



July 5, 2017

Chairman Ajit Pai  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Review of Local Radio Ownership Rules - Embedded Radio Markets  
MB Docket Nos. 09-182 and 14-50**

Dear Chairman Pai:

More than three years ago, the Commission asked for comments in the above-referenced proceeding. While the Notice of Proposed Rulemaking in the Quadrennial Review did not suggest any changes to the local radio ownership rules, the Commission did invite broadcasters to identify situations where the radio ownership rules should be waived. Connoisseur Media LLC answered that invitation, and throughout this proceeding has put forward comprehensive data to demonstrate that there should be a presumptive waiver of the current policies that require that the acquisition of a radio station located in an "embedded market" be analyzed not only for multiple ownership compliance with the ownership limits in the embedded market to which the station is "home," but also for compliance in the greater parent market in which the station's home market is embedded. The time is now for the FCC to act on that proposal.

Even though Connoisseur has submitted detailed market data demonstrating that its proposal is in the public interest – data not challenged by any information in the record in this proceeding – and even though there is no record opposition to this proposal, Connoisseur is concerned that this issue will not be resolved in the very near future in connection with Connoisseur's pending petition for reconsideration of the Commission's August decision, but that it will instead be included in some other proceeding that pushes consideration of this matter into some future Quadrennial Review. Given the clear and convincing nature of the information provided by Connoisseur, and the fact that this proposal is unopposed, Connoisseur cannot understand why the Commission would further defer its consideration, and the benefits it brings to the competitive situation of stations in embedded markets, for some later proceeding.

Granted, this proposal affects only radio stations and only those in two areas – the embedded markets surrounding New York and Washington DC – yet the fact that its effect is limited to a handful of radio stations does not mean that it should be ignored. Certainly, it may not have the high profile of other issues pending in other reconsideration petitions, yet it affects the vital interests of the companies that own stations in embedded markets every bit as much as those other items do – and probably even more on a day-to-day basis. As Connoisseur has shown, the revenues of broadcast stations licensed to these embedded markets are significantly worse than those of stations in similarly sized markets because so much revenue is drawn out of

these markets by the central-city stations.<sup>1</sup> Only by allowing stations in multiple embedded markets to be combined under common ownership, to become a more significant competitive force in order to attract regional and national advertisers, can the economics of these markets approach what they otherwise should be.

It is notable that, while other owners of stations in these embedded markets have supported Connoisseur's proposal,<sup>2</sup> there has been no opposition to its request. The NAB has also filed comments in support of the Connoisseur petition.<sup>3</sup> Thus, given the unanimity of support for this proposal, it simply does not make sense for this proposal to be left for resolution at some later date. This is the only pending reconsideration petition that addresses a purely radio issue, and it should not be ignored when more controversial issues that help other media are addressed.

Connoisseur has amply demonstrated that the current application of this policy to embedded market stations does not make any sense. This dual multiple ownership analysis was meant to prevent owners of central city stations from acquiring additional stations in the embedded markets -- where the central city stations do compete for revenue and ratings. But, the rule has the perverse effect of preventing an owner of stations located solely in embedded markets from competing for regional and national advertising dollars by acquiring stations in multiple embedded markets as, once an owner has acquired the maximum number of stations allowed in one embedded market, they likely cannot acquire stations in another embedded market because they will be over the ownership limits in the parent market in which these embedded markets are considered to be a part, even though these stations are not competitive factors in that overall parent market.

Connoisseur has shown that, in the New York City parent market, if it were to own every radio station home to an embedded market (which it could not do as owning over 80 radio stations licensed to these embedded markets would violate the local ownership rules in these markets), it would still be at best third in ratings in the parent market with about half the ratings of each of the top 2 owners in the market.<sup>4</sup> In Washington DC, owning all 10 stations licensed to the embedded markets would give it only a 5% market share, making it 6<sup>th</sup> in the parent market.<sup>5</sup> These embedded market stations are simply not competitive factors in the parent market, so there should be no concern with providing a presumptive waiver of the policy to allow this consolidation, as Connoisseur has consistently been proposing since its initial comments in August 2014.

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<sup>1</sup> See, *Connoisseur Ex Parte Statement* filed June 7, 2016 at Exhibit 3.

<sup>2</sup> See, *Ex Parte Statement* of Townsquare Media, Inc. filed August 10, 2016 and *Ex Parte Letter* from Pamal Broadcasting, Ltd, filed August 11, 2016.

<sup>3</sup> *Notice of Ex Parte Communications*, filed by NAB on March 10, 2017

<sup>4</sup> See, *Connoisseur Ex Parte Statement* filed June 7, 2016 at p.2.

<sup>5</sup> See, *Connoisseur Ex Parte Statement* filed June 6, 2017 at p.3.

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Connoisseur has identified a problem. It has provided a solution. No one has objected to its proposal. The way is clear – the Commission must act.<sup>6</sup> There is no reason to put off a decision on this issue as any delay will just further entrench the competitive imbalance that exists in these markets for the time necessary to complete another proceeding.

Thus, we urge you to immediately act on Connoisseur's proposal. Please contact me if I can provide any more information.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jeffrey Warshaw', written over a five-pointed star shape.

Jeffrey Warshaw

cc: Commissioner Michael O'Rielly  
Commissioner Mignon Clyburn  
Alison Nemeth, Office of Chairman Pai  
Matthew Berry, Office of Chairman Pai  
David Grossman, Office of Commissioner Clyburn  
Brendan Holland, Media Bureau  
Peter Doyle, Media Bureau

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<sup>6</sup> As Connoisseur has argued consistently, including in its Petition for Reconsideration, the Commission must make clear that there is a presumption in favor of the waiver of this dual market multiple ownership analysis. Without such clarity, no transactions can take place. If the Commission is concerned about a possible abuse of a presumptive waiver, as stated in the Petition for Reconsideration, use of the contour methodology of assessing competition as adopted by the Commission in another case where Nielsen market definitions were inadequate is one solution. The NAB, in its ex parte statement, suggested another methodology based on station coverage of the parent market. The result is the same no matter what safeguard is used to prevent abuse, as stations in embedded markets simply are not competitors in the parent markets. As any safeguard will reach the same result, the fact that multiple safeguards have been suggested is no reason to avoid a decision on this matter now.