Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
2018 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 18-349
	)	

To: Office of the Secretary
Attn: The Commission

COMMENTS OF URBAN ONE, INC.

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SUMMARY

Urban One, Inc. hereby submits its comments to the FCC's 2018 Quadrennial Review Notice of Proposed Rulemaking regarding the FCC's Local Radio Ownership Rule.

Urban One supports keeping the current radio ownership regulations in place as they will continue to foster service to the public, diversity of ownership, and a competitive radio market competitive landscape that would be at risk of being forever lost should the ownership of multiple radio stations be allowed without any FCC restraints. In particular, Urban One contends that the relevant radio market continues to be radio stations and that ownership tiers should continue to be based upon population-based market sizes. For the FCC's radio ownership regulatory goals, Urban One advocates for the promotion of ownership diversity as a primary goal, and program diversity as a complementary goal.

Urban One believes that the NAB proposal to largely deregulate radio ownership limitations in smaller markets, and substantially increase consolidation in larger markets, is a non-starter. Finally, Urban One submits that the FCC's radio ownership regulations should strive to maintain the unique aspects of radio broadcasting – there are no public or consumer benefits to further radio deregulation.

Accordingly, Urban One advocates that the FCC's Local Radio Ownership Rule remain unchanged.

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COMMENTS OF URBAN ONE, INC.

Urban One, Inc. ("Urban One")[1] hereby submits its comments in response to the Local Radio Ownership Rule[2] portion of the FCC's 2018 Quadrennial Review Notice of Proposed Rulemaking, FCC 18-179, released December 13, 2018 which seeks to review the FCC's media ownership rules to determine whether they remain necessary in the public interest as the result of competition from both within and outside the broadcast industry. As shown below, Urban One supports keeping the current radio ownership regulations in place as they will continue to foster service to the public, diversity of ownership, and a competitive radio market landscape that would be at risk of being forever lost should the ownership of multiple radio stations be allowed without any FCC restraints.

[1] Urban One, formerly known as Radio One, Inc., together with its subsidiaries, primarily targets Black Americans and urban consumers in the United States. The company owns and/or operates 54 broadcast stations in 15 urban markets in the United States, among its other media enterprises.

[2] 47 CFR § 73.3555(a).

I. RADIO OWNERSHIP RULES SHOULD REMAIN UNCHANGED

1. Urban One, by being a participant in the consolidation and frenetic growth engendered by the 1996 Telecomm Act[3], and now having thrived in the industry spawned by it for over twenty-five years, is in a unique position to opine on the pros and cons that emanated from the complete elimination of the national radio ownership limits, and the substantial consolidation allowed in local markets.

2. Urban One fully acknowledges that it was among the broadcasters that took advantage of the 1996 Telecom Act to expand and grow. The deregulation spawned by the 1996 Telecom Act created both opportunities and challenges for Urban One. With its primary goal of providing diverse programming to largely Black American and urban audiences, continuing success could only be had for Urban One by becoming bigger so as to compete for talent, sales and management personnel, programming and advertising in the large and major markets containing its audiences. When regulatory changes occur, businesses must adapt or succumb. Without the competitive pressures forced upon it by the 1996 Telecom Act, however, Urban One would likely be a different entity than it is today.

3. Some deregulation in an industry that is dependent upon the governmental issue of a limited number of licenses is far different than the near total ownership deregulation being advocated by some in the radio broadcasting industry. The plaintive plea now heard at the FCC for fewer radio ownership

[3] Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12 (1996).

restrictions is the cry of large radio entities asking the government to assist in quashing the competition to aid them in expanding their clout. Indeed, were the Commission to eliminate the local ownership caps, a reduction in the number of competitors in Urban One markets would occur with one or two already large companies ultimately owning most of the other stations. The resulting behemoths would attract an even greater share of advertising dollars and be able to set advertising prices at levels designed to drive out competition.

4. Relaxation of the ownership rule would not result in radio broadcasting entities being able to better compete either with other broadcasters or with new media. Rather, allowing for greater consolidated ownership would lessen the radio broadcasting competition that the resulting fewer owners would face. This reduced radio broadcasting competition would likely lead to poorer service to radio listeners, fewer viewpoints being presented, and less localism.

5. After all, if the competition is eliminated due to no radio ownership limits, broadcasters would have no incentive to invest their resources into great programming or localism. Rather, radio broadcasters would most likely look to decrease overhead and increase revenue, particularly if their debt obligations have substantially increased.

6. A further relaxation of the radio ownership rules will put existing broadcasters in one of two positions. With further consolidation or an elimination of the radio ownership rules, an existing local broadcaster will have a choice of either being bought out by a large radio group, or watching as its competition is

bought out and then competing against a super-national group that owns a substantial number of radio stations in the market. Unfettered ownership may arguably help large radio groups take more revenue from Google and Facebook, but to the extent smaller and niche broadcasters do not sell out, a lack of radio ownership restrictions will allow large radio groups to take considerably more revenue from smaller and less well-funded local radio broadcasters.

II. THE RELEVANT RADIO MARKET CONTINUES TO BE RADIO STATIONS

7. The FCC is faced with a strong undercurrent in this proceeding that posits that, as a result of recent changes in the radio broadcasting and audio media industries, the Local Radio Ownership Rule[4] is no longer needed to promote competition among radio stations within a local market, promote viewpoint diversity and localism, or foster minority and female ownership. As most pointedly espoused by the National Association of Broadcasters ("NAB"), the argument is that in today's audio media marketplace, radio stations compete for both listeners and advertisers with a host of other services, including streaming services, satellite radio, podcasts, Facebook, and YouTube.[5]

8. Urban One sought reaction to this "radio-competes-with-the-universe" viewpoint from personnel in its organization whose professional success depends upon knowing its competitors and how best to excel in attracting both

[4] 47 CFR § 73.3555(a).

[5] Letter from Rick Kaplan et al., Legal and Regulatory Affairs, NAB, to Michelle Carey, Chief, Media Bureau, FCC, at 1-4 (filed June 15, 2018) (the "NAB Proposal").

radio revenue and radio listeners. Urban One submits that while streaming, satellite radio, podcasts, Facebook, and YouTube allow for alternate means to reach and serve target audiences, those 21st Century forms of media complement and provide opportunities to expand revenue streams and audiences in addition to those enjoyed through radio broadcasting, rather than directly compete with what Urban One's stations offer to advertisers and listeners.

9. This is not to suggest that terrestrial radio does not compete with other audio delivery methods like satellite, streaming, and podcasting. Local radio broadcasters do have web presences to stream content and are launching their own podcasts in an attempt to compete in these new media markets. But these newer media ventures are primarily national in scope and do not usually have a local presence or connection in the community.

10. Local revenue share remains a significant key to a radio company's success. For Urban One, as reflected in its 2018 10K SEC filing, 58% of its radio revenue came from local advertisers. The bottom line is that the FCC's current definition of the "market" for radio broadcasting remains a correct model in real-world circumstances.

III. THE FCC'S RADIO OWNERSHIP RULES SHOULD PROMOTE OWNERSHIP DIVERSITY AS A PRIMARY GOAL

11. Urban One is uniquely positioned to speak to the issue of promoting ownership diversity as a primary FCC goal. Minority controlled and operated Urban One, together with its subsidiaries, is a diversified media company whose

employees are predominantly minority and whose primary audience is comprised of Black American and urban consumers.

12. Urban One currently owns 54 broadcast stations in 15 urban markets in the United States. In addition to its core radio broadcasting franchise, Urban One owns TV One, a Black American and female focused cable/satellite network serving more than 57 million households, and Interactive One, the go-to digital resource for Black Americans and other minorities, reaching millions each month through social content, news, information, and entertainment. Collectively, Urban One's platforms reach some 82% of Black Americans nationwide. Urban One's workforce and audience are the hallmarks of diversity and inclusion.

13. Based upon its collective corporate experience of media operations through its 40 years of operations, Urban One can speak definitively to the impact, both positive and negative, that the relaxation of FCC's radio ownership rules have had on ownership diversity.

14. Radio ownership diversity is not fostered by FCC rules that favor anti-competitive blocks of station ownership that will dominate local markets – such local radio behemoths have the ability to take actions that make entering and staying in the business of operating competing stations financially imprudent and challenging. Woe be it to the single station owner or small broadcaster if all of the market's most powerful facilities are owned and operated by the same entity. The message to all others is to get out, stay in at your own peril, or do not even think about getting in!

15. Radio ownership diversity will surely not be fostered by an elimination of the AM/FM subcaps. One of the ownership entry opportunities for radio is the lower power or rim-shot radio station that is able to serve niche demographics through a strategically-located technical facility and specialized programming. Indeed, Urban One itself was able to enter such large markets as Atlanta and Philadelphia only by taking advantage of exactly such opportunities. Putting current and future owners of such stations into an expand-or-be-swallowed position through the elimination of subcaps would drive many fringe radio stations out of business, losing both the diversity of ownership now emblematic of such facilities as well as their service to diverse populations.

16. Specifically, minority owners would likely be up against stronger competition and/or would be more likely to exit the business altogether as companies look for stations in a market with a static number of radio stations to purchase to get larger. A company that gets larger will have to look to broaden its format options and is likely to duplicate a format already popular in the market. A niche format run by a smaller broadcaster, such as urban or gospel, will be an attractive option for format duplication. With the might and power of the larger company, an owner (minority or not) that currently offers a niche format will be less likely to be able to compete. In an anti-competitive fashion, the larger acquiring owner would be able to offer advertisers time on the duplicated-format station recently flipped to a niche format as an extra for little or no additional price based upon the advertiser purchasing time on all of the large owner's stations,

leaving smaller owners in the market in the untenable position of trying to sell something the other guy is offering for free.

17. In looking at minority owners of radio stations in particular, Urban One is concerned that the number is declining and remains low.[6] Removing all or most radio ownership limitations would drive smaller broadcasters, many of whom are minority-owned, out of the radio broadcasting business. To the extent that such broadcasters have powerful and/or heritage stations, they will be enticed to sell. To the extent that their stations are not as valuable, they will be ignored, their stations will not be purchased and such owners will have no chance of getting bigger; they already would have if they could.

18. Urban One posits that for these reasons a loosening of the radio ownership rules would lead to less diversity in ownership and would squeeze out minority voices. Minority broadcasters would be up against stronger competition and would be more likely to exit the business altogether as companies look for stations to purchase to get larger. Further deregulation will not enhance in any respect ownership diversity and therefore should be rejected as an option in this proceeding. Ownership diversity should be a primary FCC goal in fashioning its ownership rules.

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[6] *See* THIRD REPORT ON OWNERSHIP OF COMMERCIAL BROADCAST STATIONS, FCC Form 323 Ownership Data as of October 1, 2015, Industry Analysis Division, Media Bureau, May 2017, available at https://docs.fcc.gov/public/attachments/DOC-344821A1.pdf, in which data shows that racial minorities owned 128 commercial FM radio stations (2.3%) in 2015, a decline from 169 stations (3.0%) in 2013; and 204 commercial AM radio stations (5.8%) in 2015, a decline from 225 stations (6.0%) in 2013.

IV. THE FCC’S RADIO OWNERSHIP RULES SHOULD PROMOTE PROGRAM DIVERSITY AS A COMPLEMENTARY GOAL

19. The FCC's radio ownership regulations should seek to create competition that will encourage radio owners to choose live and local radio operations as the optimum choice. If the FCC focuses on the issue of fostering program diversity, then its other public interest goals such as localism and competition will likewise be achieved.

20. In the earlier part of the decade, Urban One launched a competitive news service in Houston, a sports format in Cincinnati and an old school Hip Hop programming format. None of them ultimately succeeded and in one case lost millions of dollars, but Urban One made significant investments in its programming to give listeners options outside of established mass-appeal programming. The FCC should not, through imprudent changes to its ownership regulations, make it even more difficult for radio broadcasters to launch new, potentially competitive or experimental programming that provide radio audiences real choices.

V. OWNERSHIP TIERS SHOULD CONTINUE TO BE BASED UPON POPULATION-BASED MARKET SIZES

21. While imperfect, population-based market sizes continue to represent the most rational and workable metric by which to differentiate between various ownership tiers. The practical reason is that population-based market sizes are less subject to change and manipulation than other suggested criteria given that the data is determined by a service independent from the broadcasting

industry. Thus, using population-based market sizes leads to a relative certainty in FCC radio regulation. Other metrics, such as sizes of advertising revenues and sizes of audiences, even if subject to accurate measurement, would be ever changing and carry the risk of possible measurement abuse. FCC ownership regulations should not be based upon a mercurial metric that does not lend itself to a business certainty.

VI. THE NAB PROPOSAL IS A NON-STARTER

22. The NAB Proposal[7] to essentially drop all radio ownership restrictions for market tiers below Nielsen radio market #75, and allow for the ownership of eight stations without regard to sub-caps in radio Markets 1-75, is a non-starter. Markets below 75 might end up with one owner owning the majority of stations, assuming that the Department of Justice does not step in on antitrust issues. Urban One fails to see how one owner owning the majority of stations in markets 75+ advances any of the FCC's competition or diversity goals. Such deregulation has the potential to squeeze out existing owners and give the largest owner the ability to set market advertising rates.

23. Urban One sees similar effects in markets 1-75. A removal of the AM sub-cap is not going to improve the AM band and will likely lead to lesser AM station valuations. Lesser AM station valuations lead to bad results.

24. Indeed, it appears a lessening in AM station valuation was a circumstance that encouraged a broadcaster in Washington, DC to reduce its

[7] *See* Footnote 5.

service to the public. WMAL, a heritage Washington, DC station, was one of the only AM stations in the market with market-wide coverage. To reap the value of the real estate which became more valuable than the broadcast facility itself, its underlying transmitter site land was recently sold to developers, and the technical facility moved to an inferior location with the result that the former market powerhouse AM station now suffers from substantially reduced coverage.

25. To be clear, Urban One does not begrudge any radio station owner a right to maximize the value of its assets.   If a diminution of technical facilities, abandonment of marginal programming, or even turning in a license, makes business sense, there certainly should be no FCC restriction against it. But, the FCC should likewise not adopt ownership policies that have the potential to lessen the value of broadcast stations, particularly AM stations, by making it more difficult for all but the largest owners to succeed.

26. Finally, the NAB's proposed incubator program is great in theory, but will potentially make the incubated owner/station beholden to a large owner and in competition with its benefactor if in the same market. Unless significant regulatory oversight and restrictions are placed on the proposed incubator program, the possibility exists that the owner who took advantage of the program to increase its ownership limits will not provide the advice and attention that is really required to make the small incubated owner successful.

VII. THE FCC'S RADIO REGULATIONS SHOULD STRIVE TO MAINTAIN THE UNIQUE ASPECTS OF RADIO BROADCASTING

27. If radio stations could be erected like fast-food establishments and grocery stores with no numerical limits imposed upon them other than a businessperson's risk tolerance, it would be difficult to argue for FCC-imposed ownership limits on radio. Indeed, a regulatory agency enacting numerical limitations on restaurants and grocery stores would likely not pass legal muster.

28. But even with businesses for which there is a low entry threshold, as opposed to radio station ownership for which the FCC must grant one of a limited number of licenses, there are legal limitations called "zoning" – the permitting or prohibiting of certain uses in certain areas to preserve a community's limited land resources and protect the character of the community. In the world of broadcast radio, the FCC's radio ownership rules can be thought of as a kind of *radio zoning*. In the same way as land-use zoning protects a community's character, the FCC's ownership rules, which permit or prohibit certain radio station combinations, also protect the important concept of localism and serving the public interest.

29. Urban One notes that in 1996, radio was transformed at the local level by both the relaxation of local ownership rules and the removal of the national ownership cap. Had the national ownership cap remained, the current broadcast radio industry landscape would look far different than it does today. In all likelihood, had the national cap remained and only the local ownership

restrictions been relaxed, there would be far more local radio stations owners today than exist under the current rules. Likewise, the current radio market would also likely have far more diversity in programming than exists today.

30. The radio ownership relaxations proposed by the NAB would once again transform radio at the local level just as the 1996 elimination of the national cap did. Rather than there being multiple national competitors in local markets, there would be the potential of one dominant national owner. And that dominant owner would be forever ensconced as there would never be additional full-market-coverage radio stations available for new entrants. One or two dominant owners in each radio market, and possibly the same dominant owner nationwide, would once again alter radio as we know it. That one dominant national owner may ultimately prosper, but remaining owners and radio would suffer as a result.

31. As stated above, Urban One's position is to maintain the status quo. Urban One does not believe that further radio deregulation will help the radio industry, or the radio listening public. Rather, the same number of stations in the market being shuffled among existing owners will be the result. Large existing companies will get bigger, and there will be little chance of a new entrant coming into the market to buy a radio station, because the competition will be insurmountable. If the NAB Proposal is adopted, the end result may very well be that the two current largest radio stations owners in each market will get close to or max out their lawful market share, and leave those who were unable to get bigger in a worse position than they are in today.

32. From an operations perspective, increased consolidation will lead the very largest radio station group owners to do what they have already done under previous bouts of consolidation; rely heavily on existing staff to handle much of the responsibilities of the newly acquired stations without expanding staffs or in a meaningful way increasing programming diversity. More consolidation will not bring new advertisers to the industry or increase the aggregate advertising revenues available in each market.

33. Local community service by radio stations is a hugely important factor in a competitive environment. It is local news, accurate weather coverage, emergency information, the local appearances by radio personalities, the participation in community fund drives, the support of charity events, and the quality of programming oriented at addressing community issues, which differentiates radio stations to both listeners and advertisers. In a less competitive environment, there is much less incentive to commit the financial resources toward expensive local programming.

34. Any purchase of additional stations in a market by a large national group owner as a result of further radio ownership deregulation will require that costs be reduced or spread across more stations. This reduction or spreading out of costs will result in less programming resources per station for local programming. Any FCC policy change that overly encourages the very largest national group owners to swallow stations that serve niche populations and have

built their success on super-serving the local marketplace is antithetical to the FCC's core public interest principles of localism, diversity and competition.

35. A loosening of the radio ownership rules will not lead to any public or consumer benefits such as increases in competition, increases in choices or increased investments in programming. Less competition leads to fewer allocated resources spent by radio stations in differentiating product.

VIII. CONCLUSION

36. Urban One supports maintaining the status quo in this Quadrennial Review for the FCC's Local Radio Ownership Rule. As shown above, the FCC's current rules and policies are still needed as a result of the competitive landscape of the radio industry and radio's still-substantial reliance upon competition in radio advertising sales, particularly local, to support its programming. There are no public or consumer benefits to further radio deregulation. Accordingly, the FCC's Local Radio Ownership Rule should remain without changes being made.

Respectfully submitted,

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