

ORIGINAL
FILE

AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS



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SEP 23 1992

September 23, 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

RE: Reply Comments
MM Docket No. 91-221
Regulations Governing Television Broadcasting

Dear Chairman Sikes and Fellow Commissioners:

Enclosed please find an original and nine (9) copies of reply comments submitted by the American Federation of Television and Radio Artists (AFTRA) on the above Notice of Proposed Rulemaking.

Respectfully submitted,

Bruce A. York
National Executive Director

Kim A. Roberts
Assistant National Executive
Director - News/Broadcast

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I. INTRODUCTION -

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The American Federation of Television and Radio Artists (AFTRA) is a national labor organization representing over 70,000 members who are employed in the news and broadcast, entertainment, commercial and recording industries. AFTRA members are seen and heard on television and radio, both network and local, across the United States. Specifically, AFTRA has approximately 400 collective bargaining agreements covering staff and free lance newsmen and performers with all three networks and their owned and operated stations, Fox Broadcasting Company and its affiliates, and local television and radio stations around the country which are both independent and group owned. Based on the breadth and experience in the television and radio industries, AFTRA is well qualified to comment on the impact of the Federal Communications Commission (FCC) Notice of Proposed Rulemaking (NPRM) regarding relaxation of existing television ownership rules and related policies.

II. BACKGROUND -

AFTRA does not disagree with many of the changes observed by the FCC in the television industry and reported in Section II., Overview of the Industry, of the FCC's NPRM (e.g. increased number

of television stations, growth in cable, alternative sources of video programming such as VCR's, and decreased network viewer levels, among others).¹ AFTRA does not agree, however, with commenters who apparently conclude that the changes to date in the FCC's regulatory scheme have been positive and in the public interest, and that further changes will "encourage the production of new, diverse, and especially locally-produced programming."² In fact, AFTRA submits that the reverse is true.

Earlier regulatory changes by the FCC have resulted in a substantially deregulated environment under which there has already been a relaxation of ownership restrictions, reporting requirements, and the three year holding rules. This environment has permitted many broadcast owners to purchase new outlets, often times through highly leveraged transactions. Obligations to repay debt have compelled many broadcasters to cut costs radically. Expensive programming produced by that broadcaster is usually the first area to disappear. As a consequence, AFTRA has observed a significant decrease in the amount of programming in the public interest, programming presenting diverse points of view and issues, and locally produced community affairs type programming.

Instead, the pressures to generate profit for investors and corporate parents, repay debt and cut costs have forced both independent and group owners to make repeated use of the same tried and true advertiser friendly programming and/or the same program

¹ NPRM at 4-5.

² NPRM at 6.

formats in their broadcast outlets.

The industry has also witnessed the tremendous explosion of the first run syndication market over the past ten years. This recent phenomenon generally brings a steady stream of familiar programming to independent stations for replay over and over rather than the production of new and diverse local programming.³ The growth in cable channels, in many cases, has simply exacerbated these patterns.

III. DISCUSSION -

Based on the above observations, AFTRA is very concerned with the FCC's stated recognition and expectation that further loosening of ownership restrictions and "increased economies of scale could permit the production of new and diverse, including locally produced, programming" and strengthen the potential of television broadcasters to serve the public.⁴ It has been AFTRA's experience that where common ownership of TV and radio properties in a local market is already permitted, the common owner has often times combined and/or reduced news and public affairs departments with the obvious goal of reducing costs. There is abundant reason to believe, based on actual experience, that broadcasters will

³ These observations seem to be corroborated by other commenters. See, NPRM at 7, Footnote 23.

⁴ The FCC points specifically to efficiencies from combining managerial, technical and other operations and efficiencies from group advertising sales and program purchases. NPRM at 2, 7.

continue to derive cost savings through continued consolidation of the news room and public affairs staff if ownership restrictions are loosened. The FCC acknowledges that newsgathering and production functions may be impacted.⁵ This type of consolidation is frightening and very different than the consolidation of managerial or sales staffs at a station. Consolidation of news and/or public affairs staff directly and negatively impacts the availability and diversity of locally produced programming which serves the public interest. The consolidation of news rooms and the ownership of more outlets by the same companies work in tandem to reduce, not enhance, the diverse points of view provided and protected under the current system of ownership limitations.

Likewise, AFTRA does not necessarily share the FCC's belief that economic concentration of this industry, and the consequent harm to diversity, has abated. AFTRA believes that it is at least as likely that we are in the middle of a transition period which, after the completion of significant restructuring, will result in an industry dominated by an oligopoly of powerful media companies. If this is so, then loosening of ownership restrictions, without other concomitant protection, may be an inappropriate regulatory response.⁶

⁵ NPRM at 10.

⁶ See, Commissioner Duggan Statement. Pursuant to the FCC's concern over the financial future of the broadcast industry and its invitation to comment on that subject (NPRM, Footnote 14 at 5), AFTRA respectfully submits that an appropriate regulatory response would be a further loosening or elimination of the financial

AFTRA respectfully asserts that, based on broadcasters' demonstration of and commitment to serving the public interest over the recent past, no relaxation of ownership regulations and related policies is appropriate.

While AFTRA does not intend to comment specifically on each area of proposed regulatory change, AFTRA would not oppose a very limited relaxation of the ownership restrictions on a national and/or local level provided that the ability of a broadcast owner to purchase new stations is conditioned upon the applicant's vigorous demonstration of commitment to providing news, public interest and community affairs programming. AFTRA asserts that prior to granting any expansion of ownership, an applicant for purchase of new station(s) should be required to detail its record of providing programming that serves the public interest. The applicant should also be required to map out a plan for the future explaining how the applicant, if it is permitted to expand beyond present restrictions, will continue to provide news, community affairs programming and serve the public interest. In addition, the successful applicant should be required to file periodic reports which will ensure that the applicant's representations of

interest and syndication rules. That measure would permit networks to compete on an equal footing with producers of programming that now, as the FCC and other commenters recognize, also have the ability through new technology to distribute their product. In short, AFTRA submits that the woes of the broadcast industry may be more the result of factors not related to the current ownership limitations.

public interest programming are more than lip service to principles established by the FCC.

Finally, prior to permitting any expansion the FCC should require an applicant to state specifically the way in which presentation of diverse issues and views will be maintained.⁷

This proposed protection of the public interest appears not to be burdensome to broadcasters nor contrary to the objectives and expectations of the FCC. Many broadcasters commented that economies of scale derived from expansion would permit them to allocate and focus additional resources on the production of "new, diverse, and especially locally-produced programming."⁸ The FCC also recognized that such programming and service would be encouraged by a loosening of ownership restrictions.⁹ AFTRA submits, based on the above-referenced comments, that protection of the public interest as described is appropriate and should be required as a condition of any expansion beyond the current ownership limits.

Further, AFTRA views with concern any suggestion that time brokerage arrangements be continued. Such arrangements simply permit owners to reduce, rather than enhance, the diversity of

⁷ This is especially important in the FCC's consideration of the Duopoly Rule and TV Radio Crossownership Rule where the potential loss of diverse points of view and editorial opinion is particularly alarming.

⁸ NPRM at 6.

⁹ NPRM at 9.

programming in any market. It is AFTRA's position that time brokering arrangements should not be permitted. If they are permitted, the station on which a broadcaster obtains time should be counted against the brokering licensee's national and local ownership limits.

IV. SUMMARY -

AFTRA respectfully submits that the current FCC regulatory scheme has permitted broadcasters to operate in a manner that is inconsistent with the mandate to serve the public interest. AFTRA believes that deregulation measures, to date, have not encouraged programming that is in the public interest or promoted diversity of views. AFTRA concludes that further steps to relax ownership restrictions are likely not to achieve the FCC's expected result of more local programming and diverse points of view unless limited expansion is tied to rules which require such programming and public interest service. If such limited expansion is permitted, broadcasters must be required to document fully their past record and future plans for such programming and service in the public interest. The FCC should require additional and specific information regarding consolidation of certain station functions and assurances to protect against consolidation of editorial opinion and the presentation of diverse points of view.

Thank you for the opportunity to present our comments.