

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Elimination of Main Studio Rule) MB Docket No. 17-106
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**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)¹ hereby files these reply comments concerning the Commission’s proposal to eliminate the main studio rule, including the related staffing and equipment requirements.² The record overwhelmingly supports the Commission’s proposal. Commenters provided extensive evidence demonstrating that the main studio rule no longer serves its intended goals and is in fact hindering the provision of the best possible television and radio broadcast service to local audiences. Far from fostering localism, the rule prevents stations from deploying personnel and finances where they are needed most—towards investment in programming, coverage of local events, and equipment upgrades.³

¹ NAB is a nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² Elimination of the Main Studio Rule, *Notice of Proposed Rulemaking*, MB Docket No. 17-106, FCC No. 17-59 (May 18, 2017) (Notice).

³ See, e.g., Comments of Hubbard Broadcasting, Inc. in MB Docket No. 17-106 (Jul. 3, 2017) (Hubbard spends “tens of thousands of dollars annually maintaining duplicative studios” which “would be better allocated to broader news and community coverage programming, reinvestment in new equipment, and other expenditures that would be more relevant and beneficial to the public.”); Comments of Starboard Media Foundation, Inc. in MB Docket No. 17-106 (Jun. 28, 2017) at 2-3 (estimated cost savings of \$150,000 from co-locating studios

The handful of parties who oppose elimination of the rule provide no legal or factual support for their position. They fail to address extensive record evidence that the rule is harming stations and their audiences by imposing costs that would be better spent hiring news personnel, upgrading stations' facilities, or keeping a unique voice on the air. They also fail to address record evidence of the even greater hurdles that the rule imposes on smaller broadcasters, including new entrants, women, minorities and those that serve rural America. Accordingly, the Commission should eliminate the rule and allow broadcasters to re-direct the human and capital resources currently spent on compliance to enhancing service to their local communities.

II. THE RECORD CONTAINS NO LEGAL OR FACTUAL BASIS FOR RETAINING THE RULE AND SIGNIFICANT EVIDENCE THAT THE RULE IS HARMING LOCALISM

A. Proponents of the Rule Misunderstand Stations' Public Interest Obligations and Disregard Record Evidence

Free Press contends that the main studio should be retained because many Americans enjoy free over-the-air broadcasting, because television is a leading and trusted provider of local news, and because some radio stations offer local news.⁴ While NAB does not disagree with these statements about the value of local broadcasting, Free Press provides no evidence that the physical location of a station's main studio is the reason local broadcasters are able to deliver content that meets the needs and interest of their communities, or that the location and staffing of the studio has any relationship to the ability of a station to serve its local audience.⁵ Broadcast stations will continue to deliver content

absent the rule could be allocated to enhancements that would "far better serve listeners in the stations' communities of license" such as "upgrading transmission equipment, attracting new talent and providing more enriched community service outreach and programming").

⁴ Comments of Free Press in MB Docket No. 17-106 (July 3, 2017) at 6-7 (Free Press Comments).

⁵ Other comments in support of retaining the rule suffer the same infirmity. See Comments of Aurora Broadcasting in MB Docket No. 17-106 (May 2, 2017); Comments of Romar

that meets the needs and interests of their local communities even absent the main studio rule; doing so is part of both their statutory mandate and business model.⁶

Free Press fundamentally misunderstands broadcasters' obligation to air programming that meets the needs and interest of their communities of license, the Commission's interpretation of that requirement in the context of the main studio rule and its ability to revise and update its interpretation over time due to changing broadcast and other technologies. In 1987, the Commission held that the role of the main studio had evolved significantly since the rule was conceived:

Today, the main studio does not necessarily play the central role in the production of a station's programming and may not be the best location for the origination of responsive programming. Current broadcast technology and innovative production methods enable stations to present programming in numerous ways and from a diversity of locations. Competitive marketplace forces compel stations to utilize a diversity of programming sources and formats to meet the interests and needs of their communities. Mobile units and remote studios, connected to stations through microwave and satellite links, are used to offer programming that includes live feeds from distant points covering events of national or regional significance as well as immediate reporting of local city council [sic] meetings. Due to these changes, the role played by the main studio in the production of programming has diminished.⁷

Communications Inc. in MB Docket No. 17-106 (Jun. 30, 2017); Comments of REC Networks in MB Docket No. 17-106 (Jun. 5, 2017).

⁶ See, e.g., Comments of W & B Broadcasting Co, Inc. in MB Docket No. 17-106 (Jun. 26, 2017) (“In order to gain popularity, increase cume and generate more advertiser dollars we must respond to the events that affect those living in the same community as we do. A building located in a particular spot does not drive that motivation . . .”); Comments of Jackman Holding Co., LLC and Sebago Broadcasting, LLC in MB Docket No. 17-106 (Jun. 30, 2017) (“In order to survive, especially in smaller markets, stations must be attuned and responsive to their communities. Having a main studio in no way guarantees or promotes a connection to the community.”); Comments of Univision Communications, Inc. (Univision) in MB Docket No. 17-106 (Jul. 3, 2017) (Univision Comments) (“neither maintaining awareness of community issues nor providing community service is dependent upon a station’s offices being located within certain arbitrary geographic parameters . . . most community interaction and community service activities take place outside the main studio building”).

⁷ See *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*, Report and Order, 2 FCC Rcd 3215, 3218 ¶ 30 (1987) (1987 Main Studio Order).

The Commission observed that its 1987 modifications to the rule also were consistent with changes to programming regulations adopted in 1984, when the Commission held that “coverage of local issues does not necessarily have to come from locally produced programming.”⁸ The Commission certainly is free to determine, in light of another thirty years of technological advancements and changes in the way stations and communities interact, that eliminating the main studio rule also will not hinder – and in many instances, will improve – the ability of stations to serve local communities.

Free Press contends that the Commission has not sufficiently explained how elimination of the rule will comport with its past determinations that local service includes two components – “transmission” service and “reception” service.⁹ This argument reflects a 1950s understanding of broadcasting and ignores how stations actually originate programming today (or even in the 1980s for that matter). As the record shows, “most community interaction and community service activities take place outside the main studio

⁸ *Id.* at 3218 ¶ 31, citing *Revision of Programming and Commercialization Policies*, Report and Order, 98 FCC 2d 1076, n.28 (1984).

⁹ Free Press Comments at 9-10, citing *Promulgation of Rules and Regulations Concerning the Origination Point of Programs of Standard and FM Broadcast Stations*, Report and Order, 43 FCC 570, 571 (1950) (1950 Main Studio Order) (defining transmission service as the opportunity that a station provides for the “development and expression of local interests, ideas and talents and for the production of radio programs of special interest to a particular community.” The Commission distinguished this from reception service, which is “merely the presence in any area of a listenable radio signal.”). The Commission effectively abandoned this definition of transmission service when it eliminated the program origination requirement in 1987. See 1987 Main Studio Order, 2 FCC Rcd at 3218-19 ¶¶ 39-43. There, the Commission stated that it could no longer justify the program origination requirement because original rationale for the rule—facilitating locally-oriented programming by promoting the use of local talent and ideas—was no longer valid. *Id.* at 3218-19 ¶ 39. As the Commission observed, the program origination requirements never dictated the nature of the programming to be originated locally. *Id.* at 3219 ¶ 40. Thus, the programming could have been locally originated, but not locally oriented. *Id.* In addition, the Commission held that the rule imposed unnecessary costs and may actually preclude the presentation of responsive programming. *Id.* at 3218 ¶ 39.

building.”¹⁰ Univision, for example describes how the award-winning news operation of its flagship station in Los Angeles, KMEX, “typically has six reporters and eight videographers *in the field* every day to cover and report on the news.”¹¹ Members of the KMEX news team are in direct contact with members of the community while covering these stories and also regularly communicate with community members via email.¹² Bryan Broadcasting Corporation explains that a radio station is “far more valuable to a community when served by a responsible person with a dial-up coupler to the transmitter” than by two station personnel who cannot “gather news or make an impact in the community” because they are tasked with manning the studio all day.¹³ Other broadcast commenters observe that when the main studio rule was adopted, “station personnel needed to be physically inside or adjacent to a station’s studio because reporters needed the main studio’s fixed equipment to originate locally produced programming.”¹⁴ Today, by contrast, “stations can send field reporters to almost any location to gather programming or conduct remote broadcasts.”¹⁵

¹⁰ Univision Comments at 7.

¹¹ *Id.* (emphasis in original).

¹² *Id.* In addition to its news operations, Univision discusses its extensive community engagement in the Los Angeles market, including five media centers that train middle school students in media production, a workforce pipeline program through a partnership with a local university, and a health fair, noting that none of these initiatives require a physical studio with prescribed staffing in a certain location. *Id.* at 7-8.

¹³ Comments of Bryan Broadcasting Corporation (Bryan Broadcasting), Honey Creek Broadcasting, LLC, Point Broadcasting Company and Canyon Media Corporation in MB Docket No. 17-106 (Jul. 3, 2017) (Joint Radio Comments) at Attachment, Declaration of Ben Downs, Vice President and General Manager of Bryan Broadcasting.

¹⁴ Comments of Cordillera Communications, LLC and Cox Media Group, LLC in MB Docket No. 17-106 (Jul. 3, 2017) at 4.

¹⁵ *Id.* at 5. See also Comments of Hubbard Broadcasting, Inc. in MB Docket No. 17-106 (Jul. 3, 2017) at 5 (“changes in newsgathering models have rendered the main studio concept moot. Television stations today use numerous remote live shots to cover news events in all areas of their coverage, further diminishing the need for a main studio.”); Comments of W & B Broadcasting Co, Inc. in MB Docket No. 17-106 (Jun. 26, 2017)(“most automation

Another broadcaster explained that because 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.”¹⁶

The record shows that broadcasters frequently originate programming throughout their local markets without ever returning to a physical studio. Thus, although the Commission held in 1950 that a station could not provide “transmission service” without a physical studio in the community,¹⁷ the Commission cannot rationally reach such a conclusion today. To the extent that the Commission agrees that its definition of transmission service is implicated by changes to the main studio rule, it should find that because of current technology and the burdens imposed by the current main studio rule, its longstanding interest in assuring local transmission service is equally or even more likely to be met absent the main studio rule.

B. Contrary to the Claims of Free Press, the Record Shows that Smaller Broadcasters and their Audiences Will Benefit from Elimination of the Rule

Free Press repeatedly claims that only large station groups will benefit from eliminating the main studio rule, that smaller stations will be unable to realize any cost savings and that certain audiences will have less access to programming that meets their needs and interests.¹⁸ These claims run completely counter to the record in this proceeding, where numerous smaller broadcasters – including those who own few stations, minority

systems will now allow you to use technology to broadcast live on the scene without ever setting foot in a designated building that must be located in a certain area”).

¹⁶ Comments of Cornerstone Community Radio, Inc. in MB Docket No. 17-106 (July 3, 2017) at 3.

¹⁷ 1950 Main Studio Order, 43 FCC at 571.

¹⁸ See, e.g., Free Press Comments at 14 (“small and under-resourced broadcast stations that would most greatly benefit from such savings are also the least likely to earn them” and large broadcasters will “transition[] resources away from low-income communities, rural areas, and communities of color.”). *Id.* at 25.

owners, new entrants and stations serving rural or niche audiences – all seek relief from the regulatory burdens of the rule.¹⁹ These commenters universally report that the burdens imposed by the current rule are hindering their ability to offer the best possible programming to their local communities by diverting resources away from the important functions of investing in programming, gathering news and engaging in the community.²⁰ Free Press offers absolutely no evidence that elimination of the rule would “primarily” benefit larger broadcasters or leave certain communities with diminished service.²¹

¹⁹ See, e.g., Joint Radio Comments at Attachment, Declaration of Edwin Brand, Managing Member of Honey Creek Broadcasting, LLC, licensee of two FM stations that serve rural communities in southern Iowa; Comments of the Multicultural Media, Telecom and Internet Council (MMTC) in MB Docket No. 17-106 (Jul. 3, 2017) (MMTC Comments); Comments of Farmworker Educational Radio Network, Inc. in MB Docket No. 17-106 (Jul. 3, 2017) (licensee of one AM and seven FM stations dedicated to serving the needs of Latino audiences in both urban and agricultural areas in Arizona, California, Nevada and Washington); Comments of WLOH Radio Company in MB Docket No. 17-106 (Jun. 16, 2017) (a single AM radio station owned and operated by a local couple).

²⁰ See, e.g. Comments of NAB in MB Docket No. 17-106 (Jul. 3, 2017) at 5-8.

²¹ To the contrary, several broadcasters discuss how the rule has impeded or prevented them from serving rural areas. See, e.g., Comments of Kona Coast Radio (KCR), LLC in MB Docket No. 17-106 (Jul. 2, 2017) at 1-2 (many small towns in Colorado and Wyoming lack reliable radio reception but “trying to viably operate commercial stations in communities of less than 5,000 persons is nearly impossible;” KCR had to forfeit licenses or construction permits for five stations in rural towns because of the costs of compliance with the main studio rule); Comments of Jackman Holding Co., LLC and Sebago Broadcasting, LLC in MB Docket No. 17-106 (Jun. 30, 2017) (commenter planned to bid on stations in two small towns in South Dakota and Montana but withdrew from the process after analyzing the costs of compliance with the main studio rule. Absent these costs, “Jackson would have built and operated both stations,” but there is currently no service to either town); Comments of New Hampshire Public Radio, Inc. (NHPR) in MB Docket No. 17-106 (Jul. 3, 2017) at 2 (although NHPR has benefited from waivers, elimination of the rule would remove the uncertainty associated with NHPR’s operations, including their service to small towns that “simply could not support a station if a main studio were required.”). Additionally, several commenters who serve and/or represent diverse audiences believe that the elimination of the rule will not hinder interaction between stations and their audiences. See, e.g., MMTC Comments at 5 (“cellphones and other digital devices are ubiquitous; listeners and viewers will continue to give voice to their reactions to stations’ programming and report breaking news in real time;” therefore, “elimination of the main studio rule should not impair the public’s access to stations’ management” or “a station’s ability to interact with audiences”); Univision Comments at 7-10 (discussing extensive in-person interaction with community members outside the studio as well as frequent electronic communication including email, websites

Free Press likewise provides no support for its claim that the main studio staffing requirement ensures access to timely emergency information. It inaccurately describes events surrounding a train derailment that occurred more than 15 years ago, repeating several factual errors that have long since been corrected.²² This anecdote sheds no light on the relationship of the main studio rule to emergency information; the station in question complied with the main studio rule (and was even staffed outside of business hours), so it cannot serve as evidence of what may happen if the rule is eliminated. Notably, Free Press has continued to cite this same incident for more than 15 years, suggesting that stations that operate pursuant to waivers of the main studio rule are successfully fulfilling their obligations to deliver EAS alerts and their commitment to providing other emergency news and information. Stations will continue to do so absent the rule.²³

III. CONCLUSION

The record demonstrates that the existing main studio rule and related equipment and staffing requirements are inconsistent with broadcast technology allowing stations to

and social media); Comments of Urban One, Inc. in MB Docket No. 17-106 (Jul. 3, 2017) at 2 (“the ability of listeners to call or email stations, not to mention the possibility of interacting with stations through other online or app-based platforms such as social media or dedicated station-level apps, means that people are far less likely to visit a station simply to share their views concerning programming”).

²² Free Press Comments at 15-17. See *also*, Letter from Jessica Marventano of Clear Channel Communications, Inc. to Marlene H. Dortch, FCC Secretary, in GN Docket No. 10-25 (May 6, 2010)(KCBJ Letter). Following a train derailment, law enforcement personnel failed to properly activate their emergency alert system (EAS) equipment to relay information to Station KCBJ(AM). KCBJ Letter at 1-4. Although the station was staffed 24/7 generally and during this incident, the lack of communication from law enforcement resulted in a delay in the station’s ability to provide emergency news and information to listeners. *Id.* Following the incident, the station assisted law enforcement to set up, test and train personnel on the use of the EAS system. *Id.* at 4-5.

²³ See, e.g., Univision Comments at 9 (“broadcasters coordinate with federal, state or local emergency management and law enforcement officials; protocols for handling emergencies and dissemination of emergency information, including EAS activation, are already in place at stations”).

engage in program production outside of traditional studios as well as consumer technology that allows audiences and stations to regularly interact. Those who seek to retain the current rule fail to show how the rule promotes its intended goals, and disregard record evidence of both technological change and the public interest benefits of eliminating the rule. Accordingly, the Commission should adopt its proposal to eliminate the main studio rule.

Respectfully submitted,

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