>2</sup> A tentative Report and Order<sup>3</sup> ("R&O") was recently circulated which makes conclusions to eliminate the main studio requirements for broadcast stations due to new technology and the sheer outdatedness of the studio rules. In light of the recent hurricane disasters in Houston, Florida and Puerto Rico, the R&O can only be characterized as *troubling*. The rulemaking aims to turn the nation's outlets for news, public affairs, and emergency information dissemination into internet streams from centralized sources

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<sup>1</sup> *Inside Radio*, "Broadcasters Will Ship 10,000 Radios To Puerto Rico." Oct 10, 2017.  
[http://www.insideradio.com/free/broadcasters-will-ship-radios-to-puerto-rico/article\\_40b7785a-ae02-11e7-8646-633750463dea.html](http://www.insideradio.com/free/broadcasters-will-ship-radios-to-puerto-rico/article_40b7785a-ae02-11e7-8646-633750463dea.html)

<sup>2</sup> *In the Matter of Elimination of Main Studio Rule*, Notice of Proposed Rulemaking. MB Docket No. 17-106 FCC-CIRC1705-04. (May 2017).

<sup>3</sup> *In the Matter of Elimination of Main Studio Rule*. (Tentative) Report and Report. MB Docket No. 17-106. FCC-CIRC1710-07. October 4, 2017.

supplying transmitters around the nation. While the NPRM and R&O do not delve into requisite communications legal precedent analysis, technological reasoning, “substantial benefits”, nor reasoning in the public interest, the most egregious oversight is the emergency situations for which **local broadcast main studios are the only communications infrastructure that stands between life and death.**

We are at a point where natural disasters are commonplace with global climate change--flooding, fires, earthquakes, hurricanes, landslides, etc. Human existence is riding the line on viral outbreaks (biological and computer), water supply contamination, nuclear accidents, economic uncertainty, escalated threats of armed conflict, and ‘Acts of God’. Regarding Puerto Rico specifically, the Commission has been unequivocally apprised of the situation--power, internet, and cellular communications for the most part, are decimated, with at first the only, and now primarily, form of communication being live analog radio broadcast:

Per FCC’s *Communications Status Report for Areas Impacted by Hurricane Maria* October 1, 2017:

Puerto Rico: Overall, 88.8% (virtually no change from 88.7% yesterday) of cell sites are out of service

U.S. Virgin Islands: Overall, 68.9% (slightly down from 70.8% yesterday) of cell sites are out of service. 100% of cell sites in St. John are still out of service.

Per FCC’s *Communications Status Report for Areas Impacted by Hurricane Maria* October 15, 2017:

Puerto Rico: 74.4% (slightly down from 74.9% yesterday) of the cell sites are out of service. 11 (down from 12 yesterday) out of the 78 counties in Puerto Rico have 100% of their cell sites down.

U.S. Virgin Islands: Overall, 55.4% (slightly up from 54.5% yesterday) of cell sites are out of service. 88.9% of cell sites in St. John are out of service.

The heading of this letter announces NAB’s charity effort of sending 10,000 radios to Puerto Rico due to the dire need for radio communication.

Our grievance lies in the Commission’s dismissal of this reality, eager to dismantle the nation’s decentralized independently-staffed content origination capacity, is setting up a disaster scenario that could potentially lead to the loss of thousands of U.S. citizens. The FCC writes in the R&O, addressing emergency situations [with underline/bold added for emphasis below]:

We reject claims that the elimination of the main studio rule will have a negative impact on broadcasters’ ability to broadcast emergency and time-sensitive information. One commenter explains that in terms of “a station’s ability to communicate time-sensitive or emergency

information to the public,” today telephone and Internet communications are more efficient than an in-person interaction at a local studio.<sup>4</sup>

The FCC views long-haul internet communications suitable for not only for remotely controlling and streaming media to transmitters from great distances in lieu of local studios in disaster situations, but also emergency information-acquirement, journalism, and organization. This reasoning does not translate to possible real world scenarios regarding acts of god. Wireline and cell services, connected to the power grid infrastructure, are the first thing to go in natural disasters. The following elaborates [with underlining and bold added for emphasis below]:

Payam Heydari, an expert in radio technology at the University of California, Irvine, said basic analog equipment tends to provide robust transmission over long distances. In comparison, he said, digital technology is highly dependent on electricity to power the relays needed to carry a signal.

In the words of one of its owners, Carmen Blanco, [radio station] WAPA turned into the unofficial “voice of the government” about the hurricane.

Anchor Penchi credits such old-school resourcefulness for the station's durability. He said WAPA stayed on the air because it had maintained its old analog broadcasting capacity alongside its digital equipment.<sup>5</sup>

If the FCC did not require a staffed local main studio with origination capacity by law, **Puerto Rico and the Virgin Islands would still not have any sort of communication capacity across the U.S. territories and the loss of life may have escalated into the thousands.**

But this is not our only concern regarding the R&O. Common Frequency submitted a Docket Comment regarding several issues within the NPRM in conflict within the core principles of broadcast public interest. We feel the FCC did not fully address these equally concerning issues. Because this R&O is not official and remains “under consideration”<sup>6</sup>, we respectfully submit this ex parte letter with attached commentary for redress. We believe Commission voting on this issue should be tabled until the U.S. citizens in Puerto Rico have a chance to

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<sup>4</sup> R&O, paragraph 12.

<sup>5</sup> “In Puerto Rico, one radio station is broadcasting hope.” Reuters, via *Christian Science Monitor*. <https://www.csmonitor.com/USA/2017/0928/In-Puerto-Rico-one-radio-station-is-broadcasting-hope>

<sup>6</sup> R&O, page 1 footnote “This document has been circulated for tentative consideration by the Commission at its October 2017 open meeting. The issues referenced in this document and the Commission’s ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available.”

comment on their firsthand dependence upon the local studio as the sole emergency communications infrastructure.

We believe this is not a matter to be dismissive of. The main studio has helped save the lives of thousands of citizens of Puerto Rico, Virgin Islands, Florida, and Texas. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Urick", on a light-colored background.

Todd Urick  
Representative, Common Frequency

cc: FCC ECFS Filing  
Marlene H. Dortch, Secretary  
Nathan Leamer, Policy Advisor, Office of Ajit Pai  
Alison Nemeth, Media Advisor, Office of Ajit Pai  
David Grossman, Media Policy Advisor, Office of Mignon Clyburn  
Brooke Ericson, Media Legal Advisor, Office of Michael O'Rielly  
Nirali Patel, Acting Legal Advisor for Media, Office of Brendan Carr  
Kate Black, Policy Advisor, Media, Jessica Rosenworcel

Attachment: Supplemental Comment of Common Frequency

## I. INTRODUCTION

On July 15, 2017 Common Frequency, Inc (“CFI”), a 501(c)(3) nonprofit advocating for the public interest within broadcasting, submitted a compelling comment regarding MB Docket No. 17-106, Notice of Proposed Rulemaking for *Elimination of the Main Studio Rule* (“NPRM”).<sup>7</sup> On October 4, 2017 the Commission circulated the Docket’s tentative *Report and Order* (“R&O”).<sup>8</sup> The R&O’s tentative conclusions relied upon comments predominantly from broadcast owners to derive conclusions without substantial precedent analysis.

CFI’s comment presented rigorous insight -- the “hard questions” -- for which we believe the Commission did not fully address. It is believed the tentative R&O must be revisited in light of evidence some of the conclusions derived in the R&O weighed heavily on subjective comments and less on analysis. This ex parte supplement presents a reasonable case for delaying Commission vote on the matter, especially in light of the Puerto Rico disaster. Addressing these issues prior to vote would expedite any changes to the proposed rules as to avoid follow-up petitioning or other legal recourse.

## II. THE R&O MISINTERPRETS 47 U.S.C. § 307(b) “TRANSMISSION SERVICE” OBLIGATION OF THE COMMUNICATIONS ACT OF 1934. IT CANNOT BE “ABANDONED”. MODERN PROCEEDING HISTORY DEMONSTRATES ITS OBLIGATORY HEEDING.

Both the National Association of Broadcasters (“NAB”) and FCC misinterpret the meaning and precedent of 47 U.S.C. § 307(b) in reference to *transmission service* within the R&O. Transmission service defined as, “the opportunity which a radio station provides for the

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<sup>7</sup> *Supra*, footnote 2.

<sup>8</sup> *Supra*, footnote 3.

development and expression of local interests, ideas, and talents and for the production of radio programs of special interest to a particular community.”<sup>9</sup> Furthermore:

The accessibility of the broadcast station's main studio may well determine in large part the extent to which the station (1) can participate and be an integral part of community activities and (2) can enable members of the public to participate in live programs...<sup>10</sup>

The codified rules concerning the main studio aim to enforce the mandate of transmission service. However, the R&O states:

For the reasons discussed herein, the record supports our finding that a local main studio is no longer necessary to ensure that broadcast stations serve their local communities, and thus eliminating the main studio requirement will not prevent compliance with the distribution directive in section 307(b) of the Act.<sup>11</sup>

With that statement’s footnote stating [underlining and bold added for emphasis]:

We agree with NAB that any assertion that the main studio rule is needed to enforce the “transmission service” requirement is misplaced because “[t]he **Commission effectively abandoned this definition of transmission service when it eliminated the program origination requirement.**” [Quoting NAB’s Reply Comment page 4 footnote 9] (explaining that, while in the 1950s the FCC held that a station could not provide “transmission service” in the absence of a physical local studio, that is no longer true today since stations now originate programming outside of the main studio).<sup>12</sup>

NAB’s supposition, for which the FCC tentatively<sup>13</sup> concurs with, is based upon the Commission’s assessment within *Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television*

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<sup>9</sup> *Rulemaking Concerning Main Studios*, 15 FR 8993 (1950).

<sup>10</sup> *Amendment of § 3.613 of the Commission’s Rules and Regulations*, Memorandum Opinion and Order, 43 F.C.C. 888, 890 (1952).

<sup>11</sup> R&O, paragraph 15.

<sup>12</sup> R&O, footnote 71.

<sup>13</sup> The R&O prefaces in footnote on p1. “The issues referenced in this document and the Commission’s ultimate resolutions of those issues remain under consideration and subject to change.”

*Broadcast Stations* (1987) (“Program Origination R&O”). Both the FCC and NAB misinterpret that Proceeding. Within the Program Origination R&O, the following is additionally stated:

Exposure to daily community activities and other local media of communications helps stations identify community needs and interests, which is necessary to operate in today's competitive marketplace and to meet our community service requirements. In addition, the studio will continue to be accessible to community residents participating in those local programs that, at the broadcaster's option, are produced at the studio.<sup>14</sup>

This statement is clear; the program origination option is to the discretion of the broadcaster, but **the daily “exposure” of staff “ helps stations identify community needs and interests”, which heeds the transmission service obligation**. It is not merely about program origination. Moreover, the Program Origination R&O decrees, in relation to transmission service [underlining and bold added for emphasis]:

Section 307(b). Our action is fully consistent with Section 307(b). We have granted a substantial degree of additional flexibility to licensees **without altering any of their local service obligations** or their ability to fulfill those obligations.<sup>15</sup>

Thus, the Commission's view of transmission service within the Program Origination R&O was actually unchanged from their previous view. Furthermore, a year later, in 1998, the Commission states [underlining and bold added for emphasis]:

A station must maintain a main studio which has the capability adequately to meet its function, as discussed above, of serving the needs and interests of the residents of the station's community of license. To fulfill this function, a station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence. Maintenance of production and transmission facilities and program transmission capability will allow broadcasters to continue, at their option, and as the marketplace demands, to produce local programs at the studio. **A meaningful management and staff presence will help expose stations to**

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<sup>14</sup> *Amendment of Sections 73.1125 and 73.1130 of the Commission's Rules, the Main Studio and Program Orientation Rules for Radio and Television Stations*, Report and Order, 2 F.C.C.R. 3215. Para. 38 (1987).

<sup>15</sup> *Ibid*, para. 45.

community activities, help them identify community needs and interests and thereby meet their community service requirements.<sup>16</sup>

If that is not ample justification regarding the requirement of Section 307(b), the FCC has enforced transmission service requirements well into current digital era. In 2008 the Commission stated the following in relation to digital television [underlining and bold added for emphasis]:

Broadcasters, however, are licensed to local communities, not DMAs, and for good reason. This ensures that broadcasters are responsive to the unique interests and needs of the individual communities to which they are licensed. Section 307(b) of the Communications Act explicitly requires the Commission to “make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.”... In carrying out the mandate of Section 307(b), the Commission has long recognized that “every community of appreciable size has a presumptive need for its own transmission service.”<sup>17</sup>

And in *In Re Application of Pacific Broadcasting of Missouri*, the Commission writes in Memorandum Opinion and Order (2003) [underlining and bold added for emphasis]:

In carrying out the mandate of Section 307(b), the Commission has long recognized that “every community of appreciable size has a presumptive need for its own transmission service.” Indeed, the Supreme Court has stated that “[f]airness to communities [in distributing radio service] is furthered by a recognition of local needs for a community radio mouthpiece.” During the past fifty years, the Commission has developed allocations policies that accord great weight to establishing and preserving first local transmission services. Thus, except in rare cases, we prohibit an FM licensee from changing its community of license if to do so would deprive its current community of license of its sole local service.<sup>17</sup> This is the policy underlying the condition in the Taft Construction Permit.<sup>18</sup>

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<sup>16</sup> *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*, MM&O, MM Docket No. 86-406, 3 FCC Rcd No. 17, August 17, 1988.

<sup>17</sup> *In the Matter of Digital Television Distributed Transmission System Technologies*, Report and Order. Para 22. 73 FR 74047. December 5, 2008.

<sup>18</sup> *In re Application of Pacific Broadcasting of Missouri LCC*, Memorandum Opinion and Order, FCC 03-18, January 29, 2003.



In 2009 the Commission again recognized the worth of local cultural expression by calling upon Section 307(b) transmission service as the criterion for providing native tribes priority when applying for broadcast licenses. Within *In the Matter of Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures* (“Rural Rulemaking”) the Commission proposed placing the value for tribal first transmission service so high that it would eclipse second local reception service priority in importance:

[Within the tribal priority] the applicant would have to propose at least first local transmission service to the proposed community of license, which would have to be located on tribal lands....In other words, the tribal priority... would take precedence over the provision of second local reception service....The proposed tribal priority very high in the Section 307(b) analysis, we believe such placement would be justified due to the inherent sovereignty of Tribes and their obligations to their members on tribal lands.<sup>19</sup>

Within the *Second Report and Order* of Rural Rulemaking the Commission questioned the weight of transmission service, with the final verdict that it remains a “vital” provision [with underlining and bold added for emphasis]:

The comments show a somewhat broader range of opinion as to whether we should retain our current policies regarding the award of **Section 307(b) priorities to applicants proposing first local transmission service...we reject the suggestion of some commenters that our statutory mandate to distribute radio licenses in a fair, efficient and equitable manner is either obsolete or outdated. Section 307(b)** [as transmission service, answering the above] **remains a vital provision of the Communications Act** guiding our allotment policies, and “[o]ur obligation to implement that statutory responsibility continues and will be faithfully carried out.”<sup>20</sup>

This judgment upheld the validity of transmission service in an era of high speed broadband and current technology.

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<sup>19</sup> *In the Matter of Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*. Notice of Proposed Rulemaking. para 22. MB Docket No. 09-52. April 7, 2009.

<sup>20</sup> *In the Matter of Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures* Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rule Making, Para 18, 19. MB Docket No. 09-52, March 3, 2011.

NAB additionally emphasizes the importance of transmission service in December 2009. Within a comment regarding *In the Matter of Spectrum for Broadband A National Broadband Plan for Our Future*<sup>21</sup> (“National Broadband Plan”) The Association for Maximum Service Television, Inc. and NAB express that transmission service is one of the “overarching” tenets of communications law upheld by the Communications Act:

...four overarching principles should be noted at the outset... the Commission must be guided in its spectrum policy decisions by Section 1 of the Communications Act and by Congress’s directive to provide local\* service.<sup>22</sup>

With “\*” above footnoted within NAB’s comment [underline and bold added for emphasis below]:

In carrying out the mandate of Section 307(b), the Commission has long recognized that ‘**every community of appreciable size has a presumptive need for its own transmission service.**’ . .. During the past fifty years, the Commission has developed allocations policies that accord **great weight to establishing and preserving first local transmission services.**<sup>23</sup>

NAB’s comment (above) is remarkable because it places paramount importance regarding local transmission service in relation to *broadband technology*. NAB proffers opinion du jour in its current NPRM comment -- sentiments regarding Section 307(b) diametrically opposed to those within their National Broadband Plan comment. NAB’s National Broadband Plan comment further eulogized the indispensability of broadcast transmission service:

In addition to promoting local businesses, creating jobs and providing other economic benefits to local communities, local television produces a wide array of social benefits — social benefits that neither broadband providers or others can replace. Local broadcasting also advances consumer

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<sup>21</sup> *Data Sought on Uses of Spectrum, NBP Public Notice #26, In the Matter of Spectrum for Broadband A National Broadband Plan for Our Future*, GN Docket Nos. 09-47, 09-137. December 2, 2009.

<sup>22</sup> Association for Maximum Service Television, Inc. and The National Association of Broadcasters. Comment, RE: NBP Public Notice #26. p 2. December 22, 2009.

<sup>23</sup> *Ibid.*

welfare and public safety, provides a forum for civic participation distributes educational and information programming, and promotes local organizations, causes and charities.<sup>24</sup>

NAB then distills their belief by stating, “The Commission should take into account that broadcaster services cannot be duplicated or replaced by wireless broadband or cable and satellite services.”<sup>25</sup>

The FCC and NAB characterize broadcast transmission service as a requirement of the Communications Act that is unduplicatable, vital, and different than other services in the current era of “technological innovation.”<sup>26</sup> This is because broadcasting has always been an interactive human local public service. By eliminating the main studio, radio and television simply revert to a satellite, internet streaming, or cable service that is pumped into a community and broadcasted over the the public’s airwaves.

In conclusion, the Commission and NAB erred in reasoning within the NPRM/R&O on four accounts:

- (1) *Local program origination* is an element of transmission service, but it is not the sole element, as both the FCC and NAB insinuate in the proceeding.<sup>27</sup>
- (2) Just because a local program origination mandate is not codified in regulation does not mean that aspect of the public service regime disappears. This is akin to saying if there were no rules for stopping a vehicle at intersections, it is ok for us all to ignore stopping at intersections. *The obligation is inherent when required.*

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<sup>24</sup> Association for Maximum Service Television, Inc. and NAB comment on National Broadband Plan, p.23.

<sup>25</sup> *Ibid*, p. 4.

<sup>26</sup> NPRM Para. 6.

<sup>27</sup> R&O para 15 with R&O footnote 71.

(3) It is well demonstrated from the record that transmission service did not end in 1987 as NAB and FCC purport. The record shows it is sufficiently imbibed by both the FCC and NAB well into the digital era.

(4) Transmission service is Congressionally-mandated public interest stipulation irreplaceable by technology. **For that reason, the FCC cannot, for example, permit the relocation all the origination points of transmission for all the broadcast outlets in the U.S. *all in one city*; this is not “fair... and equitable distribution” of licenses among the states per Section 307(b).**

**III. IN ORDER FOR THE R&O TO BE IMPLEMENTED IT MUST BE IN THE PUBLIC INTEREST. THE FCC ONLY STIPULATES ONE TENUOUS REASON IT IS IN THE PUBLIC INTEREST. EVEN BY CURSORY REASONING IT APPEARS TO FAIL.**

The sole premise for the rulemaking being in the public interest is stated below:

Broadcasters will be able to redirect the significant costs associated with complying with the main studio rule to programming, equipment upgrades, newsgathering, and other services to the benefit of consumers.<sup>28</sup>

Without demonstrating this is true, the proposition is only conjecture, and the rulemaking is loss for the public interest. There are two assumptions that need to be proved here in order to support this statement:

(1) **Assumption 1**: After the elimination of a main studio (firing local staff, removing local production infrastructure and origination capacity, abandoning local offices), there would be equipment and/or services that could be added that not only fill the gap of the local studio loss, but excel above those losses for total service.

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<sup>28</sup> R&O, para 2.

(2) **Assumption 2:** After removing local studios, all broadcasters would opt to pursue those improvement options with their money on their own accord without mandate of a rule requiring to do so.

**Assumption 1:** We can hypothesize what might be taken away by the main studio elimination, hypothesize what could be pursued with the savings, and see if there is a net gain or loss in the public interest:

***Broadcasters will be able to eliminate the following:***

1. Local talent who creates local programming, who lives in the community, has a grasp on local issues, and resonates with the community.
2. Local station journalists who have a presence in within the community covering live local issues.
3. Local salesperson who has key in-person business community relationships.
4. Local senior engineer who keeps the physical plant in top order.
5. The local office where a local news team works on writing the news
6. The local production studio and editing equipment.
7. The local sound room or studio where local musicians, politicians, community leaders, etc are interviewed, debate, perform, etc.
8. The director/managerial offices where business and station leaders meet with community leaders and business community.
9. Local master control.
10. Broadcaster-owned engineering shop for the maintenance of studio, remote, transmitter, STL,transmitter equipment. Mobile equipment storage.
11. Local creative services and marketing dept office.
12. Local station feet parking.
13. Remote to studio equipment.

***The savings from eliminating the above would be able to increase the quality of (as echoed in the R&O under following headings):***

1. Programming:

For commercial music station: Replace local and touring musicians visiting the station for interview and performance with syndicated programming. Eliminate in-person remote events.

For commercial news station: Replace local journalists with syndicate news.

Television: Eliminate local news and public affairs for syndicate news.

Add **unknown nonlocal superior programming?** R&O/NPRM does not elaborate.

2. Equipment upgrade:

Radio. What would increase service? **Unknown?** R&O/NPRM does not elaborate.

TV: What would increase service? **Unknown?** R&O/NPRM does not elaborate.

### 3. Newsgathering

TV/Radio: After taking away local production equipment, local journalists, and local remote reporters, then what? Syndicated news?

### 4. Other services

Other than provide local interaction within the community, and programming in the public interest on the airwaves, what else could they provide as a broadcaster from afar?

**What other services are there?** R&O/NPRM doesn't explain.

**The loss is:** 13 points (above).

**The gain is:** Unable to speculate from above because we cannot hazard to think of any tangible upgrades

Until this is substantiated by the FCC, this assumption is it is a loss to the local public interest.

**Assumption 2:** Would broadcasters opt to spend their savings from the main studio removal in the public interest? Let us test that by looking at history and comparing that to the current situation.

In past deregulatory forays, the Commission stipulates untested generalizations like *the competitive marketplace will precipitate the requisite public interest outcomes<sup>29</sup> on its own volition*. The opposite in practice has always occurs. Within the R&O, similar reasoning is being supplied with lack of any statistical support.<sup>30</sup> We were hard pressed to find any historical example for which cost savings from deregulation was the impetus to invest more money into the local-programming public interest aspect of broadcasting. In general, if there is a savings, it either is invested to buying-out smaller broadcasters, or diverted to shareholders. In light of proceedings like *In the Matter of Deregulation of Radio*,

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<sup>29</sup> *In re The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Logging Requirements for Commercial Television Stations, Notice of Proposed Rulemaking*, at 680. 94 FCC 2d 678 (1983).

<sup>30</sup> R&O "...broadcasters have marketplace incentives to be accessible and responsive to their audience." para 22; "Broadcast commenters explain that they keep apprised of local needs and issues to distinguish themselves from their competitors, to gain popularity and thus advertising dollars or, in the case of noncommercial educational (NCE) stations, contributions, and to fulfill their public interest obligations. Broadcasters will retain these incentives even in the absence of the main studio rule" para. 11.

<sup>31</sup> *In the Matter of the Revision of Programming and Commercialization Policies...*,<sup>32</sup> and the *Telecommunications Act of 1996*,<sup>33</sup> we can now make some assessments on this ideology.

A number of reports have analyzed programming changes before and after deregulation. These numerous studies have advanced similar conclusions: *the amount of public interest and local programming, and the diversity/quality of radio has declined with deregulation* (refer to papers written on the subject in footnote elucidating the fact).<sup>34</sup> But regardless of those facts, we need only look at the cost savings accrued by broadcasters as a result of the Telecommunications Act in 1996 for example. In particular, the Act increased gross radio profits -- greater than average than a typical Fortune 500 company -- but the net was less than the benchmark S&P 500.<sup>35</sup> The lower net profit was the result of a higher debt load due to large amount of financing associated with the purchase of many broadcast licenses within consolidation.<sup>36</sup> Today same the same phenomenon is seen: large broadcast corporations that are still profitable, but buckling under debt. Examples:

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<sup>31</sup> *In the Matter of Deregulation of Radio*, 84 FCC 2d 968 (1981)

<sup>32</sup> *The Revision of Programming and Commercialization, Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Report and Order, MM Docket No. 83-670 (Aug. 21, 1984)

<sup>33</sup> *Telecommunications Act of 1996*, Pub. LA. No. 104-104, 110 Stat. 56 (1996)

<sup>34</sup> See *In The Public Interest? The State of Local Television Programming Fifteen Years after Deregulation*, Ronald Bishop and Ernest A. Hakanen, *Journal of Communication Inquiry* 2002; 26; 26;. A report by Michael Zhaoxu Yan and Yong Jin Park, Dept of Communication Studies, University of Michigan, Sept 2005. *Do Local Owners Deliver More Localism? Some Evidence From Local Broadcast News*, Working Paper, June 17, 2004 Federal Communications Commission; "Control by Government or Market" James A. Wollert and Michael O. Wirth, *Telecommunications Policy*, September 1982 p 155-163. (see p. 159-160); Report *False Premises, False Promises*, by Peter DiCola for the Future of Music Coalition December 2006; Lee, Steve S., "Predicting cultural output diversity in the radio industry, 1989-2002", (Department of Sociology, Vanderbilt University), *Poetics* 32 (2004) 325-342. Others: Peterson and Berger ("Measuring industry concentration, diversity, and innovation in popular music", 1975), Rothenbuhler and Dimmick ("Popular music: concentration and diversity in the industry", 1982), Burnett and Weber ("Concentration and Diversity in the Popular Music Industry 1948-1986", 1989)

<sup>35</sup> *Review of the of Radio Industry 2000*, p. 13, Mass Media Bureau, Federal Communications Commision, January 2001.

<sup>36</sup> *Ibid.*

### *Regarding iHeartMedia:*

One of the biggest issues facing the entertainment behemoth appears to be its incredible amount of debt, which it needs to continually pay penalties on. Billions in debt were taken on when iHeart acquired Clear Channel Media almost a decade ago, and the company may not be able to pay what it owes or restructure in a way that is beneficial.<sup>37</sup>

### *Regarding Cumulus:*

“Cumulus is suffering from the tail end effects of the era of consolidation. The chickens are coming home to roost,” said Michael Harrison, a former radio station owner and publisher of RadiolInfo. The biggest problem in the industry, he said, is “smothering debt.”<sup>38</sup>

### *Regarding Entercom:*

“But the CBS deal comes with costs. Entercom’s net debt will increase fourfold to about \$1.86 billion”<sup>39</sup>

### *Regarding Citadel:*

The bankruptcy of Citadel Broadcasting, the radio giant, over the weekend was a long time coming. The company’s decision to load up on debt at the top of the market to finance its acquisition of ABC Networks turned out to be badly timed, sealing its fate.<sup>40</sup>

Broadcasters and the FCC rally behind the notion this savings from the elimination of the local studio will be reinvested into ambiguous public interest improvements. The history of deregulation factually disproves this. From a sober business perspective, the imminent priority is to pay down the debt from consolidation from selling off the local studios; the money is not very likely to go towards public interest enhancements.

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<sup>37</sup> “iHeartRadio Suggests It May Be Going Out Of Business”. Hugh McIntyre, *Forbes*. APR 27, 2017. (<https://www.forbes.com/sites/hughmcintyre/2017/04/27/iheartradio-suggests-it-may-be-going-out-of-business/#3147bcf8561f>).

<sup>38</sup> “Radio giant Cumulus tumbles after flying high.” Russell Grantham. *The Atlanta Journal-Constitution*. January 09, 2016. (<http://www.myajc.com/business/radio-giant-cumulus-tumbles-after-flying-high/J6cygv5Xjmh0dpjWLZRLJQ/>).

<sup>39</sup> “Entercom, on Verge of CBS Radio Buy, Takes Stake in Podcaster Dgital Media” Lucas Shaw. *Bloomberg*. August 3, 2017. (<https://www.bloomberg.com/news/articles/2017-08-03/entercom-on-verge-of-cbs-radio-buy-takes-stake-in-podcaster>)

<sup>40</sup> “Who Killed Citadel Broadcasting?” Cyrus Sanati. *The New York Times*. December 21, 2009.



The FCC created a monster with deregulation. Now the broadcasters are asking the FCC to sacrifice their public interest obligations for a cash redemption to bail them out. The FCC is offering the public a bait-and-switch. First, the “benefits” prescribed in the NPRM are clearly not supported by any proof they exist. Second, numerous studies demonstrate past “marketplace incentive” assumptions do not uphold the public interest.<sup>41</sup> Finally, there is no promise the improvement will materialize since investing in the “benefits” is optional.

The FCC’s supposition fails both logic tests above. Main studio elimination is proved not in the public interest.

#### **IV. THE COMMISSION’S REASONING BEHIND ELIMINATION OF THE MAIN STUDIO IS THAT THERE IS NEW “TECHNOLOGICAL INNOVATION”<sup>42</sup> THAT WOULD EQUIVALENTLY REPLACE IT.**

The stipulation is ambiguous on multiple accounts chiefly:

- (1) What is the new technology?
- (2) How that technology differs from past technology which did not warrant revoking the main studio rules?

Let us try to dissect the ambiguity of “technological innovation” regarding the purpose of the main studio. The utility of the main studio that could be replaced by technological innovation could be broken down into:

- (1) Communication, Interconnection: Studio-to-transmitter (STL), field-to-studio (remote, ENG)
- (2) Studio equipment
- (3) Communication, between station staff and community (Section 307(b) transmission service)
- (4) Staff

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<sup>41</sup> *Supra*, see footnote 34.

<sup>42</sup> NPRM Para. 6.

Detailing each of the above, we present the (A) old technology and (B) the new technology, and then (C) detail the change.

## **(1) Communication, Interconnective:**

### A. Old Technology

STL: *Analog STL, digital T-carrier based lines, Bell long-lines TD-2/TD-3 microwave, satellite, twisted pair telco, subcarrier or POTS telemetry, Chief Operator, Technician*  
Live Remote: *POTS, ISDN, RPU, ENG, Reporter, Audio Engineer, Cameraman*

### B. New Technology

STL: *Unlicensed point-to-point ethernet bridges, licensed backhaul, broadband, fiber, digital compression/multiplexing, IP-based telemetry, Chief Operator, Technician*  
Live Remote: *Internet, cellphone codec, point-to-point microwave UDP/TCP. Reporter, Audio Engineer, Cameraman*

### C. Technology Change

STL: The technology to feasibly traverse long distances has been feasible and in-reach cost-wise to broadcasters since the 1970s.<sup>43</sup>  
Live Remote: Has reduced in size, easily to implement, more inexpensive.

## **(2) Station equipment**

### A. Old Technology

*Analog console, carts, film chain/projector, microphones, audio/video processing, live local studio, local production equipment, production room, mixing board, local editing equipment, telephone, VTR, tape machine, switcher, chroma key, cameras, master control, EBS, captioning, datacasting, satellite downlink, speakers, tvs, lighting, processing, STL, telemetry, studio building itself*

### B. New Technology

*Digital console, audio/video server, microphone, digital audio/video processing, live local studio, local production equipment, production room, mixing board, local editing equipment, telephone, digital mediums/program archive server, switcher, chroma key, DTV cameras, master control, EAS, captioning, datacasting, fiber/broadband link, speakers, TVs, lighting, processing, IP-based STL and telemetry, studio building itself.*

### C. Technology Change

Basically all equipment in the modern studio has an analogous digital equivalent that does basically the same thing as its analog counterpart with extra bells and whistles. The cost of the

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<sup>43</sup> See CF Comment, p. 4.

equipment is less expensive due to less mechanical parts. The playback equipment allows for more complex automation, although station automation has been possible since the 1960s.

**(3) 307(b) Transmission Service**, or the derivation of a communities ability for a “media for local self expression.”

A. “Old” Technology

Manager: *Meets with civic leaders and business pillars, attends highbrow events.*

Business Manager: *Meets with business leaders, interfaces with nonprofit/charitable community.*

Talent Host/DJ: *In-studio interviews, live calls, is cognizant of community happenings, newscasts, master of ceremonies for local events such as live remotes, benefits, parades. Interfaces with local musicians.*

News Gatherer: *Covers city council meetings, hearings, interviews in the field, works with station team.*

Promotions: *Organizes events with the community/community businesses.*

Program Director: *Aware of local tastes and lifestyles to customize programming style and schedule.*

Studio Space: *Live performances with local artists, interviews, live debates, local newscasts, public affairs shows with local guest, candidate forum.*

Local apprenticeship and internship: *Incubate new talent via late night air shifts, assistant tech, news internship, etc.*

Local Origination: *In case of emergencies where modern communications are cut by acts of god.*

Public File: In-person visit, mail.

Comments to the station: In-person visit, mail, phone.

B. New Technology

*Same as the above*, except live phone calls can be taken via VoIP, live comments to live forum can be submitted via electronic form. Also, the public file will be available on-line in the future, and people can email the station for comments. Facebook, Twitter...

C. Technology Change

Public-to-Studio communication: Phone, in-person old; Phone, skype, web, social media.

Station-to-Public: The elements of local community service cannot be replaced by technology unless an artificial intelligence robot android is created. Maybe by 2050 that might occur.

**(4) Staff:**

A. Old Technology: GM, PD, Music Director, Traffic Director, DJ, Talent, Studio Technicians, Office worker/Secretary, Business Director, News Director, Public Affairs Direction, Promotions Director, Engineer, Remote Crew, Assistants.

B. New Technology: Manager, PD/MD consolidated, Traffic Director automated, Talent/DJ (voiceover possibly contracted out), Secretary, New/Public Affairs Director consolidated or news service, Business Director, Engineer or contract engineers and techs, Assistants.

C. Technology Change

For radio, the content and programming choice centralized or consulted, no news/public affairs, maybe a subscription service or intern, contracted engineering services, voice tracking contracted, bare local staff. For TV: Syndicated programming, news consolidated from a co-owned station, public affairs possibly eliminated, consolidated sales, computer program/traffic automation, drone instead of helicopter. Aspects of management have seen decentralization and consolidation among several stations in a group with identical programming covering different markets.

**Analysis:** STL technology has been able to traverse long distances (even interstate/coast-to-coast) for decades. A difference is the reduction of cost, but the realm of cost has always been within the budget of broadcaster budgets to allow ample profit. Remotes today have more agility, and are easier to implement without large crews. Studio equipment is less costly and streamlined. More automation is possible. Staff can be consolidated, outsourced, or automated for straightforward matters some to the detriment of quality. Programming on radio is voice-tracked to the detriment of quality of local service. A station group in a region or nationwide may share content for savings.

**Conclusion:** First, no giant leaps in new technology are seen -- only digital replacements of analog technology at a less expensive price. We see the NPRM comment record objectively painting an opposite viewpoint of what broadcasters intended by their comments: *At one time audio/video and broadcast equipment was very specialized and took a large capital investment. At that time, we would think broadcasting would need to be more centralized because of this. Now, because of more affordable technology, the local studio should be more affordable cost-wise than it was, say, 30 years ago. We should see more localizing.* Second, it is assumed all technological innovation is in the public interest. That can easily be refuted in cases. For example, automation of radio programming has made radio considerably worse. *So discontinuing the main studio and buying the newest high-tech automation with the savings would not seem in the public interest.* Third, if new technology is

replacing the main studio, why isn't that new technology then mandated by new regulation if it is replacing old main studio rules? "Technology" appears just to be a fog to deregulate within to make it all seem justified.

The *Public-to-Studio* communication appears to be streamlined by new technology, with the added technology of email and possibly Facebook, but the R&O does not require utilization of that technology (it recommends "phone" communication<sup>44</sup>) other than the online public file. The *Station-to-Public* regime appears irreplaceable by technology. The studio still serves as the nexus for community relations for which cannot be duplicated via applications on the internet.

NAB touts that the main studio is "superfluous" because quality content can be made with the right software and a laptop.<sup>45</sup> *Should we assume a local TV news department/field reporters to convene at a coffee shop daily to research and write the news on laptops? Should we assume the local news team do the five o'clock news in a quiet spot in the park where there birds are not chirping?* Instead of investigative journalism, the FCC insinuates technology like *Facebook* might work just as well as going down to talk to the police dept, visiting city hall, covering a crime scene ("To the contrary, broadcasters can interact with local community members by using technology such as social media"<sup>46</sup>). Maybe broadcasters could pull videos down off *Youtube*? Possibly they could pay a citizen \$20 to point their smartphone camera at a local political debate? Maybe we could interview the Mayor via Google Hangout? **This laziness in order to save money is a journalistic race-to-the-bottom.**

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<sup>44</sup> R&O, para 21.

<sup>45</sup> "It is now possible to produce and deliver high quality programs with a laptop and the right software, '[a] studio, in the conventional sense, is now superfluous.'" NAB Comment p 6, quoting Comment of Cornerstone Community Radio.

<sup>46</sup> R&O, para 11.

Broadcast commenters and FCC are suggesting laptops, *Skype*, emails, *Snapchat*, *Twitter*, *Gmail*, broadband internet, etc., as the innovation supplanting professional local broadcast studios and employees? The Commission is rallying for broadcasters to give up their communication responsibilities and instead allow services like *Google*, *Facebook*, *Comcast internet* to do their job. To think of the advanced local audio and video infrastructure we have and it will be replaced by low cost/consumer-level centralized substitutes. The proposed is a technological regression. Not only that, but there would be a dearth of local broadcast apprenticeships, internships, and entry level jobs to perpetuate the future of the broadcast industry once all the main studios have migrated to the licensees' corporate headquarters.

## **V. ANALOG PHONE SERVICE TRUMPS ALL TECHNOLOGICAL INNOVATION IN PRESCRIBING PUBLIC-TO-BROADCASTER INTERACTION**

In CFI's comment,<sup>47</sup> we noted the NPRM's focus on technological innovation regarding communicating with the public. The R&O doubled down on this sentiment:

Today residents often make use of additional options such as email, social media, or a station's own website to communicate with the station, rather than visiting the main studio in person.<sup>48</sup>

...community members overwhelmingly choosing instead to communicate with stations through more efficient means such as email, station websites, social media, mail, or telephone.<sup>49</sup>

CFI suggested that new technologies be prescribed by the FCC for broadcasters to communicate with their local communities, but that was unaddressed in the R&O. After much

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<sup>47</sup> CFI Comment, p. 8.

<sup>48</sup> R&O, para. 6.

<sup>49</sup> R&O, para. 9.

inculcation of the gospel of new technology within the NPRM and R&O, the Commission simply elects legacy **analog telephone service as the sole codified communication requirement between the public and broadcaster.**<sup>50</sup> The Commission skips over all the possibilities for innovative technological interface as extolled by myriad broadcast groups. There appears a lack of justification for this considering the entire proceeding was based upon technological innovation.

## **VI. THE “EDUCATIONAL MEDIA FOUNDATION” SCENARIO CFI PRESENTED WAS NOT ADDRESSED IN THE R&O.**

CFI stated the possibility of consolidated broadcasters simply jettisoning all their local studios across the United State and consolidating those studios into one automated server room tethered to (for example) 100 transmitters nationwide under the main studio rule elimination. This is a dystopic possibility resulting from the R&O. The R&O did not touch upon CFI's question--whether this possible outcome is in the public interest, or how the Commission would deal with such situation. CFI noted that this **is already a reality for certain broadcasters** -- one in particular:

Educational Media Foundation ("EMF") is licensee of over 383 FM full power licenses and 390 translators across the United States. Their nonprofit status allows them to circumvent the main studio obligation by the use of a NCE main studio waiver, for which they waive over 99% of their facilities from having main studios.

..Two content streams from two main broadcast studios beamed via satellite/internet to 773 facilities across the country. There are no local market journalism/newsgathering for independent content for any local markets, no local specific community affairs, or no air time given to local businesses for underwriting. All the content broadcast by EMF (for example) in Los Angeles is exactly the same in New York City which is exactly the same in Anchorage--all produced in Rocklin, California. Hypothetically, the station cannot even interrupt programming, say, in New Orleans to broadcast continuous information about a hurricane mulling through the city because it would have to broadcast that same programming to its other affiliates in the other 49 states via satellite because they only have two FCC main studios. There are no local studios in any

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<sup>50</sup> R&O, para 21.

markets with locals employed to produce content. It is a music service devoid of any local community affairs programming.<sup>51</sup>

Under the main studio elimination, iHeartRadio could legally have a massive server room at its headquarters, exporting 800 programming streams via internet from coast to coast to 800 remote transmitters. The "EMF" regime represents a plausible future for mass broadcasting without a FCC main studio requirement. Without the main studio rule, the public will not be able to contest licensees that choose to have zero local presence or local-issue programming/news due to the free speech rights of each broadcaster.

Case in point, Petition to Denies were filed concerning EMF and Calvary Chapel of Twin Falls, Inc. in 2013 due to fact these large networks take a single programming feed from one city and relay it to hundreds of FM channels across the United States via satellite.<sup>52</sup> The Commission's response to these grievances that these stations were devoid of programming regarding issues specific to their communities was to be expected:

The Commission's role in programming matters is quite limited due to First Amendment principles affording freedom of speech without government intervention.<sup>53</sup>

All petitions against the license renewals were dismissed and all licenses were renewed. See *Appendix* for excerpt of the decision. But CFI's point within its Comment was unanswered by the Commission: *Without the main studio rule, there is no enforceable responsibility for broadcasters to participate in or have any connection to local communities of license.* The

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<sup>51</sup> CFI Comment, p 14.

<sup>52</sup> Petition to Deny License Renewals 2013 (Petition to Deny against EMF Eugene channels, KGRI, etc, Petition to Deny against EMF Medford-area channels, KJKL, Petition to Deny against EMF Portland channels KLVP, etc, Petition to Deny against EMF Klamath Falls channel KYSF, etc., Petition to Deny against Calvary Chapel of Twin Falls, Inc. Oregon facilities, KDJC, etc).

<sup>53</sup> Letter In RE Calvary Chapel of Twin Falls, Inc, Educational Media Foundation from Peter H. Doyle, p 3. December 18, 2014.



public can call the station all they want and have station personnel tell them that the public has no recourse *due to free speech provisions*. The public can also browse a station's public file online for which the issues log has no bearing on filing a Petition to Deny *due to free speech provisions*.

The R&O insinuates that *marketplace theories* would elicit studio-waived broadcasters to fulfill their public interest obligations:

We also are not persuaded by contentions that broadcasters' local community involvement or the provision of local news will significantly decline if we eliminate the main studio rule. Broadcast commenters explain that they keep apprised of local needs and issues to distinguish themselves from their competitors, to gain popularity and thus advertising dollars or, in the case of noncommercial educational (NCE) stations, contributions, and to fulfill their public interest obligations. Broadcasters will retain these incentives even in the absence of the main studio rule.<sup>54</sup>

**Unfortunately, in the current case demonstrated above, the Commission's marketplace theory has already failed in practice.**

Taking away the main studio rule shifts the burden of maintaining the local public interest from the Commission's rules to the public, where the public is supposed to hire a Washington, DC-based communications attorney for \$100,000 to posit a case within a regulatory framework that is devoid of rules that require a station to maintain public interest obligations. The Commission's mantra that the public merely look at a station's public file and file a petition to deny if they feel a station has not fulfilled its public interest requirement<sup>55</sup> is smoke and mirrors.

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<sup>54</sup> R&O, para 11.

<sup>55</sup> "If a station is not addressing issues, citizens will be able to file complaints or petitions to deny. We continue to encourage citizens to meet with their local broadcasters to discuss their concerns, but if they do not receive satisfaction, they should take the complaint or petition to deny routes. These long standing channels will allow the Commission to continue to monitor the performance of licensees, and indeed will

The public interest regime is undefined. For example, imagine if our country's import rules followed a Communications Act-type public interest reasoning: The law for importing hats might be *a person may import a reasonable amount of quality sombreros; if that law is broken, it is up to the public to hire a lawyer to contest the offender*. What's "reasonable"? Two hats? Three thousand hats? What is the "quality" grade?

We again ask the Commission to comment upon the possible "EMF"-like scenario -- where commercial broadcasters consolidate up to hundreds of program feeds (former "main studios") into one computer server room in one city streaming to transmitters across the United States -- if the main studio is eliminated, and how the Commission enforces the local public interest and/or Congressionally-mandated transmission service requirements without laws to support it in light of the demonstrated failure of marketplace theories.

**VII. PUERTO RICO IS A BELLWETHER FOR EMERGENCY COMMUNICATION SITUATIONS OF THE FUTURE: TECHNOLOGICAL INNOVATION IS NOT ROBUST ENOUGH AND CANNOT REPLACE LOCAL HUMAN OPERATORS AND LOCAL ORIGINATION INFRASTRUCTURE.**

As demonstrated in the letter prefacing this supplemental comment, the local broadcast communications infrastructure in Puerto Rico is the only communications element robust enough to weather the devastation from the recent hurricane. It was local origination capacity and a live human broadcast staff relaying local emergency information that made the possibility of saving thousands of lives possible. In light concerns of national security and emergency demands, it is imperative for the Commission to investigate the impact of the local main studio prior to voting upon the R&O.

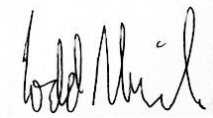
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better indicate the responsiveness of licensees than do fixed guidelines." *In the Matter of Deregulation of Radio*, Para 109, 84 FCC 2d 968 (1981).

## **VIII. CONCLUSION.**

The supplemental information included here demonstrates the tentative R&O contains unfounded, arbitrary and capricious rationale supporting the proposal to eliminate the main studio. We respectfully request the Commission to review the points presented here and provide responses to the shortcoming of reasoning . We would like to see main studio rules that better comport to the public interest and safety of the nation.

Submitted by,

A handwritten signature in black ink, appearing to read "Todd Urick", is centered below the text "Submitted by,". The signature is written in a cursive, flowing style.

Todd Urick  
Representative of  
Common Frequency, Inc.

**IX. APPENDIX:** Excerpt from Commission Judgement regarding Petition to Deny Against Broadcasters with Studio-Waived Facilities<sup>56</sup>

*Objectors allege that Stations have not served the public interest due to a lack of local programming on the Stations, which are licensed to communities in Oregon but operate within networks that rebroadcast distant stations. In particular, each of the Oregon primary stations at issue has a condition on its authorization waiving the "Main Studio Rule," thereby allowing each to operate as a "satellite" of co-owned NCE stations in California (EMF) or Idaho (Calvary). The programming is further distributed over FM translators within each network. Objectors allege that this structure has resulted in automated facilities that are "neglecting to cover issues pertinent to the community" because they have "no local public affairs coverage." Objectors argue that the concept of service to a local community is "meaningless" if it can be met without any "local-specific" programs. Objectors further argue that it is an abuse of the Commission's processes for EMF and Calvary to have received main studio waivers based on limited funding when EMF and Calvary each has millions of dollars in revenue and assets.<sup>o</sup> Objectors further contend that the Stations are "redundant," "taking channels that could be used for LPFM service." They suggest that we either deny renewal or renew without the existing waivers. EMF and Calvary each responds that it is fully compliant with Commission requirements and has met its obligation to air programs responsive to important local issues.'*

*The Commission's role in programming matters is quite limited due to First Amendment principles affording freedom of speech without government intervention. A licensee of a full service broadcast station must air non-entertainment programming of its own choosing in response to issues and problems of the community of license.' This obligation applies to each full service station regardless of whether it has obtained a main studio waiver.' Licensees have broad discretion to choose, in good faith, which issues to address and the type of responsive programming to air, and such programs need not be produced locally. Full service NCE licensees must place lists of their most significant issue-responsive programming in a public inspection file every three months. A full service station without a local studio must assist the public to access that information by mail and telephone, and maintain a local or toll-free telephone number.' The Commission will not intervene absent a showing that the broadcaster was unreasonable or discriminatory in its selection of issues or offered such nominal levels as to have effectively defaulted on its obligation.*

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<sup>56</sup> Letter In RE Calvary Chapel of Twin Falls, Inc, Educational Media Foundation from Peter H. Doyle, p 3. December 18, 2014.