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BARNSTABLE BROADCASTING, INC.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	MM Docket No. 97-138
Review of the Commissions Rules	)	
regarding the main studio and local	)	
public inspection files of broadcast	)	
television and radio stations	)	
	)	

COMMENTS OF
BARNSTABLE BROADCASTING, INC.

Barnstable Broadcasting hereby files its comments on the Federal Communications Commission's Notice of Proposed Rule Making (NPRM) on the matter of main studio location and local public inspection files of broadcast television and radio stations.

Barnstable is a privately-owned, mid-sized group owner of radio stations. Barnstable owns and operates thirteen radio stations in four radio markets: Long Island, New York; Memphis, Tennessee; Akron, Ohio; and Des Moines, Iowa. We wish to voice strong support for the Commission's proposed liberalization of rules governing main studio location. We also support modification to the Commission's rules concerning public file location and content. Our comments apply specifically to rules governing broadcast radio stations.

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List A B C D E

I. Main Studio Location

Barnstable supports the Commission's conclusion that current rules governing main studio location are outdated and impose unnecessary restrictions on local broadcasters. In the NPRM, the Commission states that its goal in maintaining any rule governing main studio location is to guarantee and "facilitate interaction between licensees and their local communities." It seems clear that current Commission rules can be liberalized in a manner that will potentially increase this beneficial interaction while also removing unnecessary operational burdens from broadcasters.

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The current rules are disproportionately burdensome to operators of smaller power broadcast signals, as argued in the "Apex Petition" of July 8, 1996. The predicted principal community contour of a Class A FM station extends for a radius of approximately ten miles while the predicted principal community contour of a Class C FM extends for a radius of over forty miles. If a Class A and a Class C FM serve the same community of service, the studio of the Class C station may permissibly be located at a distance from the community of service four times greater than the distance permitted to the Class A station. As a consequence, the operator of a Class C FM station can claim his station currently satisfies the same standard of "reasonable accessibility" to its community of service as the operator of the Class A station, though the Class C station might be located at a distance thirty miles further from the community in question than the Class A station. What logic supports a discrepancy of this order in the determination of "reasonable access" to a station's main studio?

In order to moderate the clear inequities inherent in the Commission's existing main studio location rules, Barnstable Broadcasting suggests that the Commission adopt a rule that extends the permitted location of the main broadcast studio for AM or FM radio stations to any location within a radius of 20 miles from the city of license <u>or</u> within the area encompassed by the principal community contour of the station in question.

The Commission has from time to time stated that the reduction of unneccessary operational expense to the broadcaster is one goal of modifying its adminstrative requirements. With that goal in mind and acknowledging the considerable consolidation of operations that has followed recent deregulation of ownership rules, we would submit a further provision to enable radio stations under common ownership and control to co-locate AM or FM main studios beyond the 20 mile limit proposed above (a) provided that the shared location falls under the principal community contour of one of the commonly owned facilities; and (b) provided that the principal community contour of any station sharing the main studio location must intersect with or fall under the principal community contour of a commonly owned station whose principal community contour encompasses the location of the shared main studio. This change in policy would reduce redundant studio rental expense for

commonly controlled stations. It would as a result free up financial resources which would then be available for improving local programming, which would generally be achieved by creating new on-air staff positions. This additional modification of the studio location rules for commonly operated facilities would also eliminate the current practice of maintaining essentially empty "main studios" that exist solely to satisfy the Commission's existing rules but serve no practical function in the actual operation of day-to-day broadcasting. Such arrangements are currently dictated by a necessity to mitigate overhead costs and establish operational coordination and efficiency when lower powered broadcast facilities are commonly owned but licensed to communities that are fifteen or more miles from each other. We are asking that the Commission recognize these necessities and rationalize its policy accordingly.

Taken together the modifications we urge would substantially liberalize the Commission's current policy. Operators of lower power stations would still be held to a standard that would be measurably more restrictive by relative comparison to higher power stations, but the absolute gain in flexibility achieved would address the particular limitations of the current rule. Moreover, by allowing stations to locate within a broader geographic range, the Commission would arguably be improving the accessibility of the studio to each station's community of use--that is, the total population that works and lives under its effective market signal--as opposed to narrowly limiting the measure of accessibility to that of the station's community of license. "Community of license" is a distinction that is generally without meaning to the listening community. More important is whether a station is responsive to the needs and interests of its community of use: the population that hears and listens to the station.

Increased flexibility with respect to main studio location will allow the local broadcaster to determine, within reasonable limits, how best to ensure maximum accessibility to the main studio for the community the local station serves. This is a determination that will necessarily vary by community and by station, and we believe our proposed revision to the rules will increase the frequency of meaningful interaction between the licensee and the community he or she serves.

As a specific proposal, the Commission suggests in paragraph 14 of the NPRM that "reasonable accessibility" might be guaranteed by a rule that would require a station's main studio be located within the principal community contour of any station licensed to the community of license in question. As a modification, this rule change would hold no practical value to stations who are the sole station of license to a specific community and little practical value to those who are one of a very few stations licensed to a particular community. If there is agreement that the current rules are particularly limiting to Class A FM stations, this modification would do little to ease limitations on Class A stations not licensed to communities that are also communities of license for higher power facilities. We operate stations on Long Island, New York, a market that contains over three million listeners. It is served mainly by Class A FM facilities along with two Class B facilities: no two FM stations are licensed to the same community, and so in that community the specific modification that the Commission proposes in paragraph 14 would produce none of the liberalizing effect that the Commission desires to achieve.

II. Location of Public Inspection Files

We are in strong agreement with the Commission that the most sensible location for local public inspection files is at a broadcast facility's main studio location. Once the Commission settles its rules regarding acceptable location of a main studio, the Commission should simply dictate that the files be maintained at the main studio. The current rule that the files must reside in the community of license makes little sense when juxtaposed with the already more liberal requirement for main studio location. How can the location of a file be held to a different measure of "reasonable accessibility" than a studio location?

The station's main studio is the easiest and most logical location for a listener to identify as containing information regarding the station; it is a location well advertised in directories and even by outdoor signage; it is staffed by knowledgeable broadcasting professionals who can answer questions raised by the public and who are personally responsible for maintaining the licensee's records. The arguments for this modification seem so clear as not to require any further enumeration.

We are in disagreement with the proposals offered by Salem Communications Corp. (paragraph 19) with respect to main studio and public file location. The assumptions underlying the Salem proposals are in direct contradiction to our viewpoints expressed herein with respect to increasing accessibility to a larger community of use: they construct a complicated administrative apparatus designed exclusively to maintain a narrow focus on a station's community of license, while they disregard the value of a station's broader community of use and listenership. The Salem proposals would prove sufficiently cumbersome to the local broadcaster to satisfy that their net effect would be finally to discourage broadcasters from locating their studio or public inspection files anywhere but their particular community of license. This would seem to work in direct opposition to Commission's goals of liberalizing and simplifying the requirements in question.

We support the Tillotson proposal (paragraph 25) to delete a requirement that a new licensee maintain in the station's public file all the documents previously required to be maintained in the file by the assignor of the license. Licensees should be relieved from maintaining any licensee-specific information with respect to previous licensees. Once the Commission has reviewed an assignment and ordered a license transfer, and once the transfer is consummated, information specific to a previous licensee ceases to be relevant to the public.

On the question of whether electronic mail messages ("e-mail") ought to be considered as "written comments" required to be maintained in the station's public inspection file, we respectfully disagree with the Commission's proposal that such messages should be so recognized. The existing requirement that only "written comments and suggestions" be maintained as opposed to all varieties of comment, written or merely oral, clearly established "written" as a minimum acceptable standard that had to be satisfied to warrant attention. The ease of duplication afforded by e-mail presents the reasonable probability that a limited number of correspondents could flood a station with "comments and suggestions" that might well be frivolous, irrelevant, or harrassing. At a time in which paper, pens, envelopes, and stamps continue to be fully accessible to the population and computer access and use continues to be limited, it does not seem unreasonable to continue to require that a conventionally measurable standard of formal effort--a comment committed to paper and delivered to the licensee--be

required of any listener who wishes to make comments or suggestions that the Commission will require the licensee to maintain in the station's public inspection files.

Respectfully submitted,

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Vice-President