

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Rules and Policies Concerning)	MM Docket No. 01-317
Multiple Ownership of Radio Broadcast)	
Stations in Local Markets)	
)	
)	
Definition of Radio Markets)	MM Docket No. 00-244

COMMENTS OF CLEAR CHANNEL COMMUNICATIONS, INC.

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SUMMARY

Clear Channel is one of the world's leading out-of-home media companies and the nation's largest radio station owner and operator, programming more than 1,200 stations in local markets throughout the country. As Clear Channel demonstrates in these comments, Congress has definitively established the permissible level of common radio ownership in local markets through its enactment of Section 202(b) of the Telecommunications Act of 1996. Under the statutory framework, the FCC does not have the authority to consider factors beyond compliance with the numerical limits of Section 202(b) when reviewing the proposed transfer of radio station licenses.

Even if the Commission were to ignore this congressional constraint and propose new regulations to address its diversity and competition concerns, its traditional concepts and historical paradigms for regulating the radio industry are antiquated and out of step with today's media environment, where radio stations compete in an increasingly diverse and differentiated marketplace. Empirical data demonstrate that diversity is being satisfied by the ever-expanding array of media choices available to local consumers and by the increasing variety in radio station formats as a result of consolidation of radio ownership. Empirical data also demonstrate that the Commission's concerns about competition in more consolidated local radio markets are misplaced, as the average change in radio advertising prices is actually *lower* in markets that have experienced greater consolidation. Moreover, owners of multiple radio stations at the local level are able to achieve operating efficiencies, creating clear social benefits through the production of the same or more output at lower resource utilization. In light of this evidence, the Commission must either leave Section 202(b)'s numerical limits, as already incorporated in its rules, as the sole regulation governing local radio ownership or relax those limits further.

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Clear Channel Communications, Inc. (“Clear Channel”), by its attorneys and pursuant to Section 1.415 of the Commission’s rules, hereby submits its comments in response to the *Notice of Proposed Rule Making and Further Notice of Proposed Rule Making* (“NPRM”) released by the Commission on November 9, 2001 in the above-captioned proceeding.¹

I. INTRODUCTION

Clear Channel is one of the world’s leading out-of-home media companies and the nation’s largest radio station owner and operator. Together with its interests in television stations, outdoor advertising, and live entertainment, Clear Channel owns and/or programs more than 1,200 radio stations in local markets throughout the United States.

Clear Channel thus has an enormous interest in the subject proceeding, in which the Commission has proposed a comprehensive review and evaluation of its regulation of local radio

¹ *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 16 FCC Rcd 19861 (2001).

ownership. At the core of this review and evaluation are two major issues: (1) the constraints that provisions of the Telecommunications Act of 1996 (the “1996 Act”) place on the Commission’s regulation of radio ownership; and (2) the extent to which the Commission’s historical views of diversity and competition have relevance in the 21st century media marketplace generally, and the 21st century radio industry in particular.

As Clear Channel demonstrates in these comments, the first of these issues is dispositive. By enacting Section 202(b) of the 1996 Act,² Congress definitively determined the permissible level of common radio ownership in local markets that is consistent with the public interest, convenience and necessity. Thus, under the statutory framework established by Congress, the FCC does not have the authority to consider factors beyond compliance with the numerical limits of Section 202(b) when reviewing the proposed transfer of radio station licenses. To the extent that the agency has any discretion to depart from the numerical limits, that discretion extends only to a further relaxation of the limits.³

² Pub. L. No. 104-104, §202(b), 110 Stat. 110. Section 202(b)(1) states:

(A) in a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(B) in a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(C) in a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(D) in a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

³ Section 202(b)(2) of the 1996 Act states: “Notwithstanding any limitation authorized by this subsection, the Commission may permit a person or entity to own, operate, or control, or have a cognizable interest in, radio

The fact that Congress has dispositively determined the permissible level of local radio ownership should logically end all further inquiry. Nonetheless, Clear Channel shows in these comments that there is no need for the Commission to undertake any further regulation of radio ownership in the name of diversity or competition. The diversity and competition concerns expressed by the Commission in the *NPRM* are premised on views of the radio industry, and the media marketplace as a whole, that are out of touch with today's reality. From a diversity standpoint, consumers have an abundant array of choices across all media and within the radio industry itself. From a competition standpoint, radio is an industry offering differentiated products and competing in a broad market of other media—particularly television and newspapers—all of which compete for advertisers who wish to reach targeted audiences. Given these conditions, and as shown by empirical evidence in these comments, the increased consolidation in local radio ownership since passage of the 1996 Act has not had deleterious effects on the Commission's "touchstone" public interest goal of promoting diversity and competition. Rather, consolidation has enabled radio operators to realize significant efficiencies through the operation of multiple stations at the local level and resulted in numerous public interest benefits for listeners of those stations. Simply stated, there is no reason for the Commission to commit its limited resources to regulating radio ownership beyond, at most, ascertaining compliance with the numerical station limits established by Congress.

Finally, Clear Channel briefly comments herein on several other issues raised in the *NPRM*. Specifically, Clear Channel supports the Commission's view that existing combinations

(Continued . . .)

broadcast stations if the Commission determines that such ownership, operation, control, or interest will result in an increase in the number of radio broadcast stations in operation.

of stations should be freely assignable, and urges the Commission to continue its existing treatment of radio local marketing agreements and joint sales agreements.

II. THE NUMERICAL LIMITS OF SECTION 202(b) OF THE TELECOMMUNICATIONS ACT OF 1996 ARE A CONGRESSIONAL DETERMINATION OF THE LEVEL OF LOCAL RADIO OWNERSHIP THAT IS CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY, AND THE COMMISSION’S ROLE IS CONFINED TO DETERMINING COMPLIANCE WITH THOSE LIMITS

The most fundamental issue in this proceeding concerns the proper interpretation of the statutory framework from which the Commission derives its regulatory authority and pursuant to which it implements its rules and policies on local radio ownership. The Commission notes that, prior to the enactment of the 1996 Act, its regulation of local radio ownership was governed primarily by Sections 309(a) and 310(d) of the Communications Act of 1934,⁴ which mandate that the agency regulate the granting and transfer of radio licenses consistent with the public interest, convenience, and necessity.⁵ In the context of broadcast regulation, this public interest standard historically has embraced notions of diversity and competition.⁶ With the passage of Section 202(b) of the 1996 Act, however, Congress spoke directly to the issue of ownership of multiple radio stations in a local market by requiring the Commission to implement specific, numerical caps that gradually increase with the size of the market. The Commission seeks comment on the interplay between Section 202(b) and the general public interest standard of Title III and proposes three possible views: (1) the numerical limits are definitive; (2) the numerical limits address diversity only; and (3) the numerical limits are presumptively consistent

⁴ 47 U.S.C. §§309(a); 310(d).

⁵ *NPRM* at 19871 ¶21.

⁶ *Id.* at 19861 ¶1; *see also Fox Television Stations, Inc. v. FCC*, No. 00-1222, -- F.3d --, 2002 WL 233650, at *12 (D.C. Cir. Feb 19, 2002) (“*Fox*”) (citing *FCC v. Nat. Citizens Comm. For Broad.*, 436 U.S. 775, 795 (1978)).

with the public interest.⁷ A logical analysis of the context within which Section 202(b) was enacted demonstrates that the first view is the only correct one.

Acting pursuant to the congressional authority conferred by the general public interest standard of Sections 309(a) and 310(d), the Commission in 1992 relaxed its local radio ownership rule to permit licensees to realize the efficiencies inherent in the common ownership and operation of multiple radio stations in a local market.⁸ The resulting rule permitted a party to own up to four radio stations, not more than two of which could be in the same service, in all markets with 15 or more stations. Such common ownership was permitted in these markets so long as the aggregate audience share of the commonly-owned stations did not exceed 25%, a level at which the Commission presumed that the combined ownership posed a concern of excessive concentration. In smaller markets, a party could own up to three stations, not more than two of which could be in the same service (regardless of the stations' audience share), provided that the proposed combination represented less than 50 percent of the total number of radio stations in the market.⁹ This rule, the Commission indicated, balanced the need to permit increased local consolidation with its "continuing concern with diversity and competition."¹⁰ In other words, the rule was the agency's determination of the level of local radio ownership that is consistent with the public interest, including the twin goals of diversity and competition.

It is against this background that Congress passed Section 202(b), and an analysis of the legislation's origin is important for the proper understanding of its impact on the statutory

⁷ *NPRM* at 19871-73 ¶¶21-27.

⁸ See *Revision of Radio Rules and Policies*, Report and Order, 7 FCC Rcd 2755 (1992); *Revision of Radio Rules and Policies*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd 6387 (1992) ("1992 Reconsideration Order").

⁹ *1992 Reconsideration Order* at 6392-94.

¹⁰ *Id.* at 6394.

framework governing the FCC's regulation of radio ownership. The Commission correctly notes in the *NPRM* that there are "significant differences between the local radio ownership provisions of the Senate and House bills and Section 202(b)."¹¹ Such differences, however, are not as inexplicable as the FCC appears to indicate.¹² It is customary in statutory interpretation to presume that the legislation at hand is the result of a rational and coherent process.¹³ Viewed in this light, Section 202(b) is the logical outcome of such a rational process, and its intended impact on the statutory framework can be ascertained.

The House bill would have deregulated the radio industry in a sweeping fashion, eliminating the Commission's local radio ownership rule, both its numerical limits and its 25% audience share cap, in its entirety.¹⁴ Section 337(a)(1) of the bill stated that "[e]xcept as expressly permitted in this section, the Commission shall not prescribe or enforce any regulation prohibiting or limiting . . . *within any particular area*, a person or entity from holding any form of ownership or other interest in two or more broadcasting stations."¹⁵ In fact, with respect to ownership of multiple *radio* broadcasting stations in a local market, the bill would have completely removed the FCC's authority to regulate.¹⁶ Only in the cross-ownership context,

¹¹ *NPRM* at 19867 ¶12, n. 41.

¹² The Commission, in essence, throws up its hands and comments on the differences simply by stating that "[t]he Conference Report provides little additional detail concerning Section 202(b)." *Id.*

¹³ See H. Hart, Jr. & A. Sacks, *The Legal Process: Basic Problems in the Making and Application of Law* at 1157 (tentative ed. 1958) ("The statute ought always to be presumed to be the work of reasonable men pursuing reasonable purposes reasonably. . . .").

¹⁴ Dissenting members of the House Commerce Committee emphasized this point, complaining that "the complete elimination of ownership restrictions in the radio marketplace" had not received what they considered to be adequate attention. H.R. Rep. No. 104-204, 104th Cong., 1st Sess. 221 (1995).

¹⁵ H.R. 1555, § 337(a)(1) (emphasis added).

¹⁶ With respect to television ownership, the House bill retained the general prohibition on ownership of two or more television stations within the same market. H.R. 1555, § 337(b)(2).

specifically where an applicant proposed the common ownership of a radio station and more than one other *nonbroadcast* medium of mass communication, did the bill permit the Commission to deny the transfer of a radio license.¹⁷

The Senate bill, too, would have removed the numerical limits and audience share cap of the Commission's local radio ownership rule. Section 206(b)(2) stated that “[t]he Commission shall modify its rules set forth in 47 CFR 73.3555 by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity either nationally *or in a particular market*.”¹⁸ Unlike the House, however, the Senate would have retained an FCC role in reviewing radio transfer applications, stating that “[t]he Commission may refuse to approve the transfer or issuance of an AM or FM broadcast license to a particular entity if it finds that the entity would thereby obtain an undue concentration of control or would thereby harm competition.”¹⁹ The Commission thus would have been left with the authority to conduct a case-by-case analysis focused on its traditional competition concerns.

Despite the lack of any detailed explanatory statement,²⁰ it is not difficult to discern how Section 202(b) emerged from the Conference Committee, bearing in mind the presumption of rationality and coherence. Given the Senate's apparent concern about potentially excessive concentration of radio ownership at the local level, the Senate conferees would have been

¹⁷ The bill would have authorized the Commission to deny an application to grant, renew, or assign a station license if the Commission determined that “the combination of such station and more than one other nonbroadcast media of mass communication would result in an undue concentration of media voices in the respective local market.” H.R. 1555, § 337(c).

¹⁸ S. 652, § 206(b)(2) (emphasis added).

¹⁹ *Id.*

²⁰ The Joint Explanatory Statement of the Committee of Conference simply states that “[n]ew subsection (b) directs the Commission to further modify its rules with respect to the number of radio stations a party may own, operate or control in a local market.” H.R. Conf. Rep. 104-458, 104th Cong., 2d Sess. 162 (1996).

unsupportive of the provision for complete deregulation of local radio ownership contained in the House bill. With the House's desire to eliminate entirely the Commission's role in reviewing proposed radio station transfers, the House conferees would have been similarly unsupportive of the provision for essentially *ad hoc* decisionmaking by the FCC contained in the Senate bill. Both conferences, however, would have shared a generally deregulatory mindset and a predisposition toward allowing greater local consolidation. A natural compromise would have included the retention of some limit on local radio ownership, more permissive than the Commission's existing rule yet strict enough to allay the Senate's concentration concerns, and a limited role for the FCC. Section 202(b) is the result of just such a compromise. It allows greater consolidation, with the numerical limits serving as a proxy for the Senate's concentration concerns, while limiting the agency's role to determining compliance with those limits. In short, Section 202(b) is a definitive congressional determination of the level of local radio ownership that is consistent with the public interest in diversity and, especially, competition.²¹²²

The Commission cannot alter Congress's determination in a more restrictive direction. Even the Commission recognized and acknowledged this limitation on its authority when it changed its rules to correspond with the congressional directive of Section 202(b) by issuing an order, finding that "prior notice and an opportunity for public comment were unnecessary

²¹ Indeed, Chairman Powell previously has recognized this truth. *See 1998 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Communications Act*, 15 FCC Rcd 11058, 11159 (2000) (Separate Statement of Commissioner Michael K. Powell) ("[I]f Congress did not mean to set the appropriate level of concentration, or the appropriate level of diversity, what on earth are the numerical market levels meant to do?").

²² In addition, as Clear Channel observed in its comments in MM Docket No. 00-244, Congress intentionally left the existing methodology for defining local radio markets in place when it raised the numerical radio ownership caps in the 1996 Act. According to established principals of statutory interpretation, "when Congress revisits a statute giving rise to a longstanding interpretation without pertinent change, the congressional failure to revise or repeal the agency's interpretation is persuasive evidence that the interpretation is the one intended by Congress." *CFTC v. Schor*, 478 U.S. 833, 845 (1986) (quoting *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 274-75 (1974)). The Commission thus cannot alter its methodology for defining local radio markets in a more restrictive direction.

because the ‘rule changes [*did*] not involve discretionary action on the part of the Commission.’”²³ If the Commission had had any question then whether there was any “wiggle room” in Section 202(b) allowing it to overlay the numerical limits with some additional layer of regulation, it doubtless would have initiated a notice-and-comment rule making proceeding to examine the question. That the Commission did not do so, and instead merely issued an order incorporating the numerical limits of Section 202(b) into its multiple ownership rules,²⁴ is compelling evidence that the Commission has no discretion to roll back Congress’s prescribed limits on radio multiple ownership.²⁵

The Commission notes in the *NPRM*, however, that nothing in the language of the 1996 Act or in the legislative history specifically “elaborates on the intended interplay between Section 202(b) and the public interest standard contained in Sections 309(a) and 310(d) of the 1934 Act.”²⁶ Once again, the application of traditional canons of statutory interpretation and sound hermeneutic principles settles the matter. It is an accepted hermeneutic principle that

²³ *NPRM* at 19868 ¶14 (quoting *Implementation of Sections 202(a) and 202(b)(1) of the Telecommunications Act of 1996 (Broadcast Radio Ownership)*, Order, 11 FCC Rcd 12368, 12371 (¶5)) (emphasis added).

²⁴ The *NPRM* asks whether there is any significance to the fact that Section 202(b) orders the Commission to revise its multiple ownership rules in conformance with the statute rather than amends Section 310(d) of the Communications Act directly. Section 310 of the Act contains no specific limits on multiple ownership in any broadcast medium; since time immemorial the particularized prescriptions regarding broadcast ownership have been contained in Section 73.3555 of the Commission’s rules. That Congress ordered the Commission to incorporate the Section 202(b) limits into the agency rule that has long contained provisions of this nature, rather than directly amending the Act, merely reflects Congress’s understanding of this historical structure.

²⁵ From time to time a view has been espoused that the language of Section 202(b) itself, which permits, for example, ownership of “up to” 8 stations in the largest local radio markets, provides the Commission with discretion in the application of the statute, even if it did not have discretion in adopting it. The colloquial use of “up to” in Section 202(b), however, does nothing more than grant permission to an applicant to own 8 stations in a large market if it so chooses, or to cease its acquisition of stations at anywhere from 1 to 7. It does not grant authority to the Commission to prevent an applicant from acquiring the eighth station. Such a result would destroy the regulatory certainty that the numerical limits create. Even young children understand this instinctively. Imagine that a mother tells her son, “You can have up to three cookies,” but then takes the cookies away after the child has eaten two. Is there any doubt that the son would react and say, “That’s not fair. You told me I could have three cookies!”?

²⁶ *NPRM* at 19868 ¶12.

statutes *in pari materia* should be construed together and that the more specific statute governs the interpretation of the more general one.²⁷ In Sections 309(a) and 310(d), Congress spoke generally on the matter of regulation of station licenses, stating that the Commission shall not grant or approve the transfer of a station license unless it determines that the public interest would be served thereby. This general public interest standard with its traditional goals of promoting diversity and competition applies to licensing of all classes of stations regulated by the Commission, not just radio broadcasting stations.²⁸ In Section 202(b), however, Congress spoke specifically on the matter of ownership of multiple radio stations in a local market, effectively stating, as demonstrated above, that such ownership is in the public interest when it is within the numerical limits set forth in the statute. Section 202(b), then, as a more specific iteration of congressional intent with respect to local radio ownership, takes precedence over the general public interest standard.²⁹

This understanding of Section 202(b) is reinforced by Section 202(h) of the 1996 Act, in which Congress directed the Commission to “review its rules adopted pursuant to this section and all of its ownership rules biennially . . . and determine whether any of such rules are necessary in the public interest as the result of competition.”³⁰ As the D.C. Circuit recently noted in *Fox*, “Section 202(h) carries with it a presumption in favor of repealing or modifying

²⁷ See, e.g., 2B Sutherland Statutory Construction §§51:01, 51:02 (6th ed. 2000).

²⁸ See 47 C.F.R. §309(b). The statute governs applications for licenses for broadcasting and common carrier stations; industrial radio positioning stations; aeronautical en route stations; aeronautical advisory stations; airdome control stations; aeronautical fixed stations; and such other stations or classes of stations, not in the broadcasting or common carrier services, as the Commission shall by rule prescribe.

²⁹ It also supersedes federal law within the meaning of Section 601(c)(1) of the 1996 Act, which states that “[t]his Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.” 1996 Act, § 601(c)(1), 110 Stat. at 143.

³⁰ 110 Stat. at 111-12.

the ownership rules.”³¹ This inclination toward further deregulation when a rule is no longer necessary as the result of *competition* dovetails with the congressional motivation behind Section 202(b), which, as shown above, was a compromise between the House’s preference for complete deregulation and the Senate’s concern that complete deregulation at that time could adversely affect competition at the local level.³²

For these reasons, neither of the Commission’s other suggested interpretations of the statutory framework can be correct. First, the numerical limits of Section 202(b) cannot be understood as addressing only the diversity prong of the Commission’s traditional public analysis, leaving the agency free to conduct its own competition analysis under the general public interest standard. Neither the House nor the Senate bill expressed concern for diversity, as defined by the number of different owners, in local radio markets. The House bill would have permitted a single party to own *all* of the radio stations in a local market. Moreover, Section 202(b) removed the presumption, which had been part of the Commission’s local radio ownership rule, that common ownership of radio stations accounting in the aggregate for more than a 25% audience share was inconsistent with the public interest. Congress, in other words, effectively directed the Commission to discontinue its own competition analysis. It did so because, as demonstrated above, the numerical limits of Section 202(b) serve as a proxy for the Senate’s market concentration concerns. It did not leave the Commission free to replace the audience share limitation with another form of competition analysis.

³¹ *Fox* at *18.

³² Even if the Commission may, as the D.C. Circuit suggests in *Fox*, consider factors relating to diversity when reviewing its ownership rules pursuant to Section 202(h), it is absurd to contend that such factors would permit the Commission to reduce the numerical limits established by Congress in Section 202(b). As demonstrated above, neither the House nor Senate bill was concerned with diversity at the local level as the Commission has traditionally defined it (both bills would have removed all express limits on the number of stations a party could own), and the numerical limits of Section 202(b) serve as a proxy for competition concerns.

Second, the numerical limits of Section 202(b) cannot be understood as merely establishing a presumptively permissible level of local radio ownership, leaving the Commission free to consider factors that rebut the presumption. Had Congress intended merely to create a presumption, it easily could have included language providing the Commission with public interest discretion on the subject, as it did in setting limitations on the control of station licenses by aliens.³³ Congress did not do so here.³⁴ Furthermore, as the Commission recognizes in the *NPRM*, this approach risks creating a regulatory environment in which similarly situated applicants could be treated inconsistently based on whether or not third parties challenge their transactions.³⁵

In sum, Section 202(b) is a specific congressional determination of the level of local radio ownership that is consistent with the public interest. That determination takes precedence over the general public interest standard with respect to radio ownership, and therefore prohibits the FCC from considering public interest factors relating to diversity and competition beyond compliance with the statutorily determined numerical limits. Indeed, to the extent that the Commission has any authority to deviate from the numerical limits of Section 202(b), that authority is limited to a relaxation or elimination of the limits, especially in the context of the biennial review process required by Section 202(h). As the D.C. Circuit aptly stated, “[T]he mandate of §202(h) might . . . be likened to Farragut’s order at the battle of Mobile Bay (“Damn

³³ “No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by . . . any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, *if the Commission finds that the public interest will be served by the refusal or revocation of such license.*” 47 C.F.R. §310(b)(4) (emphasis added).

³⁴ As noted above, the “up to” language of Section 202(b) grants permission to the applicant, not authority to the Commission.

³⁵ *NPRM* at 19873 ¶27.

the torpedoes! Full speed ahead.”).³⁶ As demonstrated in the following sections, the empirical data support such a view.

III. EVEN IF IT HAD AUTHORITY TO REGULATE RADIO MULTIPLE OWNERSHIP BEYOND CONGRESS’S MANDATE IN THE NAME OF DIVERSITY AND COMPETITION, THERE IS NO BASIS FOR THE COMMISSION TO DO SO

As Clear Channel demonstrated in Section II, the statutory framework enacted by Congress definitively establishes the level of local radio multiple ownership that is consistent with the public interest in diversity and competition. It does not provide the Commission any discretion to consider factors beyond compliance with the numerical limits of Section 202(b) in its review of proposed radio transfers.³⁷ For all practical purposes, then, the Commission’s inquiry is over.

The *NPRM*, however, seeks to “explore the contours” of the Commission’s public interest goals of diversity and competition “[i]f we determine that Section 202(b) permits us to exercise our public interest authority” to promote those goals.³⁸ Although it is plain that Section 202(b) allows the Commission no such discretion, in the following section Clear Channel nonetheless responds to the Commission’s request for comment, including empirical data, on the “contours” of its diversity and competition concerns and the effect that consolidation in the radio industry since passage of the 1996 Act has had on diversity and competition in local markets.³⁹ The empirical data and marketplace realities show that the Commission’s traditional concepts of

³⁶ *Fox* at *14.

³⁷ Thus, the Commission’s references in the *NPRM* to ways that it historically sought to promote competition and diversity under the general public interest standard and suggestions that it may continue to use such measures are ultimately irrelevant. *See NPRM* at 19873-84 ¶¶28-50.

³⁸ *Id.* at 19873 ¶28.

³⁹ *Id.*

diversity and competition and its historical paradigms for regulating the radio industry are antiquated and out of step with today's media environment, where radio stations compete in an increasingly diverse and differentiated marketplace.

A. DIVERSITY SHOULD BE MEASURED BY THE EXTRAORDINARY ARRAY OF MEDIA CHOICES AVAILABLE TO CONSUMERS ON THE LOCAL LEVEL, INCLUDING THE INCREASINGLY DIVERSE NUMBER OF FORMATS PROVIDED BY RADIO STATIONS

The Commission historically has sought to promote diversity of broadcast ownership in accordance with its belief that “the greater the diversity of ownership in a particular area, the less chance there is that a single person or group can have an inordinate effect, in a political, editorial, or similar programming sense, on public opinion at the regional level.”⁴⁰ In this vein, the *NPRM* characterizes and defines three separate “aspects” of diversity: “viewpoint” diversity, “source” diversity, and “outlet” diversity. As defined by the Commission, “viewpoint” diversity ensures access to “a wide range of diverse and antagonistic opinions and interpretations.”⁴¹ “Source” diversity ensures access to “information and programming from multiple content providers.”⁴² “Outlet” diversity ensures access to “multiple distribution channels (e.g., radio, broadcast television, and newspapers) from which to receive information and programming.”⁴³ In the *NPRM*, the Commission seeks comment on which of these types of diversity, or any

⁴⁰ *Id.* at 19873-74 ¶29 (quoting *Amendment of Sections 73.35, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM and Television Broadcast Stations*, Report and Order, 45 FCC 1476, 1477 (¶3) (1964)).

⁴¹ *NPRM* at 19874 ¶30 (quoting *1998 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Inquiry, 13 FCC Rcd 11276, 11278 (¶6) (1998)).

⁴² *Id.*

⁴³ *Id.*

others, should guide any public interest analysis and how it should measure the success or failure of its diversity goal.

While the Commission may historically have perceived diversity in these three (or two)⁴⁴ ways, the Commission's concept of diversity is in need of substantial readjustment given the nature of today's media industry in general, and today's radio industry in particular. First, in the year 2002 it is nonsensical to think of commonly owned radio stations as advancing a single viewpoint or constituting a single "voice."⁴⁵ Such a notion ignores the fact that the vast majority of radio stations are owned by dedicated operating companies whose goal is to maximize the bottom line in a highly competitive media world. The largest of these, including Clear Channel, are publicly traded companies with an obligation to operate their stations not only to serve the public interest, but also to serve their shareholders by seeking to maximize the value of the company stock. Station owners cannot accomplish this by using stations as megaphones to blare their "viewpoints" and programming preferences. In order to be profitable, stations and station groups must appeal to as many segments of the listening audience as possible, and must be responsive to the particular needs, interests, and preferences of the local areas they serve. Thus, programming all of its stations, either nationally or locally, to espouse a single viewpoint in the context of news or public affairs simply is not an option for a broadcaster. This truth is

⁴⁴ It is difficult to discern the distinction between "source" and "outlet" diversity as the Commission defines them. If there are "multiple distribution channels," then one can presume that the public has access to "information and programming from multiple content providers." Thus, it is reasonable to treat "source" and "outlet" diversity synonymously.

⁴⁵ Chairman Powell has questioned the view that the presence of fewer owners translates into the expression of fewer perspectives: "This is some sort of *Citizen Kane* idea that our thoughts will be directed to particular viewpoints. But the overwhelming amount of programming we watch is entertainment, and I don't know what it means for the owner to have a political bias. When I'm watching *Temptation Island*, do I see the little hallmarks of Rupert Murdoch? . . . [E]ven [in the context of news coverage] the proposition has to be challenged. We have CNN, MSNBC, Fox News, and others. How many before you believe there's a bias?" Paul Davidson, *FCC Could Alter Rules Affecting TV, Telephone, Airwaves*, USA Today, February 6, 2002, at 2B.

demonstrated by Clear Channel's operation of the more than 1,200 radio stations that it programs nationwide. Clear Channel corporate management does not play a role in determining the content of news and public affairs programming aired on its stations. Rather, local managers are free to determine whether to air local news and public affairs programming on a given station and, if so, the nature and amount of such programming and the resources devoted to producing it, subject to routine budget reviews by headquarters.⁴⁶

The Commission's traditional notion of viewpoint diversity thus is not relevant to its regulation of radio ownership. Instead, the Commission should recognize that its interest in diversity is being satisfied by the ever-expanding array of media choices available to local consumers, who have access to entertainment, news, and information from radio, television, cable, DBS, newspapers, and the Internet, just to mention some of their options. Since the Commission first adopted local radio ownership rules in the 1940s, the number of media outlets has continually increased through the introduction of television, cable, DBS, and now the Internet. For example, since 1975 the number of radio stations nationally has grown from fewer than 8,000 to more than 12,000, while the number of recognized formats has swelled from 15 to as many as 91. The number of television stations nationwide has ballooned from 952 to 1,678, and the average local market now supports at least ten full-power television stations. The number of U.S. households subscribing to multichannel video programming distributors has expanded from less than 20 percent to more than 84 percent, with the vast majority of households having access to more than 50 channels of programming. Circulation of daily, suburban, weekly, and alternative newspapers has more than doubled. Finally, more and more

⁴⁶ See Statement of Randy Michaels, Chairman and CEO of Clear Channel Communications, Inc., Radio Division, attached hereto as Exhibit 1.

American homes, not to mention virtually all schools and offices, have Internet access.⁴⁷ A study prepared for this proceeding by Professor David Pritchard of the University of Wisconsin at Milwaukee reflects that the rate of increase in available media outlets has accelerated across all market sizes since passage of the 1996 Act.⁴⁸

Within this media environment, radio stations, whether operated independently or as part of a local cluster, are constantly changing and expanding formats, seeking to differentiate and reposition themselves in the advertising market to outpace their competitors.⁴⁹ When analyzed in this light, the consolidation in radio ownership since 1996 has had a very positive effect on the public interest and consumer choice. Even the Commission has recognized that, in theory, “the greater the increase in concentration of ownership, the greater the opportunity for diversity of content,”⁵⁰ because, while competitors with one station have an incentive to air “greatest common denominator” programming, an owner with multiple stations has an incentive to air more diverse programming to appeal to a broader audience across all demographics.

The empirical data demonstrate conclusively that this theory has been proven true over the past six years. Mark R. Fratrick of BIA Financial Network recently completed a study in which he determined that previous analyses “actually understate the amount of format diversity

⁴⁷ See Comments of the Newspaper Association of America, submitted in MM Docket Nos. 96-197 and 01-235 (filed December 3, 2001).

⁴⁸ See David Pritchard, *The Expansion of Diversity: A Longitudinal Study of Local Media Outlets in Five American Communities* (March 2002), attached to the comments of Viacom Inc. in this proceeding. Throughout this unprecedented expansion, radio remains the least consolidated media sector. See NAB Radio Executive Fly-In publication, attached hereto as Exhibit 2.

⁴⁹ See Statement of Professor Jerry A. Hausman, attached hereto as Exhibit 3 (“Hausman I”). Professor Hausman found that more than 35% of the radio stations in his sample changed formats between 1995 and 2001.

⁵⁰ *NPRM* at 19877 ¶37 (quoting *Review of the Commission’s Regulations Governing Television Broadcasting*, Further Notice of Proposed Rulemaking, 10 FCC Rcd 3524, 3551 (¶63) (1995)).

available to the listening public.”⁵¹ Fratrik found that the average number of general⁵² and specific⁵³ formats available to listeners has continued to increase across all market size groupings since 1996, even as consolidation in local markets has increased.⁵⁴ In just the past three years, the unweighted market average number of general formats increased by 8% from the 1998 level, while the unweighted market average number of specific formats increased by 11.1%.⁵⁵ Similarly, Professor Jerry Hausman of the Massachusetts Institute of Technology, whose studies regarding the competition aspects of the *NPRM* are discussed below, found that the number of radio formats in local markets has increased since adoption of the 1996 Act.⁵⁶ Professor Hausman’s findings update and are consistent with a 1999 study concluding that “increased concentration caused an increase in available programming variety.”⁵⁷

Clear Channel’s own experience is yet another case in point. For example, in the Syracuse, New York, market Clear Channel has successfully introduced an urban-formatted station, WPHR(FM), Auburn, New York, when other owners had failed. Merrill “Butch” Charles, who sold WPHR to Clear Channel and now serves as the station’s program director,

⁵¹ See Mark R. Fratrik, *Has Format Diversity Continued to Increase?* (March 26, 2002), attached to comments of National Association of Broadcasters in this proceeding.

⁵² BIA categorizes formats into nineteen “general” categories: Adult Contemporary, Album Oriented Rock/Classic Rock, Classical, Contemporary Hit Radio/Top 40, Country, Easy Listening/Beautiful Music, Ethnic, Jazz/New Age, Middle of the Road, Miscellaneous, News/Sports, Nostalgia/Big Band, Oldies, Religion, Rock, Spanish, Talk, urban, and No Reported Format.

⁵³ Even within the general categories, a station may seek to differentiate itself. For example, an Adult Contemporary formatted station may significantly change its programming by skewing toward a Hot AC or Urban AC format. The number of recognized formats has expanded to as many as 91.

⁵⁴ See Fratrik at 3-8.

⁵⁵ *Id.*

⁵⁶ See Hausman I at 12-14.

⁵⁷ Steven T. Berry and Joel Waldfoegel, “Mergers, Station Entry and Programming Variety in Radio Broadcasting,” Working Paper 7080, National Bureau of Economic Research, Cambridge, MA, April 1999, p. 25.

attributes this success to Clear Channel's resources, such as its brand managers and employees running urban stations across the country.⁵⁸ In addition, in the Fayetteville, Arkansas, market Clear Channel has transformed KMXF(FM), Lowell, Arkansas, from one of four adult-oriented rock stations in 1997 into a contemporary hits radio station that caters to the previously underserved teen, young adult, African-American and Hispanic populations.⁵⁹ Clear Channel has similarly diversified the radio formats in the Cookeville, Tennessee, market, turning WPTN(AM), Cookeville, Tennessee, into the market's only Oldies station.⁶⁰

In short, in today's media environment the only relevant measure of diversity is the number of choices available to the local media consumer. So measured, there is no reason to think additional regulation of radio ownership is necessary to promote diversity. The vast array of media outlets available to the consumer, which have only increased since the 1996 Act, negates any need for structural rules.

B. THERE IS NO REASON TO REGULATE RADIO OWNERSHIP ON THE BASIS OF COMPETITION CONCERNS

The Commission also "seek[s] to examine more fully our interest in the various types of radio station competition and to . . . evaluate how best to promote that interest in the modern media environment."⁶¹ As demonstrated below, even if the Commission had authority to independently address competition concerns in radio transactions—which it does not, *see* Section II *supra*—the Commission's current efforts to regulate radio in the name of competition are misguided solutions to a nonexistent problem.

⁵⁸ *See* Exhibit 4.

⁵⁹ *See* Exhibit 5.

⁶⁰ *Id.*

⁶¹ *Id.*

Prior to the 1996 Act, the Commission relied on audience shares for measuring the level of competition, including in its rules a presumption that an audience share greater than 25% created excessive concentration that was *prima facie* inconsistent with the public interest.⁶² Following Congress’s elimination of this presumption in Section 202(b), the Commission began to examine the potential competitive effect of proposed radio transfers on the local radio advertising market, employing a screen to “flag” those transactions that would result in one owner controlling more than 50% of local advertising revenues or two owners jointly controlling more than 70%.⁶³ These past and current attempts to address competition concerns suffer from at least two fallacious assumptions: (1) that radio advertising is a separate product market; and (2) that regulation is necessary to address the potential for collusion by two radio operators in a local market.

The first of these assumptions flows from a position taken by the United States Department of Justice (“DOJ”) several years ago.⁶⁴ Exhibit 6 hereto, however, contains a statement from Professor Jerry A. Hausman, MacDonald Professor of Economics at the Massachusetts Institute of Technology, refuting the DOJ’s position. As explained by Professor Hausman, radio broadcasting does not constitute a separate product market that can be neatly segregated from other forms of media—especially television and newspapers—with which radio stations compete on a daily basis, both for audience and advertisers. Analyzing competition

⁶² *NPRM* at 19897 ¶39.

⁶³ *Id.*

⁶⁴ The DOJ has taken the position that radio advertising constitutes a separate market, concluding that advertisers find value in certain “unique” attributes of radio broadcasting. These attributes, according to the DOJ, include the following: (1) radio is exclusively sound-based; (2) radio allows advertisers to focus narrowly on specific demographic groups; (3) radio allows an advertiser to build repetition by advertising at a reasonable price; (4) the cost of producing a radio commercial is much lower than producing a television commercial, allowing advertisers to change ads more often; (5) radio allows for fast turnaround of advertising copy; and (6) radio can reach people driving in their cars. *See id.* at 19879 ¶42.

among radio stations in a local market in isolation ignores this very real, broader competition and renders concentration analysis within a radio-only market meaningless. Advertisers can, and often do, switch among radio, television, and newspapers in an attempt to reach their target audiences in a cost-effective manner, since each medium permits targeted advertising. Just as an advertiser will choose one radio station over another because its format reaches a desired demographic group, an advertiser can reach a particular demographic group by advertising during a specific television program or in a specific section of the newspaper.⁶⁵ Other attributes that the DOJ considers “unique” to radio are common to television and newspapers as well.⁶⁶ In fact, these three forms of media function as close substitutes for advertisers⁶⁷ and form the relevant antitrust market.

Moreover, Professor Hausman explains that concerns about coordinated behavior between radio owners in a local market are misplaced. Radio is a differentiated product, with different stations broadcasting different formats that are targeted to and appeal to different audiences.⁶⁸ Accordingly, different advertisers will choose to advertise on different stations to promote their products to different consumers. This market characteristic has a fundamental effect on any competition analysis, since anticompetitive outcomes in differentiated product

⁶⁵ See Exhibit 6, Statement of Professor Jerry A. Hausman (“Hausman II”) at 5 (noting that an observer will see very different advertisements during an episode of “Friends” than during a broadcast of a professional sporting event).

⁶⁶ For example, low production costs and fast turnaround of advertising copy are attributes of newspaper advertising. *Id.* at 6-8.

⁶⁷ The DOJ’s conclusion that alternative media, such as television and newspapers, “are not good substitutes for a significant number of advertisers” betrays a misunderstanding of the function of marginal customers within a competitive market. *Id.* at 8.

⁶⁸ *Id.* at 3.

markets typically do not result from coordinated behavior.⁶⁹ Two group owners in a local radio market cannot collude to raise advertising prices because they are not marketing the same product to advertisers. Measures of concentration such as the Herfindahl-Hirschman Index (“HHI”) or the Commission’s 50/70 screen are, therefore, of very limited usefulness.

Anticompetitive outcomes in differentiated product markets instead typically arise from “unilateral effects,” where a single firm wields power by cornering the market on all of the differentiated products.⁷⁰ In this context, barriers to mobility become more important than barriers to entry. Empirical data show that barriers to mobility do not exist in the radio industry, where stations can change formats with ease. In his empirical study performed in connection with this proceeding, Professor Hausman found that some 35% of the stations in his study changed formats between 1995 and 2001.⁷¹ Thus, any attempt by a local owner to exercise market power by unilateral action would be defeated by one or more stations switching to a different format.

The empirical data support this understanding of the radio industry and demonstrate conclusively that the Commission’s competition analysis is misguided. Professor Hausman provides an empirical study of the effect of post-1996 Act consolidation in the radio industry on advertising rates. If radio advertising were truly a separate, non-differentiated product market, prices should have risen more in local radio markets that have experienced significant consolidation since passage of the 1996 Act than in local markets that have seen lesser consolidation. In fact, Professor Hausman’s study shows that increases in consolidation have not

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Hausman I at 10.

led to increases in advertising rates.⁷² Using an econometric technique known as fixed effects estimation to determine whether consolidation has had an effect on advertising prices, Professor Hausman's study demonstrates that the average change in prices is actually *lower* in markets that have experienced greater consolidation. These results hold true across all market sizes. Moreover, Professor Hausman's empirical test demonstrates that increased concentration within a particular format does not lead to higher advertising prices.⁷³ Instead, he found that increases in radio advertising rates are explained by changes in television and newspaper advertising rates, supporting the conclusion that these three modes of advertising are significant substitutes for each other.⁷⁴

In addition to the benign effect of local radio consolidation on advertising rates, consolidation creates significant consumer welfare benefits. Owners of multiple radio stations at the local level are able to achieve operating efficiencies, realized through shared facilities, engineering, and office administrative personnel, as well as the consolidation of certain backroom functions such as accounting, traffic and receptionist duties. These efficiencies are clear social benefits, resulting in the same or more output at lower resource utilization. In addition, the cost savings often are reinvested to upgrade station equipment and facilities and otherwise improve service to the local community through, for example, additional and higher-quality news and public affairs programming and enhanced involvement in civic and charitable community activities.⁷⁵ As discussed above, moreover, consolidation has also led to an increase in the variety of formats programmed on radio stations, which is the only true measure of

⁷² *Id.* at 3-10.

⁷³ *Id.* at 10.

⁷⁴ *Id.* at 10-11.

⁷⁵ *See* Exhibits 4 and 5.

diversity in today's media marketplace and radio industry. These benefits also extend to advertisers in forms such as increased production and air talent quality of spots and "one-stop shopping" to reach desired target audiences.

The *NPRM* requests empirical data on three specific local radio markets that have experienced consolidation: Syracuse, New York; Rockford, Illinois; and Florence, South Carolina.⁷⁶ Clear Channel is the largest group owner in the Syracuse market. In Exhibit 4 hereto, Clear Channel presents the Commission with information concerning the many positive effects that it has had in the community as a result of its ownership of multiple stations. In addition, Clear Channel in Exhibit 5 hereto presents information concerning the public interest benefits that it has provided in the Fayetteville, Arkansas, and Cookeville, Tennessee, markets, which are roughly comparable in size and market concentration to Rockford and Florence, respectively.

Even where it has perceived a problem, been willing to regulate and been faced with no express Congressional limitations on its authority, the Commission's past forays into regulation of competition in the broadcast area have been short-lived ones. Ultimately, the Commission has found either that market forces, in combination with industry, act to encourage competition for listeners and advertisers, and/or that it has neither the expertise nor the resources to conduct a proper competition analysis. For instance, in abolishing the *Carroll* doctrine⁷⁷ and UHF impact policy, the Commission noted that such policies "conflict[ed] with [its] general policy of relying wherever possible on market forces rather than on governmental regulation" and that the

⁷⁶ *NPRM* at 19884-85 ¶¶52-55.

⁷⁷ Under the *Carroll* doctrine, which was based on the theory of ruinous competition, an existing licensee could offer proof that a proposed new station would have a detrimental economic effect, resulting in a net loss of service to the public. The Commission had to consider such proof and, if it was substantial, conduct a hearing and make findings on the issue. *See Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations*, Report and Order, 3 FCC Rcd 638 (1988).

“competitive environment generally leads to better service to the public than governmentally mandated market structures.”⁷⁸ In the Second Report and Order eliminating its business practice rules,⁷⁹ the Commission concluded that its “limited resources . . . should be directed to areas where [its] expertise is critical to promoting the public interest and will have a perceptible effect.”⁸⁰

Even if it were willing to ignore its absolute lack of authority to impose an additional layer of competition-related regulation, the same factors that compelled abandonment of past Commission efforts to regulate competition in broadcasting likewise counsel forbearance here. As shown above, radio is a differentiated-product industry competing in a broad market with at least two other major forms of media. There is simply no reason, given these facts, for the Commission to commit the vast amounts of its scarce resources that will be necessary for it to develop a fair, accurate, and informed evaluation of the competitive effects of radio transactions.⁸¹ Other governmental agencies, specifically the DOJ, have primary responsibility

⁷⁸ *Id.* at 640 ¶18.

⁷⁹ The Commission’s business practice rules concerned fraudulent billing, network clipping, and combination advertising rates. See *Elimination of Unnecessary Broadcast Regulation*, Second Report and Order, 59 RR 2d 1500 (1986).

⁸⁰ *Id.* at 1506.

⁸¹ The shortcomings in Commission attempts to conduct competition analysis have become evident in Clear Channel’s experience with a number of its pending acquisitions being evaluated under the interim policy announced in the *NPRM*. Aside from the interim policy’s fundamental misperceptions of the relevant product market and its participants, and the irrelevance of screens and revenue share calculations designed to address the needless concern of coordinated activity, Clear Channel and other parties to such cases, together with Commission staff, have contested matters such as the accuracy of BIA revenue estimates and Arbitron-defined geographic markets and questions of the degree to which out-of-market radio stations compete for either local or national advertisers in the subject market. Primary antitrust enforcement authorities take months to do similar evaluations, conducting interviews and requesting information from numerous advertisers and market participants. As an agency whose primary responsibility is regulation of communications and not antitrust enforcement, the Commission lacks the time and resources to conduct similar investigations. Yet that is what would be required for the Commission to reach conclusions in radio concentration cases which are even remotely fair, accurate, and complete.

and critical expertise for such competition analyses and are well-equipped to address competition concerns in the unlikely event they arise in connection with a radio transaction.

IV. THE COMMISSION MUST PERMIT THE FREE ASSIGNMENT OR TRANSFER OF EXISTING STATION GROUPS WITHOUT SUBJECTING THE APPLICATION TO A COMPETITION ANALYSIS AND RETAIN ITS TREATMENT OF LOCAL MARKETING AGREEMENTS AND JOINT SALES AGREEMENTS

In the *NPRM*, the FCC tentatively concludes that it “generally would not subject [an application proposing to assign or transfer control of existing groups to a new owner] to competitive analysis if [it does] not change the relative market share or competitive conditions.”⁸² Clear Channel supports this conclusion—though, as demonstrated above, a competitive analysis by the Commission is impermissible—because it is consistent with precedent and sound notions of fair public policy. Companies like Clear Channel helped rescue the radio industry from near financial ruin by consolidating weaker stations into clusters to take advantage of the economic efficiencies inherent in joint operation, frequently spending significant sums to upgrade facilities. It would be profoundly unjust for the Commission to prevent companies from realizing the benefits of their investments by requiring piecemeal transfer of these station combinations,⁸³ especially since those ownership arrangements were

⁸² *NPRM* at 19891 ¶73.

⁸³ Requiring the breakup of these combinations would force Clear Channel to take apart combined operations and sell the component parts at a severely discounted price. In a filing before the FCC, the Federal Trade Commission confirmed that the average price paid for an existing combination of same-market radio stations exceeds the price that would be paid for those stations were they operated on a stand-alone basis. See *Radio Rules R&O*, 7 FCC Rcd at 2775 n.91 (citing FTC’s Reply Comments, Appendix; Anderson and Woodbury, *Efficiencies from Common Ownership of Local Broadcast Media: The Case of AM and FM Radio Stations* 26 (1991)); see also 141 Cong. Rec. S8076-S8077 (Daily Ed. June 9, 1995) (“In 1993, a year after the [FCC’s relaxed ownership rules] took effect the dollar volume of FM-only transactions almost tripled, to \$743.5 million, while group sales grew 44 percent.”) (remarks of Sen. Pressler). A simple example illustrates the reason for this. Assume that a seller has paid a premium to purchase an already-existing five-station combination, or has spent substantial sums consolidating the operations of five individually acquired stations. All five stations are located in the same office suite and share three studios. A buyer purchasing these stations as a group will not only acquire five complete station facilities, but will likely pay a premium for receiving the increased revenue potential flowing from joint operations. Were the

granted as being in the public interest. There simply is no reason for the Commission to change course.

Neither is there any reason for the Commission to change course with respect to its treatment of local marketing agreements (“LMA”) or Joint Sales Agreements (“JSA”). In its recent 1999 proceeding concerning the attribution of broadcast interests,⁸⁴ the Commission commented that its radio LMA attribution rule has “operated successfully to ensure that the goals set forth in the radio ownership rules are not undermined by the existence of unattributed influence over radio stations in the same market.”⁸⁵ The Commission likewise acknowledged that JSAs “help promote diversity by enabling smaller stations to stay on the air,” and, in the absence of evidence of the abuse of JSAs by broadcasters, declined to impose new rules attributing such agreements to the time broker.⁸⁶ Nothing has transpired over the succeeding two years that would justify reconsideration of these positions. If the Commission does, however, reverse its blanket exemption on the attribution of JSAs, it must, at a minimum, respect the legitimate business expectations embodied in such agreements and grandfather all JSAs entered

(Continued . . .)

Commission to require breakup of the combination at transfer, for instance into a two-station and three-station group, at least one of the buyers would have to seek office space and possibly build one or more studios. For this reason, the buyers would not be willing to pay the same price they would pay for a complete station. As a result, the seller does not receive the full value of the station combination. As a result, it is unable to recoup its investment in creating efficient, consolidated station operations.

⁸⁴ *In the Matter of Review of the Commission’s Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Report and Order, 14 FCC Rcd 12559 (1999).

⁸⁵ *Id.* at 12598 ¶84.

⁸⁶ *Id.* at 12612-13 ¶¶122-23.

into prior to the release of the *NPRM*, as it has grandfathered, for example, television LMAs following a change in their attribution.⁸⁷

⁸⁷ See *In the Matter of Review of the Commission's Regulations Governing Television Broadcasting*, Report and Order, 14 FCC Rcd 12903 (1999).

CONCLUSION

At issue in this proceeding is whether the Commission can or should regulate ownership of radio stations in a local market above and beyond the very specific numerical caps established by Congress in Section 202(b) of the 1996 Act. As demonstrated above, the Commission cannot. Even if it could, it should not. The numerical limits in Section 202(b) are Congress's definitive determination of permissible local radio ownership. Even if the Commission were to ignore this constraint, empirical evidence and the realities of the 21st century media marketplace show that the Commission need not further regulate radio ownership in the name of either competition or diversity. So long as it does not remove all rules relating to radio ownership (which it could justifiably do consistent with empirical evidence and Section 202(h) of the 1996 Act), the Commission must leave Section 202(b)'s numerical limits, as already incorporated in its rules, as the sole regulation governing local radio ownership.

Respectfully submitted,

CLEAR CHANNEL COMMUNICATIONS, INC.

By: 

Richard J. Bodorff
Gregory L. Masters
Dorann Bunkin
Christopher L. Robbins

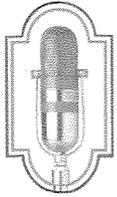
Its Attorneys

WILEY REIN & FIELDING LLP
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March 27, 2002

EXHIBIT 1

STATEMENT OF RANDY MICHAELS



March 12, 2002

Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Rules and Policies Concerning Multiple Ownership of
Radio Broadcast Stations in Local Markets
MM Docket Nos. 01-317 and 00-244

Ladies and Gentlemen:

I am the Chairman & CEO of Clear Channel Communications, Inc., Radio Division ("Clear Channel"). I understand that, in connection with the above-referenced rule making proceeding, the Commission may be interested in where decisions are made with regard to news and public affairs programming on our radio stations.

The selection, quantity and content of news and public affairs programming aired on Clear Channel's stations are left entirely to the discretion of our local station and market managers, who as a matter of company policy are delegated the obligation of ensuring that the programming on their stations is responsive to the needs and concerns of local listeners. Subject to routine headquarters budget reviews, our local managers are free to determine whether to air local news and public affairs programming on a given station and, if so, the nature and amount of such programming and the resources devoted to producing it. The same is true for national news and public affairs programming. Our local managers are free to enter into whichever national radio network affiliations they see fit, taking into account the economics of the agreement and the needs and interests of their local audiences. Clear Channel stations in fact constitute the largest group of affiliates for every major national radio network. In no case does Clear Channel corporate management have a role in determining the content of news and public affairs programming aired on its stations.

Very truly yours,

Randy Michaels, CEO
Clear Channel Communications, Inc.
Radio Division

EXHIBIT 2

NAB RADIO EXECUTIVE FLY-IN

The Least Consolidated Media Sector Is—*Surprise!*—Radio
 (revenue share of the top 10 owners)

Sector	Holdings	Rev. Share
Movie Studios	\$32.6 billion in revenue	99%
DBS	16.2 million subscribers	95%
Theme Parks	\$10.3 billion in revenue	93%
Cable Systems	60.5 million subscribers (83%)	89%
Outdoor	\$1 billion in revenue	85%
Web Sites	146 million weekly visits	76%
Movie Theaters	20,600 screens	57%
TV Stations	\$15.8 billion in revenue	55%
Newspapers	26.7 million circulation	48%
Radio	2,000 stations	44%

Source: OAAA, Nielsen, NATO, NAA, IAB and Wachovia Securities' estimates.

EXHIBIT 3

STATEMENT OF PROFESSOR JERRY A. HAUSMAN (“HAUSMAN I”)

Statement of Professor Jerry A. Hausman

1. My name is Jerry A. Hausman. I am MacDonald Professor of Economics at the Massachusetts Institute of Technology in Cambridge, Massachusetts, 02139.

2. I received an A.B. degree from Brown University and a B.Phil. and D. Phil. (Ph.D.) in Economics from Oxford University where I was a Marshall Scholar. My academic and research specialties are econometrics, the use of statistical models and techniques on economic data, and microeconomics, the study of consumer behavior and the behavior of firms. I teach a course in "Competition in Telecommunications" to graduate students in economics and business at MIT each year. Competition among broadcast TV, cable networks, direct to home satellite (DTH) providers, newspapers, and radio is one of the primary topics covered in the course. In December 1985, I received the John Bates Clark Award of the American Economic Association for the most "significant contributions to economics" by an economist under forty years of age. I have received numerous other academic and economic society awards. My curriculum vitae is attached as Exhibit 1.

3. I have done significant amounts of research in the telecommunications industry. I have published numerous papers in academic journals and books about telecommunications. I have also done research and published academic papers regarding advertising on TV and radio.

4. I have previously submitted Declarations to the Commission regarding the competitive impacts of policies affecting DTH, DBS, cable TV, and broadcast TV service

offerings. I have also submitted Declarations regarding competition between cable TV and DTH and broadcast TV. I have previously made presentations to the Department of Justice regarding competition in TV, cable TV, and radio. I have served as a consultant to the Tribune Corporation over the past decade. Tribune owns broadcast TV stations, radio stations, and newspapers. I have also consulted over the past 10 years for a variety of companies which sell consumer goods and do large amounts of advertising, e.g. Budweiser, Kodak, and Revlon.

I. Summary and Conclusions

5. The radio industry has undergone significant changes in market structure in recent years. Changes have been especially rapid since the passage of the Telecommunications Act of 1996. I have conducted empirical studies on two possible effects of these changes: the effect on advertising prices, and the effect on format variety.

6. For the first study on advertising prices I collected data on radio advertising prices in 37 Arbitron markets in 1995 and 2001. I find that consolidation of radio ownership during this period did not lead to higher advertising prices. Instead, the change in the price of radio advertising during this period can be explained by changes in television advertising prices, newspaper advertising prices, and population.

7. The second study on format variety uses data on the radio formats available in over 240 Arbitron markets in 1993, 1997, and 2001. I find that decreases in the number of owners in a market lead to increases in the number of formats available in that market. Hence I conclude that

consolidation has led to increased format variety.

II. Consolidation and Advertising Prices

8. Considerable consolidation has occurred in the radio industry since 1995. I investigate whether this consolidation has led to higher advertising prices, using a “before” and “after” sample of advertising prices across radio markets for the years 1995 and 2001. These years straddle the Telecommunications Act of 1996, which allowed the rapid changes in the radio industry to occur. I use an econometric technique known as fixed effects estimation to determine the effect of consolidation on advertising prices.¹

A. Econometric Technique

9. The logic of fixed effects estimation is illustrated by the following example. Suppose we have data on the price of radio advertising in two markets (A and B) at two points in time (1995 and 2001). Suppose further that Market A experienced a large increase in concentration between 1995 and 2001, while the degree of concentration in Market B did not change. To determine the effect of concentration on price, it is necessary to compare the change in price in Market A to the change in price in Market B. Using the change in advertising prices in the two markets allows me to control for common changes across the two markets, e.g. the general state of the economy. If the price change in Market A exceeds the price change in Market B by a

¹ Fixed effects estimation is a well-known technique in econometrics that avoids bias that might otherwise lead to unreliable results. See, e.g., J. Hausman and W. Taylor, "Panel Data and Unobservable Individual Effects," *Econometrica* 49, 1981, and for a textbook discussion see Chapter 14 of W. Greene, *Econometric Analysis*, 3rd ed., 1997.

significant margin, then we would conclude that increased concentration leads to higher prices. However, if the price changes in the two markets were approximately the same, we would conclude that there is no significant relationship between concentration and price.

10. The fixed effects technique I use reflects this basic logic. In addition, it allows for the use of more than two markets and takes into account other factors that may affect price, including the prices of competitive substitutes for radio advertising such as television and newspaper advertising.

11. It is important to note that the fixed effects estimation technique is unaffected by changes in advertising prices that occur at a national level. To determine the effect of concentration on price, the fixed effects technique essentially compares the change in price in markets with large increases in concentration to the change in price in markets with little or no increases in concentration. Since price changes common to all markets do not affect this comparison, they do not affect the conclusion about the effect of concentration on price. Hence my results about the effect of consolidation on radio advertising prices are unaffected by the general downturn in the advertising market in 2001.

B. Data Collected

12. I collected data from 121 stations in 37 Arbitron markets. These markets are listed in Table 1. The sample selection used a stratified random sampling approach where the different

strata represented different market sizes, and hence the markets in the sample represent a wide variety of market sizes. Eighteen of the markets are in the top 50 Arbitron markets, nine are in Arbitron markets 51-100, and ten are in Arbitron markets 100+.

13. For each station I collected the average unit rate during the morning drive daypart in the fourth quarter of 1995 (the quarter immediately preceding the Telecommunications Act of 1996) and the fourth quarter of 2001 (the most recently available quarter). To calculate the radio CPM (cost per thousand) for each market, I sum the unit rates of the sampled stations in each market and divide by the number of people listening to those stations (in thousands) during the morning drive daypart. I then convert the CPM to real terms using the CPI.

14. I calculate two measures of concentration. The first measure is the Herfindahl-Hirschman Index (HHI), which is the sum of squared market shares for all firms in the market.² The HHI is the standard measure of market concentration used by both the DOJ and FTC.³ The Commission has also used the HHI in its previous analysis of proposed mergers. As an alternative measure of concentration, I construct an indicator variable based on the Commission's "50/70" screen. This variable equals one if the largest firm's market share is at least 50 percent or if the combined market share of the two largest firms is at least 70 percent. Otherwise, this variable equals zero.

² Market share for a given firm is calculated as the revenue of that firm's stations (including stations that it operates under LMAs) divided by the total revenue of all stations in the market. Revenues and ownership information are from the *Investing in Radio Market Report*, 1995 3rd edition and 2001 1st edition, published by BIA.

15. I would expect the price of radio advertising to also depend on the price of substitutes for radio, which include television and newspapers. Hence I also include variables for the television CPM and the newspaper CPM in each market.⁴ Since CPMs may be affected by market size, I also include a variable for the market's population.

16. Characteristics that differ across markets but do not vary substantially over time, such as income and commute time, are captured by the fixed effects for each market.⁵ Thus, each radio market is allowed to have its own individual characteristics in the econometric model.

17. The final variable I include is an indicator variable for observations from 2001. This variable captures the national trend in the price of radio advertising.

C. Preliminary Data Analysis

18. Before estimating the regressions, I conduct a preliminary analysis of the data by comparing the change in prices across markets that experienced different changes in

³ See *DOJ and FTC Horizontal Merger Guidelines*, 1992.

⁴ The television CPM is the average prime-time household CPM for the fourth quarter of each year as reported by SQAD. The newspaper CPM is the daily inch rate divided by circulation (in thousands). For markets with more than one newspaper with at least ten percent coverage of the market, the circulation-weighted average CPM is used. Newspaper data is from the 1996 and 2002 editions of *Circulation*, published by SRDS. Both CPMs are converted to real terms using the CPI.

⁵ The assumption is that these variables do not change markedly across cities during the time period studied.

concentration. I partition the markets into three categories based on the change in the HHI between 1995 and 2001. In ten markets the change in the HHI was less than 1000 points, in seventeen markets the change in the HHI was between 1000 and 1500 points, and in the remaining ten markets the HHI changed by over 1500 points. For each category I calculate the average change in the natural log of the radio CPM. This measure is approximately equal to the percentage change in the radio CPM.

19. The results are in Table 2. Recall that if increases in concentration led to increases in price, the change in prices would be greater in markets that experienced larger changes in concentration. This pattern is exactly the opposite of the pattern actually observed in Table 2: the average price change is lower in markets with larger changes in concentration.

20. I obtain a similar result using the 50/70 indicator variable as the measure of concentration. The markets that experience an increase in concentration according to this measure have a slightly lower average change in price than the markets where concentration does not change.

21. In order to take into account the effects of other variables it is necessary to use more sophisticated econometric methods, but these preliminary comparisons suggest that increases in concentration have not led to increases in advertising prices.

D. Econometric Analysis

22. The results of the fixed effects econometrics approach, reported in Table 3, confirm the preliminary finding that consolidation has not affected price. In Column 1 of Table 3 the HHI is used to measure concentration. The estimated coefficient on this variable is negative and statistically insignificant, indicating that consolidation does not lead to higher advertising prices.⁶ However, the estimated coefficients on the television and newspaper CPM variables indicate that the price of radio advertising does respond to the price of substitutes. Both of these coefficients are positive and statistically significant.⁷ The coefficients indicate that a ten percent increase in the price of either television or newspaper advertising is predicted to increase the price of radio advertising by about three percent.

23. These results are corroborated by the estimates in Column 2 of the table, in which concentration is measured by the 50/70 indicator variable. The estimated coefficient on this variable is negative and statistically insignificant, which reinforces the conclusion that radio advertising prices have not been affected by consolidation.

24. I also test whether the effect of consolidation on price varies by market size. I

⁶ In order to determine whether the insignificance of the HHI coefficient is due to measurement error in the HHI variable, I have estimated the model using the revenue share of the two largest firms (which is likely to be measured with greater accuracy) as an instrument for the HHI. The HHI coefficient continues to be negative and insignificant when estimated by this method, and a Hausman specification test indicates that measurement error is not a problem. See J. Hausman, "Specification Tests in Econometrics," *Econometrica* 46, 1978, or W. Greene, *Econometric Analysis*, p. 443 for a textbook discussion.

⁷ The television coefficient is significantly different from zero at the five percent level, and the newspaper coefficient is significantly different from zero at the ten percent level.

partition the markets into three categories based on their current Arbitron ranking: large (Arbitron rank 1-50), medium (51-100), and small (100+). When the regressions are estimated allowing for interactions between market category and concentration, I find that the effect of concentration on price is negative or close to zero and insignificant for every market category (see Columns 3 and 4 of Table 3). I cannot reject the statistical hypothesis that the effect of concentration on price is the same in each category. These results support the conclusion that, across all market sizes, prices have not been affected by consolidation.

25. The coefficient on the Year 2001 variable is the change in price from 1995 to 2001 that cannot be explained by changes in the other variables. In all specifications of Table 3 this coefficient is small and statistically insignificant. Hence the change in the price of radio advertising between 1995 and 2001 can be explained by changes in television advertising prices, newspaper advertising prices, and population.

26. Thus far I have shown that there is no relationship between average advertising price and overall market concentration. This finding does not necessarily rule out the possibility that a merger between two stations that share the same format could allow those stations to raise their prices. However, given the ease with which radio stations are able to switch formats, any attempt to exercise market power in this fashion would be defeated by other stations switching to that format. As evidence of the ease of format switching, I note that over 35 percent of the stations in the markets in my sample changed formats between 1995 and 2001.⁸

⁸ I use the major format categories defined by BIA to determine whether a station changed formats.

27. I also conduct an empirical test of whether increased concentration within formats leads to higher prices. For a given market I calculate the HHI within each major format category, and then calculate the average format HHI for the market, using format revenue shares as weights.⁹ If increased concentration with a format leads to higher prices, then markets that experienced a larger increase in average format HHI should have experienced a larger increase in price. I find the exactly opposite result, as the estimated coefficient on the average format HHI variable is negative (see Column 5 of Table 3). If anything, increases in the average format HHI lead to decreases in price. Thus, the claim that concentration within a format can lead to higher advertising prices is not supported in the data.

28. My empirical results refute the Department of Justice (DOJ) claim that radio is a separate market in their Jacor Consent Decree (August 5, 1996). The DOJ stated that radio gives advertisers the ability to reach target audiences "far more efficiently than other media" (p. 4). The DOJ claims that TV and newspapers are good vehicles for reaching a "broad, undifferentiated audience", but they generally lack radio's ability "to provide efficient targeting" (pp. 4-5).

29. The empirical results refute the DOJ's claims in three ways. (1) My finding that

⁹ The mathematical formula for the average format HHI is $\sum_f s_f HHI_f$ where s_f is the revenue share of format f and HHI_f is the HHI within format f . I had previously discussed using a modified HHI with differentiated products in J. Hausman, G. Leonard, and D. Zona, "A Proposed Method for Analyzing Competition Among Differentiated Products," with G. Leonard and J.D. Zona, *Antitrust Law Journal*, 60, 1992.

newspaper and TV advertising prices affect radio advertising prices demonstrates that the three modes of advertising are significant substitutes for each other. (2) If radio were a separate market, changes in concentration of the size that have occurred in radio markets should have led to increased radio advertising prices. These advertising price increases did not occur. (3) The DOJ's concern that existing radio stations could not re-position their formats so that a merger could lead to higher advertising prices in a given format is demonstrated to be incorrect because 35 percent of the stations shifted format over the six year period. Also, the use of "within format" HHIs do not find any evidence of a price increase with increased concentration within a format.

30. My overall conclusion is that changes in concentration (either at the market level or within formats) did not have a significant effect on radio advertising prices in the period 1995-2001. Instead, changes in television advertising prices, newspaper advertising prices, and population were the main determinants of the changes in radio advertising prices over this time period.

III. Consolidation and Format Variety

31. The idea that consolidation can create consumer welfare benefits in the radio industry by increasing variety was first proposed fifty years ago by Peter Steiner.¹⁰ In Steiner's

¹⁰ P. Steiner, "Program Patterns and Preferences, and the Workability of Competition in Radio Broadcasting," *Quarterly Journal of Economics* 66, 1952.

model the audience is composed of groups that prefer different formats. If two stations in a market have different owners, they may both choose the format favored by the largest audience group. If the two stations have the same owner, that owner can reach a larger audience by switching the formats of one of the stations. Thus consolidation can lead to an increase in format variety.

32. However, one of Steiner's assumptions is that the prices radio stations charge advertisers are independent of the chosen formats. Instead it may be the case that two stations that share a format compete more vigorously than stations with different formats. If so, competing stations would have an incentive to choose different formats. Whether competing stations would actually choose different formats depends on the precise nature of listener preferences and competition, among other factors. Thus the nature of the relationship between consolidation and format variety is ultimately an empirical question.

33. A recent paper by Steven Berry and Joel Waldfogel provides empirical support for the prediction that consolidation leads to increases in format variety.¹¹ Berry and Waldfogel study the change in the number of formats in 243 Arbitron markets from 1993 to 1997, and find a significant positive relationship between consolidation and format variety: markets with a larger decrease in the number of owners experience a significantly larger increase in the number of available formats.

¹¹ S. Berry and J. Waldfogel, "Do Mergers Increase Product Variety? Evidence from Radio Broadcasting," *Quarterly Journal of Economics* 116, 2001.

34. The radio industry has continued to consolidate since 1997. In order to determine whether the positive relationship between consolidation and format diversity continues to hold when more recent changes in industry structure are taken into account, I update Berry and Waldfogel's study using data from 2001.¹² Estimating Berry and Waldfogel's model using the updated data, I find that there continues to be a positive and significant relationship between consolidation and format variety.

35. I estimate an econometric model using a fixed effects regression that relates the number of formats available in a market to the number of owners in the market and market size. For all except three markets, I have observations for 1993, 1997, and 2001.¹³ The left hand side variable in the econometric model is the number of formats available in the market. The right hand side variables are the number of owners in the market and the population of the market. I expect the number of formats to increase with the size of the market. The effect of the number of owners is ambiguous from a theoretical viewpoint, as I discussed above.

36. I use two-stage least squares (2SLS) to estimate the model, using the "policy band" approach of Berry and Waldfogel. I define three policy band variables, which are indicator variables that depend on the number of stations in the market.¹⁴ I treat the number of owners as

¹² The source for the 2001 data is the Spring 2001 edition of *Duncan's American Radio*. The sources used by Berry and Waldfogel are the Spring 1993 and Spring 1997 editions of the same publication.

¹³ Between 1997 and 2001 Arbitron discontinued coverage of three markets in the original sample: Danville, IL, La Crosse, WI, and Waterbury, CT. For these three markets there is no 2001 observation.

¹⁴ The policy band variables are based on the number of stations in the market in 1993 (as measured by the number of stations in the Arbitron book). One variable indicates markets with 15

jointly endogenous, and use the policy band variables and policy band-year interaction variables as instruments. A Hausman specification test indicates that this estimation strategy is necessary to estimate the parameters of the model correctly, and a test of the overidentifying restrictions confirms the validity of the instruments.¹⁵

37. The 2SLS results are in Table 4. The coefficient on the number of owners is statistically significant and negative, demonstrating that a decrease in the number of owners in a market leads to an increase in format variety. The estimated coefficient indicates that the number of formats in a market increases by one when the number of owners in the market declines by seven. Hence, my conclusion is the consolidation in the radio industry that has occurred from 1993 to 2001 has resulted in increased format variety.

to 29 stations, the second is for markets with 30 to 44 stations, and the third is for markets with 45 or more stations. These categories are based on Section 202(b)(1) of the Telecommunications Act of 1996.

¹⁵ See J. Hausman, "Specification Tests in Econometrics," and J. Hausman, "Specification and Estimation of Simultaneous Equation Models," *Handbook of Econometrics*, vol. 1, Chapter 7, 1983.

Table 1: Markets in Advertising Price Study

New York
Los Angeles
Chicago
Dallas-Ft. Worth
Philadelphia
Houston-Galveston
Washington, DC
Boston
Detroit
Atlanta
San Diego
Tampa-St. Petersburg-Clearwater
Portland, OR
Cleveland
Cincinnati
Kansas City
San Antonio
Orlando
Louisville
Albany-Schenectady-Troy
Tucson
Grand Rapids
Fresno
Omaha-Council Bluffs
Baton Rouge
Little Rock
Charleston, SC
Youngstown-Warren
Worcester
Jackson, MS
Beaumont-Port Arthur, TX
Springfield, MO
Salisbury-Ocean City
Fayetteville (North West Arkansas)
Tallahassee
Lincoln
Lubbock

Table 2: Changes in Price by Market Category

	Average change in Log (Radio CPM)	Number of Markets
HHI change < 1000	0.268	10
HHI change between 1000 and 1500	0.230	17
HHI change > 1500	0.208	10
50/70 indicator change = 0	0.237	21
50/70 indicator change = 1	0.230	16

Table 3: Advertising Price Regressions

Dependent variable: Log(Radio CPM), morning drive daypart

Variable	Column 1	Column 2	Column 3	Column 4	Column 5
HHI (0-1 scale)	-0.430 (0.506)				
HHI*Large market			-0.552 (0.734)		
HHI*Medium market			-0.890 (0.832)		
HHI*Small market			-0.375 (0.540)		
50/70 indicator		-0.002 (-0.068)			
50/70*Large market				0.019 (0.089)	
50/70*Medium market				-0.034 (0.115)	
50/70*Small market				0.007 (0.104)	
Average format HHI (0-1 scale)					-0.525 (0.277)
Log (Television CPM)	0.303 (0.142)	0.291 (0.146)	0.298 (0.142)	0.290 (0.152)	0.282 (0.140)
Log (Newspaper CPM)	0.333 (0.190)	0.333 (0.201)	0.372 (0.207)	0.339 (0.214)	0.310 (0.186)
Log (Population)	0.553 (0.619)	0.682 (0.636)	0.462 (0.658)	0.664 (0.656)	0.448 (0.600)
Year 2001	0.066 (0.536)	0.008 (0.110)	0.081 (0.125)	0.008 (0.112)	0.039 (0.112)
R^2	0.934	0.934	0.936	0.934	0.938
Root MSE	0.140	0.141	0.143	0.145	0.136
N	74	74	74	74	74

Notes: All regressions include market fixed effects. Heteroskedasticity-robust standard errors in parentheses.

Table 4: Format Variety Regression

Dependent variable: Number of formats

Variable	
Number of owners	-0.145 (0.046)
Population (millions)	7.886 (1.486)
R^2	0.903
Root MSE	1.785
N	726
Overidentification test statistic	2.541
Degrees of freedom	8

Notes: Regression includes market and year fixed effects. Heteroskedasticity-robust standard errors in parentheses. Policy band variables and policy band-year interaction variables are used as instruments for the number of owners.

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1992-
1979-
1976-79
1973-76
1972-73

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 Member, Committee to Revise U.S. Trade Statistics 1990-1992
 Director, MIT Telecommunications Economics Research Program, 1988-
 Board of Directors, Theseus Institute, France Telecom University, 1988-1995
 Member, Conference on Income and Wealth, National Bureau of Economic Research, 1992-
 Member, Committee on the Future of Boston, 1998
 Advisory Editor, Economics Research Network and Social Science Research , 1998-
 Advisory Editor, Journal of Sports Economics, 1999-

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EXHIBIT 4

SYRACUSE, NEW YORK MARKET INFORMATION

Syracuse, New York Market Information

Pursuant to the Commission's request for specific case studies of the effects of consolidation in the radio industry, Clear Channel submits the attached information for Syracuse, New York. As is typical of markets in which Clear Channel has a significant presence, operation of a station cluster has benefited both listeners and advertisers in the market.

Background

Clear Channel entered the Syracuse market in May 1999, with the purchase of two AM and three FM radio stations (WSYR(AM), WHEN(AM), WYYY(FM), and WWHT(FM), Syracuse and WBBS(FM), Fulton, New York) from Cox Radio, Inc. ("Cox"). Cox purchased the stations from various owners in 1997. In March 2000, Clear Channel purchased WPHR(FM), Auburn, New York from Salt City Communications, Inc. followed by the recent purchase of WXBB(FM), DeRuyter, New York from Cram Communications, LLC in June 2001. Currently it operates WSYR 570 as a talk station, WHEN 620 as a sports station, WYYY (Y94FM) 94.5 as an adult contemporary ("AC") station, WBBS ("B") 104.7 as a country station, WXBB 105.1 as a Christian station, WPHR ("Power") 106.9 as an urban station, and WWHT ("Hot") 107.9 as a contemporary hit radio ("CHR") station.

Competition

Competition in Syracuse among the various media has intensified as other mediums have proliferated and gained market share. Specifically, Clear Channel competes for advertising dollars with the other radio station owners, television stations, cable, newspaper, outdoor advertising and the Internet, each of which can target advertisers to specific demographics. For example, recently the only Syracuse-based widely circulated daily newspaper in the area, the

Syracuse Post Standard, has aggressively sought to attract advertisers away from the Clear Channel radio stations. Several of Clear Channel's clients have told it that the newspaper has approached them, asked them to disclose the rate they pay to advertise on one or more of the Clear Channel radio stations, and then offered them bargain rates for advertising space in the newspaper. See Exhibit 1, Declaration of Clear Channel Vice President/Market Manager for Syracuse, Joel Delmonico ("Delmonico Declaration"). The newspaper can afford to cut rates because it has infinite inventory. It can expand the length of the newspaper, increase the size of an advertisement or place more advertisements in their Sunday advertising packets in order to compensate for the lower rates. Radio, on the other hand, has a finite amount of time to sell each hour. Moreover, at a certain point a station will lose listeners if it places too much advertising in its programming.

Likewise, Time Warner, the local cable operator, competes vigorously with radio for advertiser dollars. Unlike radio stations, for which about 85-90% of the operating budget comes from advertising revenue, however, Time Warner has three revenue streams, including subscription payments, the sale of advertising time and, recently, the provision of high speed cable services.¹ Because Time Warner does not rely entirely on advertising revenue, it can afford to woo advertisers by offering rates far below those offered by radio stations.

In addition to competition with cable, newspaper and other media such as television, outdoor advertising and the Internet, Clear Channel faces rigorous competition from other radio groups. Despite post-Telecommunications Act of 1996 consolidation and the entrance in 1997 of Cox as the first large group radio owner in the Syracuse market, advertising rates have remained steady. Clear Channel competes vigorously with several other large group owners in the market,

¹ In Fall 2001 AOL Time Warner launched high-speed cable Internet services in four cities throughout the U.S., including Syracuse.

including Galaxy Communications and Citadel Communications Corp. This fierce competition for advertiser dollars within the Syracuse market has kept advertising rates from rising. Were Clear Channel to unilaterally raise its rates, advertisers would spend their money with other radio groups or other media. Clear Channel would lose more money due to the decrease in the number of advertisers buying time on its stations than it would gain through charging an increased rate. See Exhibit 1, Delmonico Declaration.

Not only does the stiff competition discussed above benefit advertisers because it keeps rates from rising, but it provides Clear Channel with an incentive to produce a better product for its advertising clients in order to retain these clients. See Exhibit 1, Delmonico Declaration. Consolidation has allowed Clear Channel to add value by enabling the production of better quality advertisements, and the implementation of a more efficient system for purchasing time. In particular, as discussed further below, Clear Channel has improved the quality of its on-air talent. Advertisers can draw from this broad range of talent for its advertisements. Further, upgrades in station facilities made possible because of consolidation, also discussed in more detail below, enable the production of better quality advertisements. These improvements have resulted in a reduction of the marginal cost of selling time and producing commercials, which has been passed along to Clear Channel's advertisers in the form of a better quality advertising product for the same rate. See Exhibit 1, Delmonico Declaration.

Moreover, as a result of cluster ownership, Clear Channel can more efficiently and accurately deliver to the advertiser its intended audience. Rather than spending the time and effort dealing with several different Account Executives to buy time on different stations in order to reach the targeted demographics, an advertiser can work with a sales team to buy time on any combination of the Clear Channel stations. Moreover, through investment in the station's facilities, personnel

and the community, as well as in extensive market research conducted to determine the needs of the local listeners, Clear Channel delivers to the advertiser highly rated stations and therefore larger audiences within the intended demographic. This one-stop-shopping process makes buying time much more efficient for the advertiser, thus lowering the advertiser's transaction costs. See Exhibit 1, Delmonico Declaration.

Furthermore, Clear Channel provides its advertisers with a host of non-traditional advertising opportunities. For example, Clear Channel puts together various concert events, for which it seeks advertiser sponsors. Also, Clear Channel parlays the extremely active role it plays in the community into win-win cause-marketing opportunities for its advertisers. Cause marketing allows advertisers to meet certain marketing needs by teaming with Clear Channel to support a specific cause within the community. A good example of this was a partnership Clear Channel formed with Coca-Cola a few years ago. That company, which has a bottling facility in Syracuse, and which spends considerable sums advertising on Clear Channel stations, indicated that it wanted to generate a certain image for itself within the community. The Clear Channel marketing department conducted a needs analysis for Coca-Cola, which resulted in the determination by that company to work with Clear Channel in its efforts to raise money and donations of other items and services for the McMahon/Ryan Child Advocacy Site for abused children.² Coca-Cola received tremendous publicity when it donated six laptops to the sheriff's department for the purpose of generating a database to track child abuse claims in order to make sure children do not fall between the cracks in the system. See Exhibit 1, Delmonico Declaration.

² The Site is used as: a meeting place for the Child Abuse Council; home for the Child Abuse Response Team and the Sexual Abuse Nurse Examiner; training facility; interviews and supervised visitation; educational resource; central tracking; community awareness and prevention efforts. See http://www.wsyr.com/house_info.html.

As demonstrated above, in the case of Syracuse, Clear Channel competes both with other radio stations as well as other media for advertising dollars. This competition has directly benefited the local advertisers who, for a competitive rate, receive a higher quality product and diversified advertising opportunities more efficiently delivered.

Diversity

Because broadcast radio is a purely local medium, a group owner must diversify its programming in order to appeal to the various demographics within the market. Part of Clear Channel's success in the Syracuse market has resulted from the diversity of formats it offers, as well as the fact that it offers a large quantity of high quality local news and public affairs programming.

With respect to diversity of formats, Clear Channel's predecessor decided to change the format of WWHT from country, a format carried on numerous stations, to Rhythmic CHR, a format not available in the market. See Exhibit 2, Declaration of Richard P. Lauber, Director of Programming, Clear Channel Syracuse ("Lauber Declaration"). Similarly, to serve an underserved demographic Clear Channel brought its resources to bear in successfully bringing an urban formatted station to the market – a venture that had been tried unsuccessfully by smaller operators.³ "Adding Power 106.9 to our cluster is a business decision that is consistent with Clear Channel's mission: to reflect the rich diversity of the communities in which we do business," notes Joel Delmonico, Clear Channel Vice President and Syracuse Market Manager. See Exhibit 1, Delmonico Declaration. With the right programming and a concerted effort to

³ In 1995 Robert Short put WRDS on the air as the first urban FM station in Syracuse. The station failed to turn a profit. In 2000 Galaxy purchased WRDS-FM and decided to switch the format of the station to AC, citing the low revenues of the station. William LaRue, Urban Radio Tough to Sell to Merchants, Sept. 11, 2000, The Post-Standard; see also Opinion, Cultural Loss, The Post-Standard, Sept. 8, 2000. See also Jay Thomas, Incompetence Killed Radio Station, Syracuse Herald-Journal, Opinion (Sept. 18, 2000) ("With proper music research, some marketing, training the sales staff on how to sell urban radio and a little more time, WRDS could have been the most competitive station for the 18-34 advertising market.").

educate its advertisers about the merits of buying time on the station, Clear Channel was convinced it could run a solid, money making station that would provide an expanded audience base to its advertisers.

To increase the chances that the station would succeed, Delmonico called upon the corporate resources of Clear Channel, including soliciting advice from the National Urban Brand Manager Doc Wynter, the Regional Programming Vice President Jack Taddeo, as well as from Clear Channel personnel currently operating some of the nation's most successful urban stations, like WGCI, the number one station in Chicago. He also used music research from Clear Channel's Critical Mass Media research wing and other information services made available to him by the company. Additionally, Clear Channel hired former radio station owner Merrill "Butch" Charles as its Program Director and several of the senior staff of WRDS-FM, including Phil Turner, former WRDS Sales Manager, and Atrillia Williams, former assistant PD and mid-day personality for WRDS. Through these efforts, Clear Channel was able to preserve an urban formatted station in the market.

In addition to broadcasting diverse formats, to succeed in attracting listeners Clear Channel provides local news and public affairs programming tailored to the needs of the Syracuse community. Although the provision of local programming requires substantial investment, Clear Channel firmly believes that the rewards in the form of increased ratings for the company and a better product for the listener is well worth the effort and expense. For this reason, Clear Channel strives to provide such programming on each of its stations. See Exhibit 1, Delmonico Declaration. Each one of its stations carries local news, traffic and weather at the hour and the half hour. Also, four of Clear Channel's local morning shows provide weekday talk forums.

Specifically, WSYR broadcasts news, public affairs programming and talk shows 24 hours per day, seven days a week. In particular, during morning drive time from 5:00am until 9:00am, then from noon until 1:00pm, and during evening drive time from 4:00pm until 7:00pm the station broadcasts local news programming. This is a one hour per day increase in the amount of news programming over the amount done by the previous owner. Regarding localism, host Jim Reith has the area's only local afternoon listener call-in show and George Kilpatrick provides a weekend morning talk show on the station. The station also has a contract with a New York-area weather service, Metro Weather, to provide the station with immediate weather information. Additionally, the station provides heavy coverage of Syracuse University men's basketball and football games. Finally, the station serves the area as an EAS primary station. WHEN, the other AM in the cluster, provides talk programming from 3:00pm until 7:00pm each weekday. Beyond morning shows, local talent Adam Schein hosts a daily afternoon drive local and regional sports call-in show on WHEN.

With respect to the Clear Channel FM radio stations, WYYY, WBBS and WWHT provide local news coverage every half hour during morning drive time, weekdays from 5:30am until 8:30am. Prior to Clear Channel ownership, WWHT did not air local news.⁴ Also, WPHR carries local news from 6:00am until 10:00am during appropriate breaks in the Tom Joyner show aired during those hours. From 11:00am until 2:00pm on Sundays Professor Roosevelt "Rick" Wright, Jr., Associate Professor in the S.I. Newhouse School of Public Communications at Syracuse University, hosts on WPHR a community affairs program that focuses on the African-

⁴ For the short term, recently acquired WXBB is simulcasting WBBS because the station's former owner retained all rights to the station's programming. Meanwhile, Clear Channel is conducting research to determine the best new format for the station. The company hopes to provide a format that serves a currently underserved market demographic. This provides a win-win situation as Clear Channel would provide additional programming choices to a population of listeners while improving its ability to deliver that demographic to its advertiser clients. Due to intense competition in the market, however, Clear Channel does not wish to provide specific details on the programming being considered.

American community. Finally, simulcast on WWHT and WPHR, the number one and two ranked stations in the market among teenagers, is “Teen Talk,” a call-in show from 9:00pm until 10:00pm on Sunday evenings for troubled teens that features advice from professional counselors. Prior to purchase by Clear Channel, WHEN and WPHR had no local talk show. See Exhibit 2, Lauber Declaration.

Each station has the information necessary to broadcast news because of the access these stations have to various resources provided by Clear Channel. These resources include several different network feeds, material gathered by the staff of WSYR, and access to the AP wire and the Clear Channel Radio Network for national news feeds. This raw material is then made available to each station in the cluster. Each station determines if and how it will use this information. There is no “master opinion” – no overriding philosophy – that dictates the form that news broadcasts will take. So, for example, WYSR will use the basic news information gathered in one way, Hot, B, Power and the other stations will present the information in another.⁵ See Exhibit 3, Declaration of Bill Carey, WSYR News and Program Director (“Carey Declaration”). Thus, Clear Channel ownership has insured that each station has access to quality news and information sources, and the autonomy to use this material in the manner best suited to the particular station’s audience.

Significantly, a large portion of the news and public affairs programming aired on the Clear Channel Syracuse stations is locally originated. This local programming covers virtually all drive times during the week plus several hours on the weekend. Almost all of the talent on the stations is local. For example, all of the disc jockeys on WYYY are local and local

⁵ Clear Channel’s efforts to provide top quality news programming were recognized in 2000 when the WSYR news department won the Radio and Television News Director’s Association’s Edward R. Murrow award for “overall excellence” in radio news.

Programming Director Kathy Rowe chooses the music for the station. All research related to the programming is conducted at the local level and is therefore specific to this market. Similarly, all of the disc jockeys at WWHT are local with the exception of one disc jockey who moved out of the area but continues to broadcast his show from a remote location. WBBS employs only local talent except between the hours of midnight to 5:00am, when it broadcasts syndicated programming. With the exception of the Tom Joyner show, all of the WPHR talent is local as well. See Exhibit 2, Lauber Declaration.

Finally, Clear Channel extends to the local market managers complete independence to determine the nature of the programming that will be broadcast. Clear Channel corporate management does not control what is said on each station, dictate a certain viewpoint, or require the broadcast of specific types of programming. It would not be in the interest of Clear Channel to homogenize its programming in this manner – stations must be programmed to appeal to their target audience or else listeners would seek information elsewhere. As Joel Delmonico relates, in his career he has never been given as much autonomy by station ownership. Clear Channel corporate management limits its consideration of his activities to routine budget reviews. See Exhibit 1, Delmonico Declaration.

That Clear Channel encourages a diversity of viewpoints in its programming is evident from the fact that the programming talent broadcast on the Syracuse radio stations range from conservative hosts, such as Rush Limbaugh, to Syracuse's own liberal free-spirited host, Dakota. Clear Channel recognizes that the most successful stations are the ones that respond to the needs and interests of the local listeners. See Exhibit 1, Delmonico Declaration. For this reason, Clear Channel provides its market managers with the latitude to determine the content and composition

of the programming aired on the Syracuse stations, including the local news and affairs programming.

Public Interest Benefits

Group ownership in Syracuse by Clear Channel has resulted in a host of public interest benefits to the Syracuse market, including upgraded technical facilities and improved programming, as well as expanded service to the community. Many of the technical upgrades and improvements in programming were made possible through cost savings realized by the economies of scale achieved by cluster ownership. Joanne Aloï, Syracuse Market Controller, estimates that the operation of the stations on a stand-alone basis would cost approximately 33% – or \$200,000 – more per year. A large portion of the savings is operational savings, the majority of which results from combining the facilities of the stations (including \$22,000 in savings on rent and \$24,000 on utilities and telephone service). Doing so has dramatically reduced the cost of rent and utilities, for example. See Exhibit 4, Declaration of Joanne L. Aloï, Clear Channel Syracuse Market Controller (“Aloï Declaration”).

Additionally, Clear Channel has reinvested the cost savings, almost dollar-for-dollar, in order to improve its technical facilities and studio equipment. In capital expenditures alone, Clear Channel has spent over \$1.2 million dollars on the stations. This money includes projects that improved and expanded the signal coverage of stations such as work on a booster for WPHR (\$40,000), a site move for WXBB (\$150,000) and upgrades to the WSYR transmitter (\$33,000). See Exhibit 5, Clear Channel – Syracuse Capital Expenditure Investments Since Ownership. It also includes installation of state-of-the-art studio equipment for the stations, such as the Prophet Systems digital automation system (\$436,985). See *id.* This new studio equipment has

improved the quality of the programming and made program production much more efficient. See Exhibit 2, Lauber Declaration.

Beyond these capital expenditures, Clear Channel has reinvested the savings into better talent and programming resources in order to improve its end product. See *id.* For example, by spending some of the savings on higher compensation for various positions, Clear Channel has been able to lure more talented, experienced employees to the Syracuse stations. See Exhibit 4, Aloï Declaration.⁶ Furthermore, Clear Channel spends thousands of dollars on market research aimed at identifying the programming its listeners want to hear. Such extensive research would not be feasible for a smaller operator. Finally, Clear Channel spends considerable sums to provide the programming its listeners desire based on the input it receives in this market research. See Exhibit 2, Lauber Declaration. The local audience immediately profits from these upgrades through improved signal quality and better programming. Concomitantly, the advertiser immediately profits from better quality, more efficiently produced advertisements that reach a larger audience.

No story demonstrates the benefits of access to the Clear Channel resources more than the successful launch of the urban format on WPHR. “[T]his is always what I’ve wanted to do, which was to provide Central New York with a well-resourced, well-funded . . . urban station, and this is it,” noted Butch Charles at the time WPHR was launched. Donza M. Poole, *What’s Happening to Black Radio in Syracuse?*, *The Pride of Syracuse*, (Oct. 2000) at 20-21. Both he

⁶ Being able to afford experienced employees is equally important for the non-programming staff. For instance, Butch Charles attributes some of the difficulty WRDS-FM had in getting advertisements while it was an urban station to the fact that the station owners had only been in the market five years. In comparison, Joel Delmonico, on the other hand, has been in the business of selling broadcast advertising for 20 years. As a result of the relationships Delmonico earned in the industry, asserts Charles, he was able to immediately attract advertisers to WPHR. “The radio business is about relationships, first and foremost, when it comes to selling . . . so I’m not surprised at all that he [Delmonico] would be able to pick up the phone and call people that he knows that have done business with him over a 20-year span and be able to get them to advertise [on WPHR].” Donza M. Poole, *What’s Happening to Black Radio in Syracuse?* Pg. 20-21, *The Pride of Syracuse*, (Oct. 2000).

and Joel Delmonico noted that having the resources of Clear Channel gave them the ability “to do radio right.” *Id.* This included the financial strength to hire the best people. Additionally, unlike its unsuccessful urban format predecessors, when Clear Channel started Power 106.9 it already had space and studios for the station, plus over forty people working in sales at its disposal. *Id.*; see also Exhibit 4, Alois Declaration. Consequently, in the year and a half since the launch of the urban format, the ratings and revenues of WPHR have increased dramatically.

Beyond these cost savings and subsequent reinvestments, group ownership has enabled the stations to more effectively serve the community through the dissemination of critical information and participation in community service events. Because of the stations’ combined demographic reach, in an emergency the stations each can provide breaking reports that reach virtually the entire listening community quickly and with quality information. For example, when a torrential storm unexpectedly hit the area on Labor Day 1999, Clear Channel’s stations broadcast storm warnings and information. The incredible ability of the stations to provide critical information became evident on September 11, 2001. After the first plane hit, all of the stations began to broadcast information provided by WSYR. Additionally, the stations constantly received updated information from other Clear Channel stations. Messages containing valuable information and audio clips were quickly disseminated across the country via the program director’s e-mail group. For example, the sports director for WSYR/WHEN was visiting family within a mile of the Pennsylvania Flight 93 crash site. He contacted WSYR and provided information that was aired on that station. The audio was then made available to all other Clear Channel radio stations. Throughout the crisis the stations kept the entire community aware of critical news and information. See Exhibit 2, Lauber Declaration; see also Exhibit 6, Sample of E-Mails Sent to WBBS Regarding Coverage on September 11.

Moreover, Clear Channel uses the combined resources and reach of the station cluster to support and publicize large-scale community service efforts. This support involves not only monetary sponsorship of these events,⁷ but also on-air promotion of the events and participation by staff in the events (e.g., as emcees and in capacities). A recent statement by Joel Delmonico reflects his philosophy regarding community service:

Clear Channel is in the business of selling goods and services for our advertising customers, and our service to the community is a partnership to that end. In doing so, we believe maximizing the satisfaction of our customers is our most important concern as a means of warranting their continued loyalty. People are our most important asset, making the critical difference in how we perform and what separates us from our competitors. We have an obligation for the well-being of the communities in which we work.

See Exhibit 8, Press Release: American Heart Association Acute Event Call-to-Action Campaign. For example, last year Clear Channel stations supported the Day of Honor, an event held to pay tribute to Central New York's World War II Minority Veterans. Assistance from Clear Channel included creating various informational spots, airing interviews with local World War II veterans, participating in organizational meetings, which were conducted at the Clear Channel facilities, and greeting the veterans as they arrived for the event. In another example, Clear Channel used the combined resources of its stations to save the Blodgett Library. The library, located in one of the nation's poorest neighborhoods, was cited by the State of New York as a safety hazard. Through a partnership with Mercy Works, a non-profit corporation, and other area businesses, Clear Channel became a driving force to create the "Dream Center," a state-of-

⁷ Clear Channel Syracuse also donates relatively large sums of money to a wide range of local organizations. For example, it donated \$20,000 to Pediatric Child Abuse Fund at the Upstate Medical Center, \$1,500 to the Anti-Defamation League, and \$7,500 to the North Area Athletic Club. See Exhibit 7, Letters Regarding Clear Channel Syracuse Charitable Donations.

the-art library and dynamic new learning center at Blodgett Elementary School.⁸ Through a radiothon the Clear Channel stations raised over \$80,000 for the Center. Clear Channel Syracuse also provides support for the Special Olympics New York, the Spanish Action League of Onondaga County, Inc., the Metropolitan Development Association of Syracuse & Central New York, Inc., the American Heart Association, First Night Syracuse, the Rescue Mission, the National Campaign Against Youth Violence, and the Everson Museum of Art, among many others. See Exhibit 9 Sample of Letters to Clear Channel Syracuse from Community Organizations.

Not only do the Clear Channel stations combine their efforts to assist the community, but each station also participates in its own community service initiatives. An example of a station's major service initiatives was a project led by WSYR to raise awareness about, and funds for, the prevention of child abuse. The station began its efforts by conducting extensive research on the issue of child abuse. Its employees then wrote and produced a 10-part series called Protecting the Gift. The series featured a grown victim of sexual abuse discussing her experiences and how they impacted her life. It also included police, counselors, prosecutors and lawmakers talking about their roles in this pervasive problem. In conjunction with this series, the station held a one-day Radiothon to solicit donations of cash, materials and services to support the creation of the McMahon/Ryan Child Advocacy Site.⁹ This effort raised over \$40,000 to renovate the 1860's vintage home chosen for the Site. Shortly thereafter, WSYR produced and sold tickets for "Sound of the Season," an evening of holiday entertainment at the Syracuse Landmark

⁸ The Center has a Greek amphitheater design complemented with a space shuttle computer lab and a prehistoric jungle reading area.

⁹ The use of the site includes, but is not limited to: a meeting place for the Child Abuse Council; home for the Child Abuse Response Team and the Sexual Abuse Nurse Examiner; training facility; interviews and supervised visitation; educational resource; central tracking; community awareness and prevention efforts.

Theater. This high-profile event raised \$35,000 for the Child Abuse Referral and Evaluation (CARE) program at University Hospital. Finally, the station compiled and distributed a four-color tabloid-style publication entitled *Protecting Our Children* that offered tips and references and referrals for those facing child abuse issues at many different levels. For its efforts, the National Association of Broadcasters Education Foundation awarded the station a 2000 Service to America Award. See Exhibit 10: Letter from John R. Porter, Director to Joel Delmonico Regarding National Association of Broadcasters Education Foundation Service to America Award, (dated May 12, 2000).

Another example of station service to the community is the production by WPHR of *Power Jam 2001, A Day of Unity*. The event included entertainment, exhibitor space and food vendors, with retail sales and community organizations participating. All of the events focused on strengthening family and community bonds. An estimated 14,000 enjoyed the event. The event began in 1998 with the support of WRDS-FM, but did not take place in 2000 due to the change in ownership of that station. After Clear Channel began broadcasting an urban format on WPHR, it decided to help this fledgling tradition continue. See Exhibit 11, Letters Regarding Power Jam 2001.

Exhibit 12 contains a small sample of the letters Clear Channel has received in gratitude for the assistance offered by specific stations with community service events. See Exhibit 12, Sample of Letters of Gratitude. Among other organizations, such events benefited the North Area Athletic & Education Center, Inc. (WHEN/WSYR); Abundant Life Christian Center (WSYR); the American Heart Association (WBBS); the Stone/Perry Memorial (WBBS); Vera House Incorporated (WYYY); United Way of Central New York, Inc. (WYYY); Person to Person Citizen Advocacy, Inc. (WWHT); Muscular Dystrophy Association (WWHT); AIDS

Community Resources (WWHT); NAACP Syracuse/Onondaga County (WPHR); and Syracuse Partnership to Reduce Juvenile Gun Violence (WPHR/WWHT). These letters demonstrate that the Clear Channel service efforts touch on all segments of the Syracuse community and come in the forms of organizing, sponsoring, promoting, donating to and providing talent for various events.

Additionally, all of the Clear Channel stations run Public Service Announcements (PSAs) for numerous community events. WPHR has put a unique twist on these announcements. Every hour the station airs public service announcements made on behalf of local non-profit organizations by a representative from the particular organization. Specifically, the station makes available a special PSA mailbox on which representatives of these non-profit organizations can call and record a 30 second message about a specific event. The station then takes the message, adds its own tags at the beginning and end of the message, and airs the completed PSA for the two weeks prior to the event. Typically the mailbox receives at least ten messages each week.

Finally, the Clear Channel stations play an active role in encouraging young people in the community to become involved with the radio industry. The stations often participate in job fairs and job shadowing programs whereby children spend a day on location with a station employee learning first-hand about that person's job. See Exhibit 13, Correspondence Regarding Clear Channel Internship and Job Fair Participation. Additionally, the group conducts a significant internship program involving all of its radio stations. Approximately six students each semester from the local colleges work at the stations for academic credit. These students work in all aspects of station operations, from website design to concert production to day-to-day broadcast

operations. Id. Several interns have later been hired for a permanent position at one of the stations.

In sum, Clear Channel has reinvested money saved through efficiencies and economies of scale into producing a better product for its advertisers and its audience. In particular, advertisers receive a higher quality product more efficiently and for reasonable rates. The audience receives improved signals carrying better quality, more diverse programming specifically designed by local market personnel to meet their entertainment and informational needs. More than this investment of money, Clear Channel has invested countless amounts of time and other resources to supporting various events and organizations within the community. For these efforts Clear Channel has received numerous awards. See Exhibit 14 regarding just a few of these awards. Exhibit 14, Information About A Few of the Awards Won By Clear Channel Syracuse Stations. Only through such investments, as well as its involvement in the community, can Clear Channel compete effectively with other radio stations and other media.

Exhibit 1

Declaration of Joel Delmonico

Vice President/Market Manager, Clear Channel Syracuse

Declaration of Joel Delmonico

I hereby declare under penalty of perjury that:

- 1) For almost twenty years I have been involved in radio in the Syracuse market. I currently work for Clear Channel Communications, Inc. as Vice President – Market Manager for Syracuse, New York. Before that I worked for Cox Radio, Inc. as General Manager for the Syracuse stations it owned. Prior to that, I worked for NewCity Communications, Inc. first as National Sales Manager for the Syracuse stations, next as Local Sales Manager for the stations, then as General Sales Manager for WSYR, WBBS and WYYY, and finally in the capacity of General Manager for the cluster of stations. Before that I worked for Katz Broadcasting as a local salesperson for WSYR. I have lived in Syracuse all my life. My parents still live here. My brother and my sister still live here. I attended Syracuse University. This city is extremely important to me.
- 2) Competition in the Syracuse market between a growing number of media choices has gotten more intense over the years. Our stations now compete for advertising dollars with the other radio station owners, television stations, cable, newspaper, outdoor advertising, direct mail and the Internet.
- 3) An example of this is the Syracuse Post Standard – the only Syracuse-based widely circulated daily newspaper in the area – which has aggressively sought to attract advertisers away from our stations. Several of Clear Channel’s clients have told it that the newspaper has approached them, asked them to disclose the rate they pay to advertise on one or more of the Clear Channel radio stations, and then offered them bargain rates for advertising space in the newspaper. Unlike the newspaper, which can increase its inventory by expanding the size of the newspaper, we have a finite amount of inventory –overloading our programming with too many commercials will drive listeners away, ultimately decreasing the value of our air time.
- 4) We also compete with Time Warner for advertiser dollars. About 85-90% of our operating budget comes from advertising revenue. Because Time Warner makes money from subscription payments and the sale of high-speed cable services as well as advertising, it can afford to offer advertising rates far below those any radio station could offer.
- 5) Additionally, we compete with the other radio stations in the market for advertising revenue, including those owned by large groups such as Galaxy Communications and Citadel Communications Corp. Arbitron, the ratings service used by local and national advertisers to gauge the audience size and composition of radio stations measures almost 30 radio stations in it’s latest research report for Syracuse. This rigorous competition keeps rates from rising.
- 6) Also as a result of this competition, we need to continually raise the quality of our product. We have improved the talent on each station. We have taken advantage of the access Clear Channel provides through its Critical Mass Media service to perform weekly local call-out music research. In addition, we conduct major perceptual research to aid us in better understanding our listener’s music, news, information and entertainment preferences. Through this research we have learned how to better program each station to suit the needs of

the target demographic. The result has been better targeted products that meet the community's needs, resulting in higher ratings to deliver to the advertiser.

- 7) Radio is extremely price sensitive. Were Clear Channel to unilaterally raise its rates, advertisers would spend their money with other radio groups or other media. We would lose more money due to the decrease in the number of advertisers buying time on our stations than we would gain through charging an increased rate.
- 8) In order to keep our advertiser clients satisfied, we are constantly trying to improve the quality of the commercials we produce by using better equipment and talent to create the advertisement.
- 9) Our clients can buy time more efficiently because they deal with one Account Team to buy time on different stations in order to reach the targeted demographics. We have worked hard to increase the ratings of our stations. By delivering high rated stations to the advertiser it can reach larger audiences within the intended demographic.
- 10) Finally, we provide our clients with many non-traditional advertising opportunities. For example, we help put together various concert events, for which our advertiser clients can purchase sponsorships. Also, we afford our clients with many cause-marketing opportunities. Cause marketing allows advertisers to meet certain marketing needs by teaming with Clear Channel to support a specific cause within the community. A good example of this is a partnership we formed with Coca-Cola, which has a bottling facility in Syracuse. The company told us that it wanted to raise its profile within the community. The Clear Channel marketing department conducted a needs analysis for Coca-Cola. Ultimately, it was decided that the company would work with Clear Channel in its efforts to raise money and donations of other items and services for the McMahon/Ryan Child Advocacy Site for abused children. Coca-Cola received fantastic publicity when it donated six laptops to the sheriff's department for the purpose of generating a database to track child abuse claims in order to make sure children do not fall between the cracks in the system.
- 11) A large part of our success has resulted from the diversity of formats we offer and the large quantity of local news and public affairs programming. We need to diversify in order to appeal to a wide demographic. Adding Power 106.9 to our cluster is a business decision that is consistent with Clear Channel's mission to reflect the rich diversity of the communities in which we do business.
- 12) This position is reflected in our decision to switch WPHR to an urban formatted station. We were convinced that we could run a solid, money-making station that would provide an expanded audience base to our advertisers. In order to improve the chances that the station would succeed, I called upon the corporate resources of Clear Channel, including soliciting advice from the National Urban Brand Manager Doc Wynter, the Regional Programming Vice President Jack Taddeo as well as from Clear Channel personnel currently operating WGCI, Chicago, and other very successful urban stations. I also conducted extensive research with the assistance of the Critical Mass Media research wing of Clear Channel and other resources provided by the company. Most importantly, I hired former radio station

owner Merrill “Butch” Charles as the station’s Program Director, as well as several of the senior staff of WRDS-FM, including Phil Turner, former WRDS Sales Manager and Atrillia Williams former assistant PD and mid-day personality of WRDS.

- 13) We recognize that radio is a purely local medium. The only way to get listeners is to program your stations to appeal to the local population. One way we do this is to provide substantial amounts of local news and public affairs programming. Having news-gathering capabilities is an expensive endeavor. We firmly believe, however, that the benefits that result from these efforts – higher ratings for us and a better product for the listener – are well worth the effort and expense.
- 14) Corporate management does not control what is said on each station, dictate a certain viewpoint, or require the broadcast of specific types of programming. Clear Channel gives me complete autonomy to determine the nature of the programming that is broadcast on the Syracuse stations. Management recognizes that it would not be in the best interest of the company to homogenize its programming because stations must be programmed to appeal to their target audience or else listeners will tune out. In my entire career, I have never been afforded so much autonomy. Clear Channel management is always there to give advice and to provide additional needed resources. They limit their consideration of my activities to routine budget reviews, however.
- 15) We have put an enormous amount of money into capital investments in upgraded technical facilities and state-of-the-art studio equipment. We have also increased compensation in some instances in order to hire better talent. Much of the funds for these improvements have come from money saved through consolidation.
- 16) Through the resources of Clear Channel, we were able to successfully launch WPHR as an urban station.
- 17) It is important to me personally that the stations give back to the community. Being active in the community also benefits the business. We use the combined reach of our stations to disseminate critical information to our listeners quickly.
- 18) Each station is encouraged to participate in numerous community events. Also, we use our combined resources to support and publicize large-scale service efforts. These efforts touch on all segments of the Syracuse community and come in the form of organizing, sponsoring, promoting, donating to or providing talent for various events.
- 19) One event about which I am particularly proud is the major service initiative led by WSYR to raise awareness about, and funds for, the prevention of child abuse. The station began its efforts by conducting extensive research on the issue of child abuse. Its employees then wrote and produced a 10-part series called Protecting the Gift. The series featured a grown victim of sexual abuse discussing her experiences and how it impacted her life. It also included police, counselors, prosecutors and lawmakers talking about their roles in this pervasive problem. In conjunction with this series, the station held a one-day Radio-thon to solicit donations of cash, materials and services to support the creation of the

McMahon/Ryan Child Advocacy Site. This effort raised nearly \$38,000 dollars. Shortly thereafter, WSYR produced and sold tickets for "Sound of the Season" an evening of holiday entertainment at the Syracuse Landmark Theater. This high-profile event raised \$35,000 for the Child Abuse Referral and Evaluation (CARE) program at University Hospital. Finally, the station compiled and distributed a complimentary publication a four-color tabloid-style publication entitled Protecting Our Children that offered tips and references and referrals for those facing child abuse issues at many different levels. Each of these elements has been repeated annually since 1998. For its efforts, the National Association of Broadcasters Education Foundation awarded the station a 2000 Service to America Award. The day I received that award was one of the greatest days of my life.

The foregoing is true to the best of my knowledge.



Joel Delmonico
Vice President/Market Manager – Syracuse
Clear Channel Communications, Inc.

March 26, 2002

Exhibit 2

Declaration of Richard P. Lauber

Director of Programming, Clear Channel Syracuse

Declaration of Richard P. Lauber

I hereby declare under penalty of perjury that:

- 1) I have been in radio since 1978. Currently I work for Clear Channel Communications, Inc. as the Director of Programming for the Syracuse market. Before Clear Channel purchased the stations I worked for Cox Radio, Inc. as WYYY Program Director. Prior to that I was with NewCity Communications first as an on-air personality and then as Program Director for WBBS. I started in the Syracuse market as a part time disc jockey at WHEN for Park Communications, Inc. Before that I worked part time as a disc jockey in various locations outside of the Syracuse area.
- 2) No audience group has lost a format as a result of consolidation. In fact, consolidation has helped diversify the formats offered in the market.
- 3) Cox Radio, Inc. decided to change the format of WWHT from Country, a format carried on numerous stations, to Rhythmic CHR, a format not available in the market.
- 4) To serve an underserved demographic, we decided to switch the format of WPHR to urban, thus providing the only urban station to the Syracuse market.
- 5) An essential element to the success of WPHR was the hiring of Butch Charles as its Program Director. We also hired several of the senior staff of WRDS-FM, the station that had carried the only urban format in the market until its new owner switched it to an adult contemporary format. These employees include Phil Turner, former WRDS Sales Manager and Atrillia Williams former assistant PD and mid-day personality for WRDS.
- 6) Clear Channel encourages a diversity of viewpoints in its programming in order to appeal to a wide audience. Thus, our programming talent ranges from conservative hosts, such as Rush Limbaugh, to Syracuse's own liberal free-spirited host, Dakota.
- 7) Besides diversifying our formats and our programming, in order to succeed in attracting an audience, we recognize the importance of providing local news and public affairs programming geared towards the needs of the Syracuse community.
- 8) The provision of local programming requires substantial investment, but this investment is well worth it. By running this type of programming we provide a better product for the listener, which in turn results in a ratings increase that benefits the company.
- 9) A majority of the news and public affairs programming aired on our stations is locally originated. This local programming covers virtually all drive times during the week plus several hours on the weekend. Each one of our stations carries local news, traffic and weather at the hour and the half hour. Also, four of Clear Channel's local morning shows provide weekday talk forums. The broadcast of news by each station has been made possible because of the access these stations have numerous resources provided by Clear Channel including several different network feeds, material gathered by the staff of WSYR, access to

the AP wire and to Clear Channel Radio Network for national news feeds. Using these resources, news presentation on each station is then customized by each stations' news person keeping the station's target audience in mind.

- 10) Specifically, WSYR broadcasts news, public affairs programming and talk shows 24-hours per day, seven days a week. In particular, during morning drive time from 5:00am until 9:00am, then from noon until 1:00pm, and during evening drive time from 4:00pm until 7:00pm the station broadcasts local news programming. This is a one-hour per day increase in the amount of news programming over the amount done by the previous owner. Regarding localism, host Jim Reith has the area's only local afternoon listener call-in show and George Kilpatrick provides a weekend morning talk show on the station. The station also has a contract with New York-area weather service, Metro Weather, to provide the station with immediate weather information. Additionally, the station provides heavy coverage of Syracuse University men's basketball and football games. Finally, the station serves the area as an EAS primary station.
- 11) Our other AM station, WHEN, provides talk programming from 3:00pm until 7:00pm each weekday. Beyond morning shows, local talent Adam Schein hosts a daily afternoon drive local and regional sports call-in show on WHEN.
- 12) With respect to our FM stations, WYYY, WBBS and WWHT provide local news coverage every half hour during morning drive time, from 5:30am until 8:30am during the weekdays. Prior to Clear Channel ownership, WWHT did not air local news.¹
- 13) On WPHR we carry local news from 6:00am until 10:00am during appropriate breaks in the Tom Joyner show aired during those hours. This show is the only non-local programming we broadcast on the station. From 11:00am until 2:00pm on Sundays Professor Roosevelt "Rick" Wright, Jr., Associate Professor in the S.I. Newhouse School of Public Communications at Syracuse University hosts on WPHR a community affairs program that focuses on the African-American community. Finally, simulcast on WWHT and WPHR, the number one and two ranked stations in the market among teenagers is "Teen Talk," a call-in show from 9:00pm until 10:00pm on Sunday evenings for troubled teens that features advice from professional counselors. Prior to purchase by Clear Channel, WHEN and WPHR had no local talk show.
- 14) WPHR offers an additional unique service to the community. Every hour the station airs public service announcements made on behalf of local non-profit organizations. Specifically, the station makes available a special PSA mailbox (315.478.6138 ext. 8815) on which representatives of these non-profit organizations can call and record a 30 second message

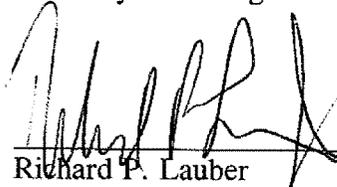
¹ For the short term, recently acquired WXBB is simulcasting WBBS because the station's former owner retained all rights to the station's programming. Meanwhile, we are conducting research to determine the best new format for the station. We hope to provide a format that serves a currently underserved market demographic. This provides a win-win situation as we would provide additional programming choices to a population of listeners and would improve our ability to deliver that demographic to our advertiser clients. Due to intense competition in the market, however, Clear Channel does not wish to provide specific details on the programming being considered.

about a specific event. The station then takes the message, adds its own tags at the beginning and end of the message, and airs the completed PSA for the two weeks prior to the event. Typically the mailbox receives at least ten messages each week.

- 15) Additionally, each station provides breaking reports. For example, when a torrential storm unexpectedly hit the area on Labor Day 1999, we broadcast storm warnings and information. Because all of our stations are on generators, we are able to continue operations even in situations involving massive power outages. Finally, the ability of the stations to combine their reach in order to provide the entire Syracuse community with critical news and information was never so clear as on September 11, 2001. After the first plane hit, all of the stations began to broadcast information provided by WSYR. Additionally, the stations constantly received updated information from other Clear Channel stations. Messages containing valuable information and audio clips were quickly disseminated across the country via the program director's e-mail group. For example, the sports director for WYSR/WHEN was visiting family within a mile of the Pennsylvania Flight 93 crash site. He contacted WSYR and provided information that was aired on that station. The audio was then made available to all other Clear Channel radio stations. He also made himself available by telephone to the entire Clear Channel broadcast group for further interviews.
- 16) Most of the talent on the stations is local. For example, all of the disc jockeys on WYYY are local and local Programming Director Kathy Rowe chooses the music for the station. All research related to the programming is conducted at the local level and is therefore specific to this market. Similarly, all of the disc jockeys at WWHT are local with the exception of one disc jockey who moved out of the area but continues to broadcast his show from a remote location.
- 17) I serve as the Program Director for WBBS. That station employs only local talent with except between the hours of midnight to 5:00am, when we broadcast syndicated programming.
- 18) Clear Channel corporate management provides me resources that help me in better programming the stations. This includes extensive research conducted locally in order to identify the informational and entertainment needs of the Syracuse listeners. Each year we (and our big competitors, Galaxy and Citadel) spend tens of thousands of dollars to do this research. Once we receive the results of this research, we implement changes in order to cater to the needs and interests of our audience. It would not be financially feasible for a small operator to conduct this sort of research. For smaller operators, programming decisions are based on best guesses about what the public wants rather than actual input from the public.
- 19) We also receive funding for capital expenditures such as the installation of state-of-the-art studio equipment that improves the quality of the programming and speeds production time. For example the Prophet System digital automation system has been installed in all of our stations. Through this equipment, digital source material is sequenced by the computer, resulting in less "human error" in its presentation. Additionally, we use money saved through consolidation to increase compensation in order to hire better talent. Clear Channel

corporate management does not, however, seek to influence the programming decisions made by the market.

The foregoing is true to the best of my knowledge.



Richard P. Lauber
Director of Programming – Syracuse
Clear Channel Communications, Inc.

March 27, 2002

Exhibit 3

Declaration of Bill Carey

News and Program Director, WSYR(AM), Syracuse, NY

Declaration of Bill Carey

I hereby declare under penalty of perjury that:

- 1) For nearly three decades I have been in the broadcast industry – all of that time in the Central New York area. Currently I am WSYR News and Program Director for Clear Channel Communications, Inc. Prior to assuming this position I was with WIXT(TV), Syracuse as a reporter for over seven years. For the seven years before that I served first as reporter, next as executive producer and finally as news director for WTVH(TV), Syracuse. Before that I spent twelve years working for Park Communications, Inc. at radio station WHEN as an anchor reporter and then as news director. My first job in broadcast was at WMBO in Auburn, New York where I was a reporter anchor and then news director. I have lived in Central NY all of my life.
- 2) Our station has extensive news-gathering personnel, equipment and expertise. On the local level, we solicit information and views from a wide cross section of community leaders and community groups. We also have access to numerous news sources such as the AP wire.
- 3) Consequently, WSYR serves as a sort of local AP wire for the rest of the Syracuse Clear Channel stations.
- 4) Each station in the Clear Channel group has access to the raw news and information gathered by the WYSR team. It is then up to each station to determine the way in which it will use that material. There is no “master opinion” – no overriding philosophy – that lists the form that news broadcasts will take. For example, WYSR will use the basic news information gathered in one way, while Hot [WWHT] will use it in another way, as will Power [WPHR], B [WBBS] or WHEN. Thus, the manner in which the information is used by each station is as diverse as the stations are. I do not believe that anyone who listens to newscasts on our stations during the morning drive would believe that there is one viewpoint being advocated by the Clear Channel stations.
- 5) The expansive news gathering resources provided us by Clear Channel has allowed us to increase the breadth and depth of the information we provide. This results in our audiences gaining greater insight and knowledge of the issues covered. Specifically, as Clear Channel has grown in size, it has insured that we have the financial resources necessary to support our news-gathering efforts. Without these resources, and operating as individual rather than group-owned stations, the Clear Channel Syracuse stations would be unable to support any significant newsgathering efforts and would return to the “rip and read” procedure often used years ago, whereby a station’s newsgathering and public affairs efforts would consist solely of reading bits of articles pulled from the local newspaper. Through “rip and read” listeners would hear only the viewpoint of the local newspaper.
- 6) That Clear Channel has done a good job with respect to local news was demonstrated by the fact that in year 2000 the WSYR news department won the national Edward R. Murrow award from the RTNDA for “overall excellence” in radio news.

The foregoing is true to the best of my knowledge.



Bill Carey
WSYR News and Program Director
Clear Channel Communications, Inc.

March 27, 2002

Exhibit 4

Declaration of Joanne L. Aloï

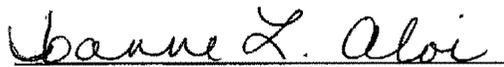
Clear Channel Syracuse Market Controller

Declaration of Joanne L. Aloï

I hereby declare under penalty of perjury that:

- 1) For 25 years I have been in the radio industry. Currently I serve as the Syracuse Market Controller for Clear Channel Communications, Inc. I worked in the same capacity in Syracuse for Cox Radio, Inc. Prior to that I worked as Assistant to the General Manager for NewCity Communications. Before assuming this job, I was Controller for Osborn Communications. Prior to that, I worked in Cortland, New York for Sun Radio, Inc. first as Traffic Director, then as Office Manager and finally, as Business Manager. I have lived in Central New York all of my life.
- 2) Many of the technical upgrades and improvements in programming were made possible through cost savings realized by the economies of scale achieved by cluster ownership.
- 3) Operation of the stations on a stand-alone basis would cost approximately \$200,000 more per year. Consolidation has led to economies of scale, however, which allow for numerous cost saving opportunities. A large portion of the savings is operational savings, the majority of which results from combining the facilities of the stations. This has reduced the cost of rent by approximately \$22,000, utilities by \$12,000, telephone costs by another \$12,000 and insurance by \$5,000 as all of our stations are now run from the same facility. We also save money on bulk ordering of supplies and combined use of equipment. Specifically, we save approximately \$7,000 on supplies, \$5,000 on machine leases and \$7,000 on postage.
- 4) In capital expenditures and research alone, Clear Channel has spent over \$1.2 million dollars on the stations. This money includes projects that improved and expanded the signal coverage of stations WPHR, WXBB, WHEN and WSYR. It also includes installation of state-of-the-art studio equipment for the stations. Additionally, we have spent some of the savings on higher compensation for various positions. This has enabled us to lure more talented, experienced employees to the Syracuse stations
- 5) One reason we were able to successfully change WPHR to an urban format is because we did not have to start from scratch with the station. When the format was launched the station already had studios and office space, plus over forty people from the existing Syracuse market sales staff to work on selling time on the station.

The foregoing is true to the best of my knowledge.



Joanne L. Aloï
Market Controller – Syracuse
Clear Channel Communications, Inc.

March 27, 2002

Exhibit 5

Clear Channel – Syracuse Capital Expenditure Investments Since Ownership

Prepared by Joanne L. Aloï

Clear Channel Syracuse Market Controller

CLEAR CHANNEL - SYRACUSE CAPITAL EXPENDITURE INVESTMENTS SINCE OWNERSHIP

	PROJECT	1999	2000	2001	2002	TOTAL
WPHR Booster Project	40,000					40,000
WXBB Site Move	150,000					150,000
WHEN Tower Project	109,000					109,000
Building Construction	142,000					142,000
WSYR Transmitter					33,000	33,000
Studio Equipment/Prophet		12,000	336,000	59,000	29,985	436,985
Transmitter/Tower/Antenna		2,000	35,000	10,000	6,612	53,612
Furniture & Fixtures			74,000	4,000		78,000
Computer Equipment			182,000	16,000		198,000
						-
TOTALS	441,000	14,000	627,000	89,000	69,597	1,240,597

Exhibit 6

Sample of E-Mails Sent to WBBS Regarding Coverage on September 11



Letters from our listeners...

I would like to take this time to thank you and your radio station for keeping ALL the Central New Yorkers so very well informed. This is in deed a time of sorrow. We must now concentrate on the wounded and the hurt and say a paryer or two for them. We live in a wonderful Couuntry that is filled with much love.

If there ever was a time for everyone to pull together, now is definitely the time. Once again, please pass along many thanks to Clear Channel for broadcasting around the clock for us. Though we can not all be there volunteering, we can be there in spirit.
-Nicole

Totally cool idea Diana! We will be calling for sure!! Congrats on having such a warm heart and helping our city help those in need!
-Denise

Diana-
I am standing by your decision to broadcast coverage of today's events. As horrible and horrific they are, it is a great honor that you do this for your listeners and for the tragic loss of lives and for their family. Kudos to you and your station for having a heart!
-Denise

Diana-
Your stations are doing the right thing.
Thank you and God bless.
-Tim and Sally

I appreciate your consideration for your listeners. Although I love the music, I needed to know the latest of todays tragic events.
Thank you.
-RaeAnn Fitch

Diana-
I think it is wonderful that B104.7 is continuing coverage of the events. I have been listening since yesterday morning. Although, I do love to listen to Ron and Becky- I appreciate your coverage.
Thanks and God bless,
Elizabeth Dudley



Letters from our listeners...

Thank you so much- to all of your staff, and on-air personalities for continuing your non-stop coverage. I imagine it is very difficult for those in the media to struggle with their own sense of grief, disbelief, anger, etc... while continuing to provide live coverage. Thanks to them for their courage and outpouring of love to all of us.

God bless to all!

-Dianne Martin

Diana, just a few remarks concerning the tragic events:

I feel that the culprit (whomever that may be) is smiling, and laughing at the United States, and I just want to wipe that smile right off his face!!!

I have been listening to Ron and Becky's broadcast, and they have done a great job as always. They have helped me with their humility, dignity, anger and compassion.

-Bob Heitzman

I just want you to know that I think you guys are great... for letting this be broadcasted over the radio as some of us at work only have access to the radio...

Thanks and God Bless

-T Young

I would like to say that the staff at B104.7 is doing a great job. I am really impressed and pleased with the broadcasting program that is being done today. Words cannot explain how we all feel.

I am a parents of two children. My daughter Alisha is 16 years old and my son Joshue is 13 years old. I have had many mother/daughter talks and mother/son talks about the facts of life, drugs and alcohol. This has been the hardest thing I have ever had to do in my life. To try to explain what, where and why. When I got home last night my son and daughter were both sitting beside each other watching the terrifying photos on television. They had so many questions that I just could not answer. This mornign we were

watching the news and they showed a clip wher the kids were celebrating overseas because of what had just been accomplished on the U.S. My son turend and asked me why they were happy for killing so many fathers, mothers and kids. It is just so'hard to try to help them understand and try to reassure them that everything will be ok.

I know deep down inside that God is watchign over all of us. That everyoen is all here supporting and praying for victims, family and friends. May we all keep our faith and trust that we will all pull through this.

Thanks again for the great job!

Jackie



CLEAR CHANNEL RADIO

Y94FM

The Best Mix of the 80's & 90's

Letters from our listeners...

Bill,

Very glad to hear of your Radiothon. Everything helps at a time like this.

Sincerely yours,

Sally Hough

Thank you, Bill, for your email. I was listening to the station this morning when I heard about the radiothon and called in my pledge. I would like to thank you and your station for the opportunity to assist in this effort.

Sincerely,

Sue Smith

Bill-

I just wanted to send a short personal note to all of you at Clear Channel Communications. I listen to local Clear Channel Communications radio stations, in the Utica and surrounding areas (93.5, 102.5 & 104.7) during my commute to and from work (I spend about 1 ½ hours in the car each day). The coverage over the past few days has been extraordinary! The radio personnel is also encouraging people to give blood and to volunteer. They've done a great job keeping all of us informed and have showed such compassion!

Today, all local Clear Channel Communications stations are banding together to host a radio-thon to raise money for those impacted by the tragedy in NYC. What an outstanding community effort! I just wanted to thank you for being our partner and to tell you how much I appreciate the Clear Channel Communications stations!

Sincerely,

Paula



Letters from our listeners...

I was on hold to make some comments on the air, but my cell phone lost it's signal, and I had to hang up.

I just wanted to say to all of you at B104.7... thank you for your programming and coverage and the way you have all been there for anyone who needed to get help, give help, whatever. You have all been great. Other radio stations have gone back to business as usual, which I know has to be done sooner or later. But, I'm glad your station gave me a place to turn to to hear only patriotic and comforting music. I had to work today, but thanks to your station, I was able to keep updated on what was happening and only hear music that was appropriate at a time like this.

I will be listening tomorrow also and hope that there will be plenty of money raised to help the victims of the horrible, horrible crimes committed against our country.

My prayers are with the families and friends of all the victims and with all of these survivors.

Again, thank you.

-Nancie Hanley

I just wanted to say "Thank You" for having the coverage on all day... we were at work, and not near a TV. We have all been glued to the radio all day. This truly is a horrible, horrible event, but somehow, listening to the coverage held us all together. Thank you again.

-Melody Webster

I just wanted to say I think Clear Channel Syracuse and Utica is doing a wonderful job!! Hats off to your company and all your employees.

-Denise Burke

Hi there. For some reason, I received your e-mail twice. Thank you for keeping me updated on B104.7. You all are doing a great job with the coverage of this awful event. My hats off to all of you.

-Patricia

Exhibit 7

Letters Regarding Clear Channel Syracuse Charitable Donations.

**UPSTATE
MEDICAL
UNIVERSITY**
Foundation

file

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Dodie Vlassis
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Ronald R. Young

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Claude J. Incaudo
Robert E. Pietrafesa II
William J. Williams, M.D.

Staff

Vice President
Eileen M. Pezzi

February 12, 2001

Clear Channel Broadcasting, Inc.
Mr. Joel Delmonico
500 Plum Street
Syracuse, NY 13204

Dear Mr. Delmonico:

The SUNY Upstate Medical University is extremely grateful for your gift of \$20,000.00, designated to the Pediatric Child Abuse Fund at the Upstate Medical University Foundation.

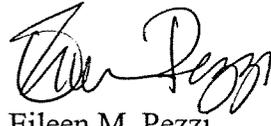
We consider ourselves fortunate to have the support of people who have a sincere commitment to the Central New York community. With your gift, we are able to continue providing quality patient care, medical education, and biomedical research. Please accept my personal thank you for your vital contribution.

Sincerely,



Gregory L. Eastwood, M.D.
President

Sincerely,



Eileen M. Pezzi
Vice President for Development

P.S. This letter serves as your receipt for tax purposes. No goods or services were provided.





July 20, 1999

Mr. Joel Delmonico
Clear Channel Metroplex, Inc.
500 Plum Street, Ste. 100
Syracuse, NY 13204

Dear Mr. Delmonico:

Thank you very much for your \$1,500.00 contribution* to the Anti-Defamation League. Your friendship and generous support are vitally important and most meaningful to us.

ADL is in its 85th year of tireless dedication to the mandate of the 1913 charter so eloquently crafted by our founders, "to stop the defamation of the Jewish people...to secure justice and fair treatment to all citizens alike." While that mission has been partially fulfilled, satisfaction in the battles ADL has won is diminished by daily reminders that too many of our citizens still suffer the pain of prejudice, bigotry, racism, anti-Semitism and bias-motivated violence that often threatens to infiltrate the mainstream of American life. We still suffer from hateful words that lead to hateful deeds against those perceived to be different. We still suffer from extremists whose anti-government, conspiratorial ideas are as dangerous as their weapons and infinitely more difficult to contain.

But our dream of a just society comes a little closer to reality every day because of partners like you. We're proud of your support, and very, very grateful!

Sincerely,

Howard P. Berkowitz
National Chairman

Abraham H. Foxman
National Director

* ADL will issue receipts as required by the Internal Revenue Service for 1999 gifts in January 2000.

HPBAHF:lw
09956175

Anti-Defamation League of B'nai B'rith, 823 United Nations Plaza, New York, NY 10017

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CARYL STERN-LAROSA

Finance & Administration
BOBBIE ARBESFELD

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Assistant to the National Director
MARK D. MEDIN

Marketing & Communications
MARK A. EDELMAN

Washington Representative
JESS N. HORDES

General Counsel
ARNOLD FORSTER



Central Locating Service, LTD

An Asplundh Company

June 4, 1999

Mr. Joel Delmonico
Clear Channel Communications
500 Plum Street
Suite 100
Syracuse, NY 13204

Dear Joel,

I would like to offer my sincerest appreciation for the contribution of \$7,500 made to the North Area Athletic Club.

I am happy we were able to work things out and partner for the Imus breakfast. It was a big success. Congratulations on a job well done.

Please call on me if I could be of any assistance to you in the future.

Kindest personal regards.

Sincerely,

Samuel J. Lanzafame
President

SJL/lp

Exhibit 8

Press Release: American Heart Association Acute Event Call-to-Action Campaign



Clear Channel owns or operates approximately 1,170 radio and 19 television stations in the United States and has equity interests in over 240 radio stations internationally. Clear Channel also operates more than approximately 700,000 outdoor advertising displays, including billboards, street furniture and transit panels around the world. And, in 2000, Clear Channel produced over 25,000 shows and events.

Clear Channel is in the business of selling goods and services for our advertising customers, and our service is a partnership to that end. In doing so we believe maximizing the satisfaction of our customers is our most important concern as a means of warranting their continued loyalty. People are our most important asset, making the critical difference in how we perform and what separates us from our competitors. We have an obligation for the well-being of the communities in which we work. The future of the broadcasting industry is closely tied to public service and the standards we set will be measured critically by the communities we serve and the regulators who license us.

In conjunction with the American Heart Association we intend to use our ability to reach the community to promote the Acute Event Call –to-Action Campaign. We have designed a radio advertising campaign to drive people to seek emergency treatment immediately when experiencing the warning signs of heart attack and cardiac arrest. The public call-to-action is to save more lives and reduce disability by recognizing the warning signs, acting fast, calling 9-1-1, having PAD programs readily available in the community and getting to the emergency room right away. A focus on educating Central New York about the benefits of having a public access defibrillation program in their workplace should improve the areas survival rates over time.

As a first step in educating the community it is our intent to start in the Clear Channel Syracuse, New York office. A policy has been developed that creates an Emergency Response Team on the premises. The Response Team will be trained rescuers in the Heartsaver AED program, by Rural Metro. We will work with Rural Metro on interface and protocols, as well as, maintaining the AED according to manufacturer's specifications.

For more information please contact Joel Delmonico, Clear Channel Syracuse Vice President/Market Manager or Loni Broton PAD Project Coordinator at (315) 472-9797.

Exhibit 9

Sample of Letters to Clear Channel Syracuse from Community Organizations



DEPARTMENT OF VETERANS AFFAIRS
Syracuse VA Medical Center
800 Irving Avenue, Syracuse, NY 13210

March 8, 2002

Mr. Joel Delmonico
Vice President/Market Manager
Clear Channel Radio
Bridgewater Place
500 Plum Street, Suite 100
Syracuse, New York 13204

Dear Mr. Delmonico:

This letter expresses our sincere appreciation for your support of **DAY OF HONOR** held on July 20, 2001 at the OnCenter in downtown Syracuse.

DAY OF HONOR paid tribute to Central New York's World War II Minority Veterans for their heroic service. They enlisted, volunteered, and were drafted at a time when segregation and discrimination were accepted practices. In 2000, nearly 60 years later, the U.S. Congress unanimously passed a Resolution establishing a **DAY OF HONOR** to say 'Thank You' to a group of military heroes who were intentionally ignored.

Your support made this historic community event a success!

All Syracuse VA personnel who worked on this event were extremely impressed by both the amount of support provided by Clear Channel and the attitude and commitment displayed by all members of your radio staff.

Clear Channel support was nothing less than outstanding!

Your production staff created a variety of spot awareness campaigns:

- ❖ To Locate Minority Veterans,
 - ❖ To Secure \$\$\$ from listeners by creating On-Air Fundraising Initiatives to Support the Awards Program/Dinner
 - ❖ To Promote this historic community event in each of the 3 Clear Channel radio markets in Syracuse-Utica/Rome and Binghamton.
-
- In addition, 'live' interviews with WW II Minority veterans were broadcast so that these wartime heroes could tell their stories for the first time!
 - Your Clear Channel staff welcomed our VA personnel to your studios for weekly planning meetings, six weeks prior to the event.

If that were not enough, on the evening of the event, you were out there with the crowds, to personally welcome each of the 88 veterans who arrived by limousine at the front entrance of the Oncenter. You added an extra touch of “class” to an exciting, emotional evening!

Day of Honor helped fill a glaring omission to American history—an event that served as a long-awaited ‘thank you’ to our World War II Minority Veterans. There were a lot of tears and smiles among the 88 veterans who were in attendance. Most never dreamed that they would ever receive such recognition.

Now it’s our turn to recognize you!

On behalf of Central New York’s Minority Veterans and the Syracuse VA Medical Center, thank you for supporting our veterans, and for everything you do for our community. You set an extraordinary example for all to follow.

Day of Honor is a project we can look back with pride, thanks to you and your professional, caring staff. Our staff looks forward to working with you on future efforts.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Cody".

JAMES CODY
Medical Center Director

Anthony J. Bifaro
Chairman

Neal J. Johnson
President & CEO



Governor George E. Pataki
Honorary Chairman

Dorothy Buehring Phillips
(1910 - 1994)
Founder

February 28, 2002

Mr. Joel Delmonico
Clear Channel Communications
Bridgewater Place
500 Plum Street, Suite 100
Syracuse, NY 13204

Dear Mr. Delmonico:

I am writing to thank you for your support of the Special Olympics New York 2002 Winter Games. Your generous Official Level sponsorship helped us to provide the quality programs that our athletes and their families have come to expect and enjoy.

The weekend was a great success. The Opening Ceremonies were spectacular and the athletic competition was exciting and memorable for our Special Olympics athletes as well as the record number of nearly six hundred community volunteers who gave so freely of their time and energy. It was a weekend to remember, and you helped to make it all possible.

If you were able to attend the Winter Games, you will have shared those inspiring moments when all of the hard work that we do throughout the year comes full measure and we are all reminded in our hearts that this is what Special Olympics is all about.

Enclosed is the Winter Games Program Book distributed at all competition venues with your full page ad marked.

It has been a pleasure working with you and your staff and we look forward to the opportunity to work with you again. Many thanks to Clear Channel Communications for helping to make this exceptional event possible.

Sincerely,

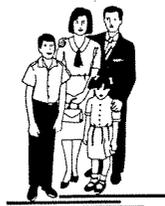
A handwritten signature in black ink, appearing to read "Rita Cox", written in a cursive style.

Rita Cox
Director of Development

RC/rm

Enclosure

cc: Jennifer Cline



The Spanish Action League of Onondaga County, Inc.
La Liga de Acción Hispana del Condado de Onondaga, Inc.

Executive Director Fanny Villarreal de Canavan

October 30, 2001

Executive Board

President
Paul Nojaim

Barbara Miller
Clear Channels Radio
500 Plum St., Suite 100
Syracuse, NY 13204

Vice-President
Ramón Rivera

Secretary
Miguel Pérez

Dear Barbara,

Treasurer
Joseph Mocciano

On behalf of the Spanish Action League we would like to thank you for your generous sponsorship of our 2001 Dinner Dance. We were pleased to welcome Raul Yzaguirre, President of the National Council of La Raza, and Congressman James T. Walsh this past Saturday, October 27th to our gala event. Your contribution of countless radio spots to promote the Dinner Dance helped our agency in bringing in 286 guests – raising over \$20,000.00! Perhaps more importantly, your efforts will help contribute to the growth and sustainability of our organization in the future.

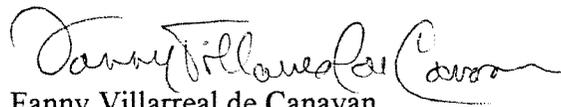
Members

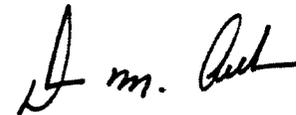
David Aitken
Calvin Corriders
Walt Dixie
Nancy Kronen
George Martinez
Fernando Ortiz
Luz Rivera
Julio Urrutia
Nancy Wiggs

This year's fundraising efforts have proven to be positive, not only for the agency, but also for the Hispanic and greater communities as a whole. Funds raised from the Dinner Dance will help support the Spanish Action League's Latino Scholarship Endowment through the CNY Community Foundation, as well as the agency's many services including employment assistance, domestic violence crisis intervention and education, after school programs, and housing assistance, among others. It is through the generosity of local companies and individuals such as yourself that we are able to continue to serve the Syracuse and greater communities on a daily basis.

Thank you again. We look forward to working with you in the future.

Sincerely,


Fanny Villarreal de Canavan
Executive Director


David M. Aitken
Dinner Dance Committee Chair



MDA

METROPOLITAN DEVELOPMENT ASSOCIATION OF SYRACUSE & CENTRAL NEW YORK INC.

STEPHEN ROGERS • CHAIRMAN

H. DOUGLAS BARCLAY • PRESIDENT
IRWIN L. DAVIS • EXECUTIVE VICE PRESIDENT

September 25, 2001

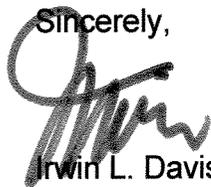
Mr. Joel Delmonico
Vice President & Market Manager
WSYR/WHEN/WBBS/WYYY/WWHT
Clear Channel
500 Plum Street
Bridgewater Place
Syracuse, New York 13204

Dear Joel:

On behalf of the business leadership of the region, I want to recognize and sincerely thank you and your colleagues at Clear Channel for the tremendous effort you undertook to raise funds for disaster relief. You are always quick to see how your company and your stations can help our community. Now you have shown how you can undertake a local effort that has significant national benefit.

Congratulations and again a very big thank you.

Sincerely,



Irwin L. Davis
Executive Vice President

For Immediate Release

Contact:

Melissa J. Braun
Marketing Communications
American Heart Association
315-446-8334
mbraun@heart.org

**American Heart Association and Clear Channel
Communications announce “Save a Life Site” program**

Program designed to increase survival from sudden cardiac arrest in
Central New York.

The American Heart Association Upstate Region and Clear Channel Communications will announce Tuesday June 5th a partnership to strengthen the “Chain of Survival” in Central New York. The partnership will include an education radio campaign and a work site program called “Save a Life Site” designed to increase the number of local businesses that are equipped with an Automated External Defibrillator (AED).

“We are thrilled to be working with Clear Channel Communications on this grass roots effort. It allows us the opportunity to educate the community and work with local businesses to ensure they can effectively respond to medical emergencies such as sudden cardiac arrest,” said Stephen Militi, Executive Director Upstate Region of the American Heart Association. “Having trained lay rescuers equipped with AEDs saves precious minutes and improves survival rates for cardiac arrest victims. AEDs in the workplace can make the difference between life and death for employers.”

Every year almost 220,000 people suffer cardiac arrest and only about 5 percent of them survive. For every minute defibrillation is delayed, the victim’s chances of

survival go down 7-10 percent. The four links in the Chain of Survival are early access to 911, early cardiopulmonary resuscitation (CPR), early defibrillation and early advanced medical care.

"Clear Channel Communications is very excited about the partnership with the American Heart Association. Our goal is to improve survival rates for cardiac victims in the Central New York Community" said Joel Delmonico, Vice President / Market Manager for Clear Channel Communications. "We intend to engage as many local businesses as we can in the 'Save-A- Life Site' program and with their help, strengthen the Chain of Survival in our community"

Through the "Save a Life Site" program local businesses will be educated on the importance of a strong Chain of Survival. The program will assist businesses in acquiring an AED and the training of employees to respond to cardiac arrest emergencies. Companies that become Public Access Defibrillation (PAD) sites as a part of the "Save a Life Site" program will receive a plaque to display at the entrance of their establishment.

In addition to spearheading the project with the American Heart Association, Clear Channel Communications is the first "Save a Life Site" in Central New York. To kick off the program Clear Channel has acquired an AED, through a donation from the James J. Dwyer Jr. Memorial Fund, and has trained staff to be prepared for emergency response to a cardiac arrest.

A corporate kick off will be held Tuesday, June 26th at the Quality Inn Buckley Road. Interested employers should call the American Heart Association at 446-8334 or Clear Channel Communications at 472-9797 for details and registration.

###

The American Heart Association spent about \$337 million during fiscal year 1999-2000 on research support, public and professional education, and community programs. Nationwide, the association has grown to include more than 22.5 million volunteers and supporters who carry out its mission in communities across the country. The association is the largest voluntary health organization fighting heart disease, stroke and other cardiovascular diseases, which annually kill about 950,000 Americans.



7851
FILE

P.O. Box 564
Syr., NY 13201
Ph. 468-1928 Fax. 484-6256

Chairperson:

Barry Weiss
*Onondaga County District
Attorney's Office*

Board Members:

Zoe Artemis
Gypsy Fire Dance Troupe

Jennifer Bottar
MRA Associates

Maria DeSantis

Alison Fineberg
*Onondaga County District
Attorney's Office*

H.J. Hubert, Esq.
*Bond Schoeneck
& King LLP*

Candi Jost

Jerry Keohane
Oncenter

Mary Kipfer

Connie Kittell Hunt
*NY Senate Speaker's Office-
Syracuse*

Jan Quitzau
*Syracuse Convention &
Visitors' Bureau*

Walt Shepard
Media Unit

Ron Simons, CPA
Piaker & Lyons CPAs

Roz Starowicz

Michael Wesolowski
Gallery 210

January 11, 2001

Joel Delmonico
Vice President
Clear Channel
500 Plum Street, Ste. 100
Syracuse, NY 13204

Dear Joel:

On behalf of the Board of Directors of First Night Syracuse, we would like to once again, express our sincere appreciation of your continued generous media sponsorship of the First Night event.

Your support helped us to publicize and provide an alternative New Year's Eve event to our community by offering over 30 cultural activities and performances attended by thousands of Central New Yorkers.

As you will see from the enclosed materials, First Night Syracuse received very positive publicity and has emerged as an expectation as an annual event in Syracuse.

With the support of media organizations such as Clear Channel, we're confident that First Night Syracuse will continue to grow and provide a unique, community-wide celebration to all residents of the Greater Syracuse area.

Again, thank you, and best wishes for a healthy and prosperous New Year!

Cordially,

Barry Weiss
Chairman
First Night Syracuse

Roz Starowicz
Board of Directors
First Night Syracuse



Rescue Mission

Your Mission is love in action!

Charles "Chasz" Parker
Executive Director

120 Gifford Street
Syracuse, NY 13202-2391
(315) 472-6251

January 5, 2001

Mr. Joel Delmonico
General Manager
Clear Channel
500 Plum St.
Syracuse, NY 13204

Dear Joel,

I want to take this opportunity to thank you for your most generous support of the Rescue Mission during 2000. Through your support of the Ken Blanchard Leadership event, Fries for Friends, Scan-Away Hunger and the Holiday Wish Lists for children served by the Mission's Christian Community Center, Clear Channel stations have helped the Rescue Mission raise awareness and needed funds for its programs to the poor and homeless of Central New York.

On behalf of the staff, residents and guests of the Rescue Mission, thank you for being such a faithful partner to the Rescue Mission. It is because of the continued support of friends like Clear Channel that the Rescue Mission is able to provide critical services to those in our community who are most in need. I extend my sincere wishes for a most happy and prosperous New Year to you and the entire Clear Channel team.

Gratefully,

Chasz. Parker
Executive Director

file



May 10, 2000

Joel Delmonico
WBBS-FM/ WHEN-AM/ WSYR-AM/ WWHTFM/ WYYY-FM
500 Plum Street, Ste 100
Syracuse, NY 13204

Dear Joel;

Thank you for your outstanding support of the National Campaign Against Youth Violence PSA launch on April 20th.

Your participation in this multi-media roadblock ensured that virtually everyone watching television, listening to radio, reading newspapers or surfing the internet had greater opportunity to be exposed to these important messages at a time when the public's attention was squarely focused on the anniversary of the Columbine tragedy.

We know this campaign is an important first step in reducing incidents of youth violence in America; giving adults the opportunity to reflect on how they can influence their children's behavior, while celebrating the hero within all young adults who make the conscious decision to reject violence of any form.

Inspiring social change always requires a long-term commitment and a sustained effort. Toward that end, the Ad Council and the National Campaign Against Youth Violence will distribute revised versions of these PSAs in addition to new executions throughout the year. We hope you, our media partners, will continue to demonstrate your commitment to reducing youth violence in this country by continuing your support of this campaign going forward. Thank you.

Regards,

JLB

Jeffrey L. Bleich
Chief Executive Officer
National Campaign Against Youth Violence

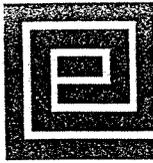
Peggy Conlon

Peggy Conlon
President & CEO
The Advertising Council

NATIONAL CAMPAIGN AGAINST YOUTH VIOLENCE

CORRESPONDENCE 33 New Montgomery Street • 20th Floor • San Francisco, California 94105-9781 • TEL 415.512.4008 • FAX 415.512.4038 • WEB www.noviolence.org

Ron Burkle - The Yucaipa Companies • Steve Case - America Online • Henry Cisneros - Univision Communications Inc. • Benjamin Civiletti - Fmr. U.S. Attorney General • Mayor H. Brent Coles - U.S. Conference of Mayors & City of Boise • John Devine, Ph.D. - New York University, retired • Senator Robert J. Dole - Fmr. Senate Majority Leader • Jason Dorsey - World Institute to End School Violence • Hon. Jennifer Dunn (R-WA) - Bipartisan Working Group on Youth Violence • Gregory Favre - The McClatchy Company • Hon. Martin Frost (D-TX) - Bipartisan Working Group on Youth Violence • Don Garber - Major League Soccer • Leo J. Hindery, Jr. - GlobalCenter Inc. • Robert A. Iger - The Walt Disney Company • Rick Inatome - ZapMe! Corporation • Mel Karmazin - CBS Corporation • Francine Katz - Anheuser-Busch Companies, Inc. • Geraldine Laybourne - Oxygen Media • Ira A. Lipman - Guardsmark, Inc. • Judith A. McHale - Discovery Communications, Inc. • Rupert Murdoch - News Corporation • Neal Neilinger - Banque Paribas • Deborah Prothrow-Stith, M.D. - Harvard School of Public Health • Eli Segal - Welfare to Work Partnership • Mayor Wellington E. Webb - U.S. Conference of Mayors & City of Denver • Mark Abbott - Chief Operating Officer • Jeffrey L. Bleich - Chief Executive Officer **BOARD OF DIRECTORS**



EVERSON MUSEUM OF ART

Sandra Trop
Director

May 21, 1999

Joel Delmonico
Clear Channel Communications
500 Plum Street
Syracuse, NY 13204

Dear Joel,

Thanks so much for your assistance in producing the PSA for the American Picnic honoring Congressman Jim Walsh and his Dad.

It is most generous of you to give the museum that kind of visibility. We are very appreciative.

I wish you had been at the event. It was really a fun evening.

Warm personal regards,

Sandra Trop
Director

ST/pjs

Exhibit 10

Letter from John R. Porter, Director to Joel Delmonico Regarding National
Association of Broadcasters Education Foundation Service to America Award,

(dated May 12, 2000)



National Association of Broadcasters Education Foundation
1771 N Street, NW
Washington, DC 20036-2891
PH: 202.775.2559 FX: 202.775.3516

May 12, 2000

Mr. Joel Delmonico
General Manager
WSYR-AM
500 Plum Street
Syracuse, NY 13204

Dear Joel:

Congratulations to you and the rest of the staff at WSYR-AM for winning a 2000 Service to America Award. I'm sure you are deservedly proud of this honor, and even more proud of your station's good works that have been recognized.

The awards ceremony will take place during our Service to America Summit on June 12 here in Washington, D.C. at the Ronald Reagan Building and International Trade Center. NAACP President and CEO Kweisi Mfume will kick off the day when he opens our Service to America Symposium, which will also include FEMA Director James Lee Witt and a luncheon address by former President Jimmy Carter. That evening, the stars will shine when we present "A Celebration of Service to America," a black-tie awards banquet featuring our guests of honor, former President and Mrs. Jimmy Carter. It will be during this program that we present the Service to America awards.

We are pleased to invite one person from your station to attend the Summit as our guest. NABEF will provide round-trip airfare, hotel accommodations (room and tax), and complimentary admission for the symposium and banquet. (We can provide additional complimentary admissions for the events if you wish to bring others at the station's expense.) Please refer to the enclosure for more information on how to make the necessary travel arrangements. The first step is to contact Jake Geissinger in the NAB Television Department and let him know who from the station will attend.

Again, congratulations on a job well done. I look forward to meeting you or one of your colleagues in June.

Best regards,

A handwritten signature in cursive script that reads "John R. Porter".

John R. Porter
Director

Enclosures

Exhibit 11

Letters Regarding Power Jam 2001



OFFICE OF THE MAYOR

Matthew J. Driscoll, Mayor

August 28, 2001

Mr. Joel Delmonico
Vice President/Clear Channel Communications Inc.
500 Plum St.
Bridgewater Place
Syracuse, New York 13203

Dear Joel:

It was a pleasure to attend the Power 106 Family Pride Days at Oneida Shores. Thank you for the invitation. I was truly amazed at how large the crowd was.

Power 106 has a great audience that represents a large section of the Syracuse community. To see so many young families enjoying a wonderful day of fellowship and fun was a great way to kick off my weekend.

Congratulations on a great event.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew J. Driscoll", written in a cursive style.

Matthew J. Driscoll
Mayor

ONONDAGA COUNTY

Parks

P.O. Box 146
Liverpool, NY 13088 September 20, 2001

(315) 451-PARK

Fax: (315) 457-3681

www.ongov.net/Parks

Nicholas J. Pirro
County Executive

Robert Geraci
Commissioner

Joel Delmonico
General Manager (via Fax)
Clear Channels
500 Plum Street
Syracuse, New York 13204

Beaver Lake
Nature Center

Re- Power Jam

Joel-

Carpenter's Brook
Fish Hatchery

Thanks from all of us at Onondaga County Parks and the thousands in attendance for producing *Power Jam 2001, A Day of Unity*, on August 4 at Oneida Shores County Park in Brewerton.

Highland Forest

Hopkins Road Park

The combination of your promotional strength, a national caliber entertainment package, and beautiful summer weather resulted in the largest event ever held at Oneida Shores during which an estimated 14,000 folks enjoyed tremendous barbeque, great music, family reunions, and taking a swim in Oneida Lake. The urban-dominated crowd was waiting for us to open the gates at 6:00 am and continued to arrive in record numbers until we reached parking capacity at the unprecedented hour of 1:00 PM. Our goals for special events are to provide compelling leisure/cultural experiences for the community and to introduce new audiences to our facilities in an efficient manner, and in both cases, with the significant support of Power 106.9 and the Clear Channel affiliates, Power Jam hit a home run.

Jamesville Beach Park

Oneida Shores

Onondaga Lake Park

Otisco Lake Park

It is also particularly impressive for a young event (this originated in 1998) which did not take place in 2000 (due to the transition in station ownership) to become an icon activity immediately; this is another testament to both the market intimacy of Clear Channels and the ability to promote effectively on a regional basis.

P & C Stadium

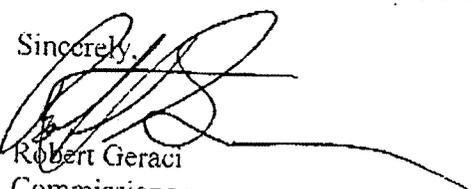
Pratt's Falls

We look forward to meeting with the Clear Channels group at Jamesville Beach Park tomorrow to review enhancements for the Power Jam at a site which provides more space for the various components of the event.

Rosamond Gifford Zoo
at Burnet Park

Sincerely,

Sainte Marie among
the Iroquois
Living History Center


Robert Geraci
Commissioner

Spafford Forest

RG/nlc

Veterans Memorial
Cemetery

Cc: Carol Fargo, Fax 472-2323
Jon Cooley
Superintendent Michael Perrotto

Exhibit 12

Sample of Letters of Gratitude

AMS

North Area Athletic & Education Center, Inc.

dba North Area Athletic Club, Inc.

507 Pond Street
Syracuse, New York 13208

(315) 471-8662
Fax (315) 478-1358

Raymond M. Rinaldi
Executive Director

Christine E. Rinaldi
Program Director
Joseph V. Daloia
Administrative Manager

May 4, 2001

Joe Delmonico
570 WSYR/620 WHEN
500 Plum Street, Suite 100
Syracuse, NY 13204

Dear Mr. Delmonico:

The North Area Athletic & Education Center's (NAA-EC) 1st Annual "Run-for-Youth" held Sunday, April 22nd was a success! Over \$11,000 was raised to benefit Syracuse's at-risk-youth.

On behalf of the NAA-EC Board of Directors and Fund Raising Committee, we would like to thank 570 WSYR/620 WHEN for sponsoring the 1st Annual "Run-for-Youth." This was truly a community event. Various businesses sponsored and participated in the event as well as local schools and individuals from all over the Central New York area. Not only was our goal to raise money for the Center, but to increase awareness of the need to help the youth of our community -- and we did just that.

Thanks again for your sponsorship. We look forward to next year's event.

Sincerely,

Ray Rinaldi

Beth Barnack

Laurie DellaTorre

Ray Rinaldi
NAA-EC Director

Beth Barnack
NAA-EC Event Director

Laurie DellaTorre
NAA-EC Fund Raising Chair



"A Commitment to Youth, Our Most Valuable Asset"



WSYR

Pastors John and Lisa Carter

7000 All Nations Blvd., E. Syracuse, N.Y. 13057
(315) 463-7300

March 17, 1999

Joel Delmonico
Vice President
WSYR-AM, 570
500 Plum St. #100
Syracuse, NY 13204-1427

Dear Joel:

It is wonderful to see how collective efforts such as was demonstrated by WSYR-AM, 570 can result in positive change in our community. We believe that both the recipients of the smoke detectors, and the volunteers that went into the homes, have been changed forever. The community response was overwhelming and we realize that it could not have been possible without your participation. Thank You!

As a result of our joint efforts we were able to install smoke detectors in many homes in the near west side of Syracuse. The families reached were notably affected, but most importantly, these homes have been equipped to reduce the loss of life due to fire.

Our relationship with you is very important to us. We look forward to working closely with you in future outreaches. Our collective efforts will undoubtedly increase community participation and awareness as we continue to improve our community one family at a time. Once again, thank you. If we can be of any assistance to you in the future, please give me a call.

Sincerely,

Rev. Joseph L. Coudriet, III
Director of Ministry Operations

WBBS

If you have warning signs of heart attack or stroke, call 911 immediately!

For the most current information about heart disease or stroke, call 1-800-AHA-USA1 or visit www.americanheart.org



Fighting Heart Disease and Stroke

Upstate New York Region
5575 Thompson Road
Syracuse, New York 13214-1693
Tel 315.446.8334 Fax 315.446.6986
www.americanheart.org

April 12, 2000

Meg Stevens
Program Director
B104.7 – Clear Channel
500 Plum Street – Suite 100
Syracuse, NY 13204

Dear Meg:

Our American Heart Walk/Run was an overwhelming success, due in a large part to our partnership with B104.7 and the great individuals associated with the station. Over 4,000 participants raised an incredible \$440,000 plus.

When you and Diana said “When Becky gets behind something you don’t have to worry”, was definitely an understatement. Between you, Becky, and the other on-air representatives, there certainly was phenomenal promotion.

I know that there are many other individuals behind the scenes and I hope you will convey my sincere appreciation to all of them for supporting the American Heart Walk/Run.

Our preliminary event date (not yet finalized) for 2001 is March 31st. I hope that we can again count on you as we attempt to break \$500,000 plus.

I would welcome the opportunity to have an evaluation meeting with you, Diana and Becky to discuss how we can enhance our event and beat Utica (or at least catch-up)!

Thank you for your support of our mission to reduce disability and death from heart disease and stroke – our community’s number one and three health problems.

You are all great!

With Gratitude,

Anita C. Manpel
Executive Director

L:upstatewalk2000;posteventcorres

Empire Expo Center

581 State Fair Blvd., Syracuse, NY 13209
Phone: 315-487-7711 800-475-FAIR Fax: 315-487-9260
www.nysfair.org e-mail: nysfair@nysnet.net

Nathan Rudgers, Acting Commissioner, Dept. of Agriculture & Markets
Peter Cappuccilli, Jr., Director

May 12, 1999

Mr. Joel Delmonico
WBBS-B104.7 FM
500 Plum Street
Syracuse, New York 13204

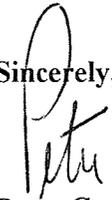
Dear Joel:

We would like to extend our sincere appreciation to you and B104.7 for your involvement and participation in the Stone/Perry Memorial Dedication that was held at the Empire Expo Center/New York State Fair on Sunday, May 2nd.

Our special thanks to Carol Fargo and Ron Bee. Carol for her time, enthusiasm and commitment, which undoubtedly helped make this event the success that it was, and to Ron Bee for the outstanding job he did as the Master of Ceremonies. And, of course, we would be remiss if we did not mention Tim Kuhl who has always supported our efforts.

Again, thank you on behalf of the Fair and both families for helping us honor Beryl Stone and John "Butch" Perry. It's wonderful being part of a community with such caring people such as yourself and your staff.

Thank you!

Sincerely,

Peter Cappuccilli, Jr.
Director

PC:jlk
CC: Carol Fargo
Ron Bee
Tim Kuhl



DISCOVER AMERICA IN THE HEART OF NEW YORK.
August 26 - September 6, 1999

VERA HOUSE
I N C O R P O R A T E D

WYYY

P.O. BOX 365 • SYRACUSE, NEW YORK 13209

ADMINISTRATIVE OFFICES/DOMESTIC VIOLENCE COALITION
425-0818

ALTERNATIVES PROGRAM
425-0901

SHELTER AND OUTREACH SERVICES
468-3260

VERA HOUSE NORTH
638-9553

September 28, 1999

Big Mike
WYYY - Y94.5
500 Plum Street, Suite 100
Syracuse, NY 13204

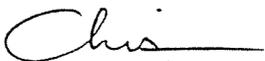
Dear Mike:

On behalf of Vera House, I would like to thank you serving as a celebrity auctioneer during our *19th annual T.G.I.F. Auction* on Friday, September 17th. You did a wonderful job entertaining our guests and keeping the bids going high. I especially want to thank you for providing 2, one hour radio spots during your morning show. I thought you might be interested to know that you brought in \$500 for Vera House with your kind donation!

Auction 1999 set records in many areas and the money raised will assist Vera House in our ongoing efforts to address domestic violence, a problem that touches thousands of people in our community. Every year, we shelter hundreds of families and provide crisis intervention and support to thousands more.

Vera House staff and volunteers, along with the many local families affected by domestic violence, join me in thanking you for your commitment and willingness to make a difference. Again, thanks for your support of this event and the Vera House mission.

Sincerely,



Christine M. Benton
Development Assistant

WYYY



United Way of Central New York, Inc.

January 30, 2001

Clear Channel Communications
500 Plum Street, Suite #100
Bridgewater Place
Syracuse, NY 13204

Dear Joel,

Thank you for helping United Way of Central New York launch the most successful promotional effort in our 80-year history. Thanks to Clear Channel, we were able to raise over \$450,000 in new contributions to the United Way campaign through our \$2 Challenge. Airing the \$2 Challenge announcement on Y94FM delighted our donors who tuned in each week to see if their name would be announced. We could not have generated the amount of excitement and enthusiasm for the \$2 Challenge without you.

In a year when local agencies were concerned about meeting the needs of people here at home, your support of the \$2 Challenge made a real difference. The campaign once again raised over \$10 million, allowing United Way to continue funding all the 143 fine programs that will help thousands of people in Onondaga County this year.

We realize you are asked to participate in many ways in the community, that you have to be selective in choosing which efforts to support. We want you to know how much your support has accomplished, and to thank you sincerely for helping us with the 2001 community campaign.

We'd also like to recognize the exceptional efforts of your staff, especially Bill Drace at Y94FM, who was extremely helpful in coordinating the on-air announcements. We were able to count on him (sometimes at moment's notice!) and he would always do his best to accommodate our requests.

On behalf of the thousands of local people your support will help this year, we thank you!

With appreciation,

Mark A. Wagner
President
United Way of Central New York

Albert J. Budney
Chair
United Way Board of Directors



WWHT

PERSON TO PERSON: CITIZEN ADVOCACY, INC.

650 James Street • Syracuse, NY 13203 • 315/472-9190
P.O. Box 551 • Fulton, NY 13069 • 315/593-2303
17-29 Main Street • Cortland, NY 13045 • 607/758-3116

January 10, 2000

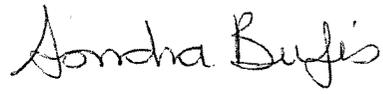
Hot 107.9
Att: Rich and Paige
500 Plum Street
Syracuse, NY 13204

Dear Rich and Paige,

The Board of Person to Person: Citizen Advocacy and I wish to thank you for your generosity of time, energy and spirit!. I have it on good authority from the Board member you worked with that they also had a lot of fun with both of you. This fund-raising event is a major undertaking for an organization with a staff of seven. We couldn't do it without our volunteers.

Your presence was noted by many of our volunteers, especially the 68 Fayetteville Manlius High School volunteers who heard the announcement on the radio. This year there were 233 volunteers helping us. The daytime slots you chose were ones that are typically hard to fill. Last year 157 people wrapped with us. I can't help but believe the extra publicity brought people in. It certainly helped to provide coverage and is probably another reason that this year beat last year in receipts. Thank you for caring enough to get involved. I hope I have the opportunity to meet you at some point and commend you on your community spirit.

With best wishes,



Sondra Bufis
Executive Director



100 Elwood Davis Road, 1st Floor, North Syracuse, NY 13212
Telephone: (315) 451-8269; Fax: (315) 451-4107
Telephone: Utica: (315) 732-4080; Watertown: (315) 788-2017

WWHT

February 18, 2000

ClearChannel/HOT 107.9
Attn: Geoff Miskinis and Promotions Staff
Bridgewater Place
500 Plum Street; Suite 100
Syracuse, NY 13204

Dear Geoff and Company:

I would like to thank all of you and HOT 107.9 for being our media sponsor for MDA Syracuse Muscle Mania 2000. The event was a fantastic success, raising over \$10,000 to benefit the people we serve and their families here in Central and Northern New York. The money raised helps pay for such program services as clinic visits, summer camp, research and support groups.

I had a wonderful time working with you in our continued fight against neuromuscular disease. The kids really enjoyed having 107.9 as a sponsor, and you did a great job at the event. Again, I thank you so much for your time and hard work and I look forward to working with you in the future.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Gibbons". The signature is written in black ink and is positioned above the typed name and title.

Sarah Gibbons
Program Coordinator

SG/dk

Muscular Dystrophy Association

JERRY LEWIS, National Chairman

Dedicated to the eradication of the muscular dystrophies, amyotrophic lateral sclerosis (Lou Gehrig's disease), myasthenia gravis, the spinal muscular atrophies, Friedreich's ataxia and a host of other neuromuscular diseases.
www.mdaua.org

WWHT
Handwritten signature

▲ **Syracuse Office**
627 W. Genesee St.
Syracuse, NY 13204
(315) 475-2430
Fax (315) 472-6515

June 4, 1999

Joel Delmonico
General Manager
Clear Channel Communications
Bridgewater Place
500 Plum St. Suite 100
Syracuse, NY 13204

Dear Mr. Delmonico:

Had a wonderful time Tuesday night - who wouldn't, picking up a check for \$6500 while thousands cheer you?!

I can't begin to tell you how much your generous donation has meant to all of us here. Such spontaneous gifts are few and far between. When they do come, however, they never fail to boost our spirits dramatically. This work can be very discouraging and to know that the support of other community members is behind us reinforces our determination and dedication. Thank you.

The ads you've been running promoting our upcoming AIDS Walk/Run, as well as those acknowledging Tuesday night's "Summer Jam", have been terrific as well. You folks over there at 107.9 know how to do things up right. Again, thank you.

Please extend our gratitude to your staff, and especially Dan Connelly, for all his coordinating efforts. Let Marty and Paige know that I enjoyed meeting them and felt "well handled" on stage.

▲ Auburn
(315) 253-7924

▲ Canton
(315) 386-4493

▲ Rome
(315) 336-7523

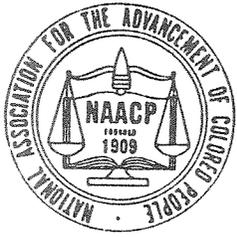
▲ Syracuse
(315) 475-2430
Toll-Free
1-800-475-2430

▲ Utica
(315) 793-0661

▲ Watertown
(315) 785-8222

▲ Hotline
(315) 475-2437
Toll-Free
1-888-475-2437

WPHR



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

SYRACUSE/ONONDAGA COUNTY

Post Office Box 397 Colvin Station Syracuse, New York 13205 (315) 422-6933

October 3, 2001

Mr. Joel Delmonico
Vice President/Market Manager
Clear Channel Radio
Bridgewater Place
500 Plum Street Suite 100
Syracuse, New York 13204

Dear Mr. Delmonico: *Joel*

On behalf of the Syracuse/Onondaga County branch of the National Association for the Advancement of Colored People, I'd like to thank you and the Power 106.9 Jamz staff for your outstanding work on the NAACP National Radiothon on September 22.

I was pleased and impressed by the way the entire Clear Channel staff put their full support behind this project. Since this was my administration's first Radiothon, it was a huge relief to be able to defer to Butch Charles and Kenny Dees' experience in this area. Our branch continues to receive compliments on the Radiothon and the PSA's heard on your stations.

It was such a pleasure to work with Sonya Sales and Dr. Rick Wright and the community really enjoyed meeting them in person. I was a bit nervous the morning of the Radiothon, but Ms. Sales and Dr. Wright immediately put me at ease with their friendliness and professionalism. The Syracuse branch received 17 paid members and over 100 people filled out pledge sheets at the Prince Hall Masonic Temple site or called in after hearing us on the radio. It was a great day and I really enjoyed it. The interview I did on George Kilpatrick's show really peeked the community's interest and it showed with the great turnout we had.

So again, many thanks to you and the Power 106.9 Jamz staff for helping to make the 2001 NAACP National Radiothon for Memberships a success. I hope this is the beginning of a productive coalition between Clear Channel Radio and the Syracuse/Onondaga County NAACP!

Sincerely,

Donna M. Reese

Donna M. Reese
President

**SYRACUSE PARTNERSHIP TO REDUCE JUVENILE GUN VIOLENCE****Matthew J. Driscoll, Mayor**

December 14, 2001

Mr. Joel Delmonico, Vice-President/Regional Manager
Clear Channel Communications
500 Plum Suite 100
Syracuse, New York 13204

Dear Joel,

I thought it would be most appropriate to send this letter of thanks for all that you do to enhance the quality of life through your sincere commitment and caring for the community. I greatly appreciate your enthusiasm toward making Syracuse a viably sound and stable entertainment community. *POWER 106.9* and *HOT 107.9* are two of your stations that are paramount to this endeavor that also appeal to our target population. Your efforts to improve our capacity to not only reach young people through the medium of radio, but also to provide a platform that encourages informed and healthy decision-making.

Additionally, enclosed you will find thank you letters from the youth who participate in our For Love Against Violent Acts (FLAVA) program and attended the Mistletoe Meltdown at the Landmark Theatre on December 4, 2001. On behalf of the FLAVA program we send these letters to provide you with a sample of our collective appreciation.

Again, we thank you and pray that God will continue to allow you to be a blessing to our community. Happy Holidays!!!!

Respectfully,

Julius D. Edwards,
Director, Syracuse Partnership to Reduce Juvenile Gun Violence

Exhibit 13

Correspondence Regarding Clear Channel Internship and Job Fair Participation



SYRACUSE UNIVERSITY

S.I. NEWHOUSE SCHOOL OF PUBLIC COMMUNICATIONS

August 28, 2001

Clear Channel Communications
Cathy Miller
500 Plum Street
Syracuse NY 13204

Dear Cathy:

We are looking forward to having you join us on **Monday, September 24, 2001** for the Newhouse School's third annual Regional Communications Internship Fair.

The Internship Fair will take place from **7-9 p.m. in Studios A and B, Newhouse II** (entrance on Waverly Ave). You will meet students with all levels of experience, class years, and majors. We will provide a table and light refreshments during the course of the evening. Plan to bring literature to share with the students. If you prefer to send information in advance, please mark it clearly for the Internship Fair and send it to my attention at the Newhouse School (address listed at the top of this page).

PARKING

Parking has been reserved for you in the Waverly lot on the corner of Waverly and South Crouse Avenues. Enclosed is a campus map; the parking attendant will have your name. To get to Studio A, cross Waverly Avenue and go into Newhouse II. We will have someone in the lobby to direct you from there. Plan to arrive between 6:15 and 6:45 p.m.

We look forward to seeing you in September. In the meantime, if you have any questions please call me at 443-1913.

Sincerely,

Bridget Lichtinger

Special Events Coordinator
Newhouse School of Public Communications
belichti@syr.edu



SYRACUSE UNIVERSITY

SYRACUSE UNIVERSITY INTERNSHIP PROGRAM

September, 2000

Dear SUIP Site Supervisor:

On behalf of Syracuse University, I would like to thank you very much for the time and expertise you spent during the 1999-2000 academic year in the supervision of interns from the Syracuse University Internship Program. The experiences you can make available in the workplace can never be replicated in the university, and were it not for the contribution made by you and your fellow site supervisors, our students would have missed out on a very valuable part of their education.

The enclosed Certificate of Appreciation is an acknowledgement of the work you did with our interns during the past year. I do hope the experience was a positive one for you as well as for our interns, and I look forward to working with you again in the future.

Yours sincerely,

Helen M. Murray
Director
Syracuse University Internship Program



OSWEGO

STATE UNIVERSITY OF NEW YORK
OSWEGO, NEW YORK 13126

Experience-Based Education
228 Swetman Hall, (315) 312-2151
Fax: (315) 312-5406

July 10, 2000

Ms. Barbara Miller
Clear Channel Communications
500 Plum Street
Syracuse, NY 13208

Dear Ms. Miller:

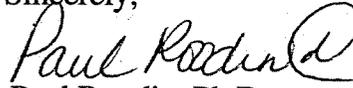
We are pleased that you are participating in our Summer 2000 Internship program at the State University of New York College at Oswego. We hope that you will benefit from the arrangement as much as our students. Without the willingness of organizations and businesses such as yours, our program could not continue to grow and meet the needs of our students. We hope our mutual efforts to assist students in the development of their educational and career goals will lead to a long and productive association between the college and your organization.

Enclosed is a copy of the learning agreement between each student and our program. The agreement summarizes what the student will be expected to do, to learn, and to document in order to meet the requirements and academic obligations of the internship. We assume the objectives indicated will assist you in assigning tasks to the student. It is important to realize that the student will be assessed by a faculty sponsor on our campus through the methods of evaluation listed on the learning agreement. At the conclusion of the internship you will be asked to evaluate the student. You will receive an evaluation form for this student at that time to be completed and returned to us.

If you have any questions or concerns about the internship or any other facet of our program, please contact us at (315) 312-2151 and we will be happy to address your concerns.

Thank you for your interest and cooperation.

Sincerely,

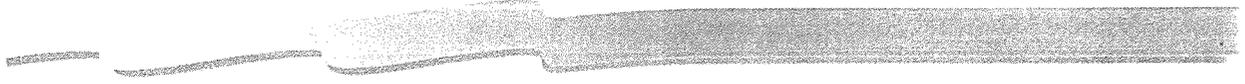

Paul Roodin, Ph.D.
Internship Director

PR:dd
Enc.

WBBS

For
Public
File

*APW Middle School
PO Box 529, 640 Co. Rt. 22
Parish, New York 13131
(315) 625-4715 ext. 3175*



April 2001

Dear R.J.,

On behalf of the APW Middle School, we would like to express our appreciation for your participation in our Career and Wellness Day. Your presentation helped to offer a variety of topics for our students. Teenagers need to make many difficult decisions that will affect their lives today and in the future. Hopefully, the information you presented here will help them make better choices and promote a happier, healthier lifestyle.

Once again, thank you for taking the time to share your knowledge and experiences with our students. Visits like yours help build bonds between education and the community. It was a very interesting and informative day for both students and staff.

Sincerely,

Marci Butler

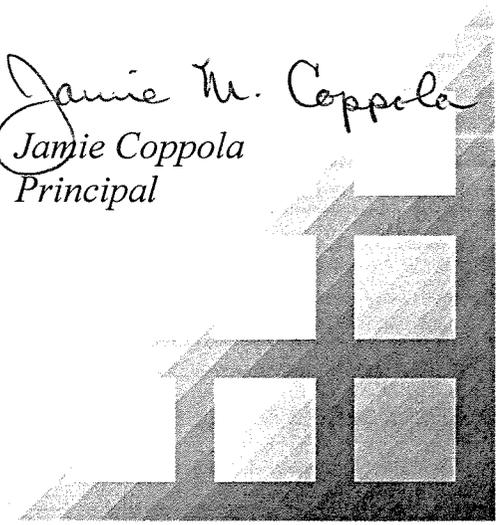
*Marci Butler
Guidance Counselor*

Linda Youker

*Linda Youker
School Nurse-Teacher*

Jamie M. Coppola

*Jamie Coppola
Principal*





PARTNERS
For Education & Business, Inc.

October 19, 2000

Clear Channel
Geoff Miskinis
500 Plum St.
Syracuse, NY 13204

Dear Mr. Miskinis:

Partners for Education & Business would like to thank you for recently participating in our job shadowing experience.

We appreciate all of the time and effort that you put into this worthwhile experience for Charles Bothem and Timothy Cusack from Altmar-Parish-Williamstown High School and we hope this was a positive experience for you as it was for the students.

We have enclosed an evaluation sheet to help determine the success of this program. We would appreciate it if you would take a few minutes to complete the form and fax or mail back to us at Partners for Education & Business.

Once again thank you for all of your input in working with our students of today, the workforce of tomorrow.

Sincerely,

Judy Meredith
Worksite Learning Coordinator

Jam
Enclosure

We're Growing Our Own Workforce!!



SYRACUSE CITY SCHOOL DISTRICT

FRAZER ELEMENTARY SCHOOL
741 Park Avenue
Syracuse, New York 13204
(315) 435-4555

September 20, 2000

Kathy Miller
Clearchannel Communications
500 Plum Street
Syracuse, New York 13204

Dear Kathy:

Thank you for agreeing to participate in Frazer School's "Career Awareness Day" on Wednesday, October 25, 2000 from 8:00-11:00 A.M. in the Frazer Auditorium. Setup and continental breakfast will be from 8:00-8:30.

Students from the 7th and 8th grades will be visiting the auditorium to interact with the career role models representing various careers and businesses. Students will have an assignment to complete and will be asking you questions relating to: education needed for your career, salary, job requirements, etc. Any handouts of information about yourself or your career/place of business will be helpful. There will be approximately 300 students attending in groups of 75.

We look forward to having you take part in this event and appreciate your willingness to attend. Directions and parking information will be sent to you a week before the event. Please let me know if you will need any special equipment or access. If you have any questions, please contact me at 435-4905 or 435-4555.

Sincerely,

Judy Gerber
School Counselor

Exhibit 14

Information About A Few of the Awards Won By Clear Channel Syracuse Stations

WSYR News and Public Affairs Awards 1997 to Present

1997

- *R.T.N.D.A. Edward R. Murrow Award for Continuing Coverage*
- *Nominee, N.A.B. Marconi Award for Best News, Talk or Sports Station*
- *New York State Broadcasters Association Award for Best Newscast*
- *New York State Broadcasters Association Award for Best Public Affairs Show*
- *Syracuse Press Club Award for Best Newscast and Best Spot News*
- *Associated Press of New York Award for Best Newscast*

1998

- *Associated Press of New York for Best Continuing News Coverage*
- *New York Festivals Finalist Award for Central New York's Morning News*

1999

- *National Association of Broadcasters Service to America Award*
- *Regional Edward R. Murrow Award for Investigative Reporting*
- *Regional Edward R. Murrow Award for Continuing News Coverage*
- *Edward R. Murrow Award for Newscast*
- *Syracuse Press Club for Best Feature*
- *Syracuse Press Club for Best Mini Series*
- *Syracuse Press Club Honorable Mention for Newscast*

2000

- *R.T.N.D.A. National Edward R. Murrow Award for Overall Excellence*
- *R.T.N.D.A. Regional Edward R. Murrow Award for Overall Excellence*
- *New York State Associated Press Honors for 2000 Election Coverage*
- *Syracuse Press Club Award for Best Newscast*
- *Syracuse Press Club Award for Best Radio Mini-Series*
- *Syracuse Press Club Award for Best Radio News Feature*
- *Syracuse Press Club Honorable Mention for Investigative/Series*
- *Syracuse Press Club Honorable Mention for Radio Documentary*

2001

- *570 WSYR has won the 2001 Edward R. Murrow Award for Overall Excellence from the Radio-Television News Director Association. WSYR won in the "small market radio" category.*

McVAY MEDIA

December 7, 2001

Joel Delmonico
WBBS Radio
Bridgewater Place
500 Plum St. #100
Syracuse, NY 13204

Dear Joel:

CONGRATULATIONS!!!

It is with great pleasure that we present you with this year's McVay Media General Manager of the Year Award. These awards are significant and mean quite a bit to us inside our company. All of the consultants vote individually. This is not a popularity contest or a "favorites" competition. Only those radio stations and those broadcasters who have best exemplified a great spirit of competition and broadcast excellence receive these awards.

We hope that you will display it proudly.

Best wishes,



Michael A. McVay
President

MAM/jcy

Enc.

If you have warning signs of heart attack or stroke, call 911 immediately!

For the most current information about heart disease or stroke, call 1-800-AHA-USA1 or visit www.americanheart.org



Fighting Heart Disease and Stroke

Upstate New York Region
5575 Thompson Road
Syracuse, New York 13214-1693
Tel 315.446.8334 Fax 315.446.6986
www.americanheart.org

August 6, 2001

Mr. Joel Delmonico
Clear Channel Communications
Bridge Water Place
500 Plum Street
Syracuse, New York 13204

Dear Mr. Delmonico:

JOEL

On behalf of the Board of Directors, staff and volunteers of the American Heart Association Upstate Region, I am pleased to inform you that you have been selected to receive the Community Heartbeat Award. Eight recipients will be presented with this prestigious award for outstanding contributions this past year.

The Community Heartbeat Awards will be presented at the 2001 Annual Awards reception. The event is scheduled for Thursday evening, September 20, 2001, at 5:30 p.m. at the Landmark Theatre. Invitations will be sent in early August. Your commitment to the mission of the American Heart Association has been tremendous, and we are delighted to bestow this honor upon you.

Congratulations Joel . We look forward to recognizing you on September 20th.

Sincerely,

Stephen A. Militi
Executive Director
American Heart Association

FOR IMMEDIATE RELEASE

Contact: Barbara W. Quijano
CNY Sales & Marketing Executives, Inc.
(315) 638-0226 x 221

*** 25th Annual Crystal Ball Award to be Presented in February ***

*** CNY Sales & Marketing Executives Gala Will Honor
Local Clear Channel Communications Executive ***

Syracuse, NY (January 7, 2001) - Joel Delmonico, Market Manager and Vice President of Clear Channel Communications, will be honored at the 2001 Crystal Ball Award Banquet as the 25th recipient of the prestigious Crystal Ball Award. The event will be held on February 26, 2001 at The Hotel Syracuse. This award is bestowed annually to a local businessperson for contributions to the sales and marketing profession, and for efforts in the areas of community development and support.

Joel has visibly impacted the progress and prosperity of Central New York through his success in the industry and through his involvement in community and civic organizations. Joel oversees the operations of six local radio stations - WSYR, Y94, B104.7, WHEN, Hot 107.9, and CD 106.9, as well as six additional stations in Utica.

Joel's dedication to the local community is most recently reflected through WSYR's phone-a-thon to raise funds for the city schools' Dream Center. Joel has served as a past Winterfest Chairman. He was instrumental in raising over \$200,000 for the North country storm victims. He is involved in the holiday "Sounds of the Season" concert, benefiting victims of child abuse. Joel's efforts have been recognized by The Salvation Army, Vera House, and other local organizations.

Joel serves on many boards including the Metropolitan Development Association, The Kidney Foundation, The Salvation Army, Elmcrest Children's Center, The Greater Syracuse Education Fund, and The McMahon/Ryan Child Advocacy Site. He is a graduate of Syracuse University.

In addition to honoring Mr. Delmonico, the award ceremony will recognize select local sales and marketing professionals. The Distinguished Sales and Marketing Award provides Central New York organizations a way to publicly honor their most outstanding professionals.

- END -

EXHIBIT 5

FAYETTEVILLE, ARKANSAS, AND COOKEVILLE, TENNESSEE

MARKET INFORMATION

Cookeville/Fayetteville Market Information

In addition to requesting information about Syracuse, New York, in its NPRM the Commission solicited studies of Rockford, Illinois, the 150th ranked market and Florence, South Carolina, the 204th ranked market. Clear Channel does not own radio stations in these markets. In lieu of these markets, however, Clear Channel submits the following information on its station clusters in Fayetteville, Arkansas (the 155th ranked market) and Cookeville, Tennessee (the 273rd ranked market), which are roughly comparable to Rockford and Florence, respectively.

Background

In Fayetteville, Arkansas, Clear Channel owns four FM stations, all of which it acquired in August 2000 in its merger with AMFM Inc. Clear Channel operates KEZA(FM), 107.9, Fayetteville as a soft adult contemporary station, KKIX(FM), 103.9, Fayetteville as a country station, KMXF(FM), 101.9, Lowell, Arkansas as a contemporary hit rock station, and KIGL(FM), 93.3, Seligman, Missouri, as a classic rock station.¹ Before Clear Channel purchased the stations, AMFM, Inc. and its predecessors had been operating the stations as a group since 1997.

Since 1997 Clear Channel has owned two AM and two FM stations in Cookeville, Tennessee. It operates WGIC(FM), 98.5, Cookeville as an Adult Contemporary station, WGSQ(FM), 94.7, Cookeville as a Country station, WHUB(AM), 1400, Cookeville as a Classic Country station and WPTN(AM) 780, Cookeville as an Oldies station. Because this market is so small – it was not even ranked by Arbitron until Fall 1997 – it is run in close conjunction with stations owned by Clear Channel in the nearby markets of Crossville, McMinnville and Sparta, Tennessee.

¹ Formerly KJEM.

Competition

In both Cookeville and Fayetteville the advertising environment is extremely competitive. The Fayetteville market consists of nineteen radio stations, including several that are commonly-owned, four daily newspapers currently engaged in an advertising war, four network-affiliated television stations and a cable television system. As the newspapers battle each other for survival, they continue to sell space at very low rates. See Exhibit 1, Declaration of Tony Beringer, Vice President/Market Manager, Clear Channel Fayetteville (“Beringer Declaration”).

Likewise, the Cookeville stations compete against several other radio stations, including several owned as part of a larger group. The stations also compete against a daily newspaper, cable television service and an outdoor advertising company. Radio represents a small percentage of the local advertising dollar. See Exhibit 2, Declaration of Dave Thomas, Vice President/Market Manager, Clear Channel Cookeville (“Thomas Declaration”). Given all of the competition Clear Channel faces in these smaller markets, it must work extremely hard to earn revenue, and advertising rates in both markets have remained steady.

Not only does rigorous competition in the Fayetteville and Cookeville markets keep rates from rising, but it also creates an incentive for Clear Channel to provide a better product to advertisers. In both markets the actual advertising product produced by Clear Channel has improved because, as discussed further below, the stations have hired better on-air talent. Further, upgrades to the studio equipment of the stations in each cluster, as discussed in detail below, enable the production of better quality advertisements in less time. See Exhibit 1, Beringer Declaration & Exhibit 2, Thomas Declaration.

Moreover, through investment in the station's facilities, personnel and the community, as well as in extensive market research conducted to determine the needs of the local listeners, Clear Channel delivers to the advertiser highly rated stations and therefore larger audiences within the intended demographic. See Exhibit 1, Beringer Declaration. One stop shopping allows advertisers to reach their desired demographics by purchasing time on several different stations through one Account Executive. For example, by providing better quality programming in Fayetteville, Clear Channel's Monday to Sunday 6:00 am to 12 midnight, 12 year old plus listening share has increased from 33.4% to 37.5% between Spring 1997 and Fall 2001 despite the increasingly competitive radio environment. This more efficient buying experience lowers the advertiser's transaction costs. Id.

Diversity

Consolidation has allowed the Clear Channel stations to diversify in terms of formats. In fact, in both markets the number of different radio owners has decreased, but the number of formats offered in the market has increased. For example, in Fayetteville KMXF has evolved from one of four adult oriented-type rock stations in 1997 to a contemporary hit radio station that now serves teens, young adults, and the African American and Hispanic populations of Northwest Arkansas. That demographic had been previously underserved. See Exhibit 1, Beringer Declaration. Similarly, in Cookeville there is a large audience of listeners 50 years old and older, but few stations cater to their needs. Recognizing that this demographic was underserved,² Clear Channel switched station WPTN from a Talk format, a format already airing on two other stations in the market, to the market's only Oldies station. In order to provide high

² Research revealed that 25% of the population in the Cookeville Total Service Area is between 35-64, the prime demographic for such a format.

quality programming in a cost effective manner given the small size of the market, Clear Channel pooled resources for the station with other Clear Channel Oldies formatted stations in the surrounding areas. For example, the company sought deals on the purchase of certain programming elements by purchasing the elements for all of the Oldies stations. Thus, Clear Channel was able to obtain programming for WPTN that could not have been acquired if the station was owned on a standalone basis. See Exhibit 2, Thomas Declaration.

Consolidation has also resulted in an increase in the news-gathering resources of Clear Channel's small market stations. In Fayetteville, Clear Channel only operates FM stations with music formats. Such stations traditionally do not carry a large amount of news programming. Nevertheless, the stations have increased the amount of news they provide. On the national level, the stations obtain news from Clear Channel's national news desk. On the local level, news director Jess Smith, who has spent much of his 40 years in the radio industry in the Fayetteville market, produces local news for each of the radio stations. During morning drive time stations KEZA, KKIX and KIGL broadcast this locally produced news in combination with the Clear Channel national news every hour and half hour. Stations KEZA and KKIX also broadcast a local and national news mix at the hour and half hour during afternoon drive time. Every hour during morning drive time KMXF airs a locally produced mix of entertainment-style news and "hard" news geared towards the station's younger audience. The Fayetteville stations also provide breaking news and weather. Because the area is a high tornado zone, this is particularly important. Indeed, by pooling resources with the neighboring Fort Smith, Arkansas station group, the Fayetteville stations were able to gain access to the meteorologist for the local television stations, who now provides weather updates to the Clear Channel radio stations.

Lastly, the Fayetteville stations rely on other commonly owned Clear Channel stations to provide information pertinent to the area. At no time was this more evident than after September 11th, when the stations in Fayetteville tapped into news and information from other Clear Channel stations in order to provide local listeners with the widest coverage of the day's happenings. See Exhibit 1, Beringer Declaration.

In Cookeville, the amount of resources Clear Channel has provided the stations for news-gathering and news production has made the stations among the community's best places to turn for breaking news and time-sensitive information. Through Clear Channel's Wide Area Network and a related wire capture system installed on upgraded computers provided to the stations, the stations have access to information provided by the Clear Channel Radio Network. Also, the Cookeville stations can directly contact other Clear Channel stations to get updates on news affecting the areas surrounding Cookeville. In addition to information gathered by Clear Channel itself, the company provides the stations access to the AP Wire and makes this information easier to use through the wire capture system. The stations in the cluster also maintain different network affiliations for news and information. See Exhibit 2, Thomas Declaration.

Using these services, all four stations carry local and national news programming. Not only does WHUB carry hourly CBS network news, but it also has five daily local newscasts produced by Clear Channel Cookeville. From dawn until 9:00am, WPTN, a daytime-only AM station, runs hourly locally produced local news. Throughout the day the station also broadcasts hourly national news provided by the ABC network. During morning drive time, from 6:00am until 9:30am FM stations WGSQ and WGIC both provide local news as well as national news produced by Clear Channel Cookeville. All of the stations provide breaking news and

information, including breaking local news gathered and produced by Clear Channel Cookeville personnel. Thus, for example, during severe floods in January all of the stations received timely special reports about the situation. The stations also broadcast information about school closings. Each station also broadcasts “Cumberland Viewpoint,” a 30-minute weekly public interest program that highlights area happenings, organizations and politics. Lastly, each of the stations provides public service announcements and community calendars throughout the day.

Id.

In all matters related to programming, as well as most other aspects of running the stations, Clear Channel allows its local market management complete autonomy. Clear Channel corporate management does not influence programming decisions or determine what viewpoints should be broadcast on the stations. The company recognizes the importance of localism to the success of its stations and therefore leaves decisions about how to run the stations to the local market managers and their staff. Clear Channel limits its consideration of the local markets to routine budget reviews. See *id.*; see also Exhibit 1, Beringer Declaration.

Public Interest Benefits

Numerous public interest benefits have resulted from Clear Channel’s operation of its Fayetteville and Cookeville clusters. These benefits include upgrades to the stations’ technical facilities and programming equipment, the hiring of better talent, and expanded community service. These improvements were funded, in large part, by money saved through the economies of scale inherent in the operation of a group of stations. For example, through consolidation both the Fayetteville and Cookeville stations save money each year by operating out of combined facilities, thus reducing the cost of rent, property taxes and utilities. The stations also reduce costs by sharing certain equipment such as traffic systems. Additional money is saved as a result

of the bulk purchase of certain office supplies. Installation of a state-of-the-art digital automation system has enabled the stations to more efficiently produce programming.

These savings have been reinvested in the stations in order to produce a higher quality signal and improved programming for the audience, and to deliver a higher quality product for advertisers. As noted by Cookeville Market Manager Dave Thomas, “Clear Channel invests large amounts to make our products first class. By doing so, listeners in our very small market receive a product that rivals that heard in major markets.” In Fayetteville, Clear Channel spent \$536,412 for 1999-2002 in capital expenditures, while in Cookeville Clear Channel has approved \$265,214 in capital expenditures for the 2002 fiscal year. This amount includes \$225,000 alone for the installation of the Prophet System digital automation system at WGSQ(FM). The Prophet System makes production of programming more efficient and the end-product of higher quality. The amount also includes investments in upgraded remote equipment for the stations and improvements to the technical facilities of some of the stations. See Exhibit 2, Thomas Declaration.

Beyond these capital expenditures, Clear Channel has reinvested the savings into better talent and programming resources in order to improve its end product. Consolidation has given these smaller market stations the opportunity to hire better talent because money saved through economies of scale allow the stations to pay a higher compensation level. Thus, for example, before group ownership a market like Cookeville could not afford to employ top 50-market talent. Since consolidation, however, Clear Channel has hired three employees with top 50-market experience. Significantly, two of these employees grew up in the community. For the first time, homegrown talent can return to the market and maintain the lifestyle to which they have become accustomed. Id.

As previously noted, Fayetteville has also invested in the hiring of better talent. In that market, Clear Channel has seen its ratings increase steadily over the past several years. Likewise, the hiring of better talent has coincided with a marked increase in ratings for the stations in the Cookeville cluster – a clear indication that more people are listening to these stations. People in the market can now listen to local stations in order to receive quality programming rather than being forced to try to tune into stations from the closest big city in order to receive that caliber of programming. “It's like years ago if you wanted to do some big time shopping you had to head to Nashville,” explains Cookeville Director of Programming, Marty McFly. “Now you have the big stores like Wal-Mart here, down the street. Although Wal-Mart is a big name national brand, though, the store in Cookeville is still run by people you know from the city and it caters to the needs of the people in the city, that's the key.” Id.

In addition to the reinvestment of money saved through economies of scale, group ownership has enabled the stations to more effectively serve the community through the dissemination of critical information and participation in community service events. As noted by Tony Beringer, Fayetteville Vice President & Market Manager, “Consolidation has given Clear Channel Radio of Fayetteville the opportunity to be a stronger leader in terms of community service.” See Exhibit 1, Beringer Declaration. In 2001 alone, the Fayetteville station group raised over \$65,000 in a two day Radiothon for the St. Jude Children’s Cancer Research Hospital. Additionally, the group helped raise over \$380,000 for the Susan G. Komen Breast Cancer Foundation; \$250,000 for the March of Dimes; and \$150,000 for Big Brothers/Big Sisters. It also assisted with the opening of a local chapter of the Juvenile Diabetes Research Foundation, and raised over \$150,000 for the chapter. In addition, the cluster has sponsored events benefiting American Heart Association, the Community Blood Center of the Ozarks, Salvation Army,

Fayetteville Youth Center, United Way, NWA Council on Aging, Leukemia & Lymphoma Society, NWA Children's Shelter, Habitat for Humanity, Arthritis Foundation, NWA Head Start Program, Lifestyles Assisted Living Program, American Cancer Society, Arkansas Athletes Outreach, Arkansas Children's Hospital, and many more local, regional, and national worthy causes. Lastly, the Fayetteville stations provide paid, for-credit internship for students from the University of Arkansas and John Brown University. Typically, the station group has at least one, and sometimes two, interns per semester. Id.

Similarly, the Cookeville stations recognize that they have an obligation to assist with the well being of the communities in which they operate. As Dave Thomas, Cookeville Vice President and Market Manager notes, "Success in our industry is dependent upon the responsibility we feel, the high standards we set and the positive impact our actions have." See Exhibit 2, Thomas Declaration. Marty McFly echoes this sentiment, noting that "[c]onsolidation's biggest advantages are the way we can help people. With a charity fund drive you get the power and listeners of four or more stations when we're behind an event." Id. Consequently, in the year 2001, the Cookeville stations conducted a Radiothon that raised \$37,715 for St. Jude's Children's Research Hospital. The stations also helped families in need with food, utility bills, clothing, gifts, and other items at Christmas-time with the "Christmas Wish" program and the U.S. Marine Corps "Toys for Tots" program; highlighted animal welfare programs conducted by the Cookeville Animal Shelter/Putnam County Humane Society and promoted the yearlong fundraising efforts and thrift store run by those organizations; organized and sponsored an annual golf tournament to benefit charities (past recipients include United Way and St. Jude's, among others); and put on the local July 4th celebration known as "Freedom Fest" so that area residents could enjoy a spectacular fireworks show, food and musical entertainment

in a safe environment at a low cost. Freedom Fest costs \$20,000 to produce and would not be possible for one small town radio station to conduct on its own. Furthermore, the stations regularly serve as media sponsor for events such as the March of Dimes Walk-a-thon; the American Cancer Society's Relay for Life; the Mardi Gras Masquerade Ball to benefit Genesis House (a local shelter for victims of domestic violence); the Multiple Sclerosis Walk-a-thon; the Make a Difference Day; the Fall Fun Fest (a community event that includes a barbeque cook-off); and the Putnam County Fair. Also, the stations have "adopted" three area schools (Cookeville High School; Park View Elementary; and Jere Whitson Elementary), for which they actively and routinely participate in pep rallies, school events and job fairs. Lastly, the stations donate between \$6,000 and \$7,000 in advertising time each month to the Child Identification Program, a home fingerprinting kit for child identification. Id.

On a national level, both station groups joined the rest of the Clear Channel family on September 12th to help launch the *Clear Channel Worldwide Relief Fund*. Immediately the stations began promoting the fund on the air and in their respective communities. To date, the Fund has exceeded \$19 million and has contributed to the Salvation Army, the United Way September 11th Fund, the American Red Cross, the New York Police and Fire Widows' and Children's Benefit Fund, the Federal Employee Education and Assistance Fund, the Pentagon Relief Fund, the New York State World Trade Center Relief Fund and several other organizations. See Exhibit 1, Beringer Declaration & Exhibit 2, Thomas Declaration. The Cookeville stations have raised \$27,748 for the Fund. On a local level, the stations organized a candlelight vigil/prayer service at the local courthouse for those in need of comfort, companionship and fellowship after September 11th. It also helped coordinate efforts to send

supplies to relief organizations in New York and sponsored a drive for gifts for U.S. servicemen and their families at Christmas time. See Exhibit 2, Thomas Declaration.

In conclusion, Clear Channel has reinvested money saved through efficiencies and economies of scale into producing a higher quality product for its advertisers and its audience. In particular, advertisers receive better quality advertisements more efficiently and for reasonable rates. The audience receives improved signals over which they hear better quality, more diverse programming specifically designed by local market personnel to meet their entertainment and informational needs. These investments in the programming product, as well as efforts to serve the community, enable Clear Channel to compete effectively with other radio stations and other media.

Exhibit 1

Declaration of Tony Beringer

Vice President/Market Manager, Clear Channel Fayetteville

Declaration of Tony Beringer

I hereby declare under penalty of perjury that:

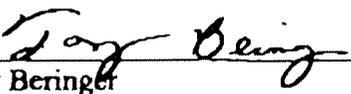
- 1) I currently serve as Vice President and Market Manager for the Clear Channel Radio Stations in Northwest Arkansas including KIX 104, Magic 107.9, 93.3 The Eagle, and Hot Mix 101.9. I have been with the current cluster of stations since February of 1998, previously holding the positions of General Sales Manager, and Director of Sales. My previous radio experience includes ten years in sales and sales management with Citadel Communications in the Colorado Springs and Reno/Lake Tahoe markets. Before that I worked at various sales positions in newspaper and yellow page directory advertising in Colorado.
- 2) The Fayetteville advertising environment is extremely competitive. Our market includes nineteen radio stations, four daily newspapers currently entrenched in an extremely heavy newspaper war, four network-affiliated television stations and a cable television system. As the newspapers battle each other for survival, they continue to sell space at very low rates. Because of this competition, our advertising rates have remained steady.
- 3) Also because of this competition we have to provide a better product to advertisers in order to keep them as clients. Our product has improved because we have hired better talent and upgraded our studio equipment. Through investment in the station's facilities, personnel and the community, as well as in extensive market research conducted to determine the needs of the local listeners, we deliver to the advertiser highly rated stations and therefore larger audiences within the intended demographic. For example, by providing better quality programming in Fayetteville, our Monday to Sunday 6:00 am to 12 midnight, 12 year old plus listening shares has increased from 33.4% to 37.5% between Spring 1997 and Fall 2001 despite the increasingly competitive radio environment.
- 4) Advertisers can buy time on one or all of the stations by going through one Account Executive, making the process of buying time more efficient.
- 5) Consolidation has not reduced the format diversity in Fayetteville. To the contrary, the number of formats offered in the market has increased. For example, in Fayetteville KMXF has evolved from one of four adult oriented-type rock stations in 1997 to a contemporary hit radio station that now serves teens, young adults, and the African American and Hispanic populations of Northwest Arkansas. That demographic had been previously underserved.
- 6) As a result of consolidation our news gathering resources have improved. Although we only broadcast FM stations with music formats, which traditionally do not carry a large amount of news programming, the stations have increased the amount of news they provide since being purchased by Clear Channel. On the national level, the stations obtain news from Clear Channel's national news desk. On the local level, news director Jess Smith, who has spent much of his 40 years in the radio industry in the Fayetteville market, produces local news for each of the radio stations. During morning drive time stations KEZA, KKIX and KIGL broadcast this locally produced news in combination with the Clear Channel national news every hour and half hour. Stations KEZA and KKIX also broadcast a local and national news mix at the hour and half hour during afternoon drive time. Every hour during morning

drive time KMXF airs a locally produced mix of entertainment-style news and “hard” news geared towards the station’s younger audience. The Fayetteville stations also provide breaking news and weather. Because the area is a high tornado zone, this is particularly important. Indeed, by pooling resources with the neighboring Fort Smith, Arkansas station group, the Fayetteville stations were able to gain access to the meteorologist for the local television stations, who now provides weather updates to the Clear Channel radio stations.

- 7) Our stations also rely on other commonly owned Clear Channel stations to provide information pertinent to the area. At no time was this more evident than after September 11th, when the stations in Fayetteville tapped into news and information from other Clear Channel stations in order to provide local listeners with the widest coverage of the day’s happenings.
- 8) Clear Channel corporate management gives me complete autonomy with respect to programming decisions. Except for routine budget reviews, management does not get involved in the operation of my stations.
- 9) We have saved a large amount of money by operating the Fayetteville stations as a group. A large portion of these savings come from having all of the stations share the same facilities (including rent, property taxes and utilities) and equipment, as well as the bulk ordering of supplies.
- 10) In the past few years, we have reinvested \$536,412 in capital expenditures. Beyond these capital expenditures, we have spent the money we have saved by taking advantage of economies of scale on better talent and programming resources in order to improve our end product
- 11) Group ownership has enabled our stations to more effectively serve the community through the dissemination of critical information and participation in community service events. Consolidation has given Clear Channel radio of Fayetteville the opportunity to be a stronger leader in terms of community service. In 2001 alone, the Fayetteville station group raised over \$65,000 in a two day Radiothon for the St. Jude Children’s Cancer Research Hospital. Additionally, the group helped raise over; \$380,000 for the Susan G. Komen Breast Cancer Foundation; \$250,000 for the March of Dimes; and \$150,000 for Big Brothers/ Big Sisters. It also assisted with the opening of a local chapter of the Juvenile Diabetes Research Foundation, and raised over \$150,000 for the chapter. In addition, the cluster has sponsored events benefiting American Heart Association, the Community Blood Center of the Ozarks, Salvation Army, Fayetteville Youth Center, United Way, NWA Council on Aging, Leukemia & Lymphoma Society, NWA Children’s Shelter, Habitat for Humanity, Arthritis Foundation, NWA Head Start Program, Lifestyles Assisted Living Program, American Cancer Society, Arkansas Athletes Outreach, Arkansas Children’s Hospital, and many more local, regional, and national worthy causes. Lastly, the Fayetteville stations provide paid, for-credit internship for students from the University of Arkansas and John Brown University. Typically, the station group has at least one, and sometimes two, interns per semester.

12) On a national level, we joined the rest of the Clear Channel family on September 12th to help promote the *Clear Channel Worldwide Relief Fund*. To date, the Fund has exceeded \$19 million and has contributed to Salvation Army, United Way September 11th Fund, American Red Cross, New York Police and Fire Widows' and Children's Benefit Fund, Federal Employee Education and Assistance Fund, Pentagon Relief Fund, New York State World Trade Center Relief Fund and several other organizations

The foregoing is true to the best of my knowledge.



Tony Beringer
Vice President/Market Manager – Fayetteville
Clear Channel Communications, Inc.

March 27, 2002

Exhibit 2

Declaration of Dave Thomas

Vice President/Market Manager, Clear Channel Cookeville

Declaration of Dave Thomas

I hereby declare under penalty of perjury that:

- 1) Currently I serve as Vice President/Market Manager of the Cookeville, Tennessee market for Clear Channel Communications, Inc. I have been in the Cookeville market since 1989, first as General Manager for American Network Group and then as General Manager for Paxson Communications, Inc. Prior to that time, I worked in the Nashville market for South Central Communications, Inc. as General Manager of WJXA from 1985-1989. Before that, I worked in Memphis, Tennessee as General Manager of WEZI, Memphis for various owners beginning in 1973. I began my career in the business as a salesperson in the Memphis market in 1965.
- 2) The Cookeville advertising market is very competitive. Our stations compete against several other radio stations, a daily newspaper, cable television service and an outdoor advertising company. Radio represents a small percentage of the local advertising dollar. Because of this intense competition, advertising rates have remained steady.
- 3) In order to effectively compete for advertisers, we must produce an excellent product for our clients and deliver it in an efficient manner. Since consolidation, the advertising product we produce has improved because we have hired better on-air talent and have upgraded our production facilities. Also, through our efforts to improve station programming we have improved station ratings. We thus deliver to advertisers stations with larger audiences within the intended demographic. Finally, one-stop shopping allows advertisers to reach the desired demographic on several different stations by going through one salesperson.
- 4) Additionally, consolidation has resulted in more diversity of formats within the Cookeville market. For example, in Cookeville there is a large audience of listeners 50 years old and older, but few stations catering to their needs. Because this demographic was underserved,¹ we switched station WPTN from a Talk format, which was already airing on two other stations in the market, to the market's only Oldies station. So that we could provide high quality programming in a cost effective manner given that our market is extremely small, we pooled resources with other Oldies formatted stations in the surrounding areas. Because we were able to negotiate deals on the purchase of certain programming elements by purchasing the elements for all of the Oldies stations we were able to obtain programming for WPTN that we might not have been able to acquire if the station was owned on a standalone basis.
- 5) Clear Channel has also provided us increased resources to assist us in our news gathering efforts. Because of all of these resources, our radio stations are one of the best places to receive breaking news and time-sensitive information. Specifically, through Clear Channel's Wide Area Network and a related wire capture system installed on upgraded computers provided to the stations, the stations have access to information provided by the Clear

¹ Research revealed that 25% of the population in the Cookeville Total Service Area is between 35-64, the prime demographic for such a format.

Channel Radio Network. Also, the station's news director can directly contact other Clear Channel stations to get updates on news affecting the areas surrounding Cookeville. In addition to information gathered by Clear Channel itself, the company provides the stations access to the AP Wire and makes this information easier to use through the wire capture system.

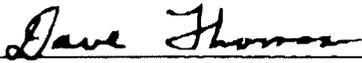
- 6) Adding to the diversity of viewpoints, the stations in the cluster maintain different network affiliations for news and information. Using these various information services, all four stations are able to carry local news programming. Not only does WHUB carry hourly CBS network news, but it also has five daily local newscasts produced by Clear Channel Cookeville. From dawn until 9:00am, WPTN, a daytime-only AM station, runs hourly locally produced local news. Throughout the day the station also broadcasts hourly national news provided by the ABC network. During morning drive time, from 6:00am until 9:30am FM stations WGSQ and WGIC both provide local news as well as national news produced by Clear Channel Cookeville. All of the stations provide breaking news and information. Including breaking local news gathered and produced by Clear Channel Cookeville personnel. Thus, for example, during severe floods in January all of the stations received timely special reports about the situation. The stations also broadcast information about school closings.
- 7) Furthermore, each station broadcasts "Cumberland Viewpoint," a 30-minute weekly public interest program that highlights area happenings, organizations and politics on 30-minute weekly. Lastly, each of the stations provides public service announcements and community calendars throughout the day.
- 8) In all matters related to programming, as well as most other aspects of running the stations, Clear Channel allows the markets complete autonomy and does not attempt to influence programming decisions. Thus, corporate management limits its consideration of my market to periodic budget reviews.
- 9) We have saved money through economies of scale in Cookeville. In particular, we have saved money by using the same facility, thereby reducing rent and utilities costs and enabling us to be able to buy certain products such as office supplies in bulk.
- 10) Clear Channel invests large amounts to make our products first class. By doing so, listeners in our very small market receive a product that rivals those heard in major markets. We have an approved capital expenditure budget for 2000 of \$265,214. This amount includes \$225,000 for the installation of the Prophet System digital automation system at WGSQ(FM). The amount also includes investments in upgraded remote equipment for the stations and improvements to the technical facilities of some of the stations. These products will make program production more efficient and improve the quality of our programming.
- 11) We have also reinvested some of the money we save into higher compensation for some employees in order to attract better talent to the market. For example, before group ownership a market like Cookeville could not afford to employ top 50-market talent. Since consolidation, however, Clear Channel has hired three employees with top 50-market

experience. Significantly, two of these employees grew up in the community. For the first time, homegrown talent can return to the market and still earn a decent living.

- 12) Not surprisingly, hiring of better talent has coincided with a marked increase in ratings for the stations in our cluster, which definitely shows us that more people are listening to our stations. Finally the population within our service area can listen to local stations in order to receive quality programming rather than being forced to try to tune in to stations from the closest big city in order to receive that caliber of programming. As our Director of Programming, Marty McFly noted in an e-mail to me, "It's like years ago if you wanted to do some big time shopping you had to head to Nashville. Now you have the big stores like Wal-Mart here, down the street. Although Wal-Mart is a big name national brand, though, the store in Cookeville is still run by people you know from the city and it caters to the needs of the people in the city, that's the key."
- 13) Group ownership has enabled our stations to more effectively serve the community through the dissemination of critical information and participation in community service events. Success in our industry is dependent upon the responsibility we feel, the high standards we set and the positive impact our actions have. As Marty McFly wrote, "[c]onsolidation's biggest advantages are the way we can help people. With a charity fund drive you get the power and listeners of four or more stations when we're behind an event." Consequently, in the year 2001, the Cookeville stations conducted a Radiothon that raised \$37,715 for St. Jude's Children's Research Hospital. The stations also helped families in need with food, utility bills, clothing, gifts, and other items at Christmas-time with the "Christmas Wish" program and the U.S. Marine Corps "Toys for Tots" program; highlighted animal welfare programs conducted by the Cookeville Animal Shelter/Putnam County Humane Society and promoted the yearlong fundraising efforts and thrift store run by those organizations; organized and sponsored an annual golf tournament to benefit charities (past recipients include United Way and St. Jude's, among others); and put on the local July 4th celebration known as "Freedom Fest" so that area residents may enjoy a spectacular fireworks show, food and musical entertainment in a safe environment at a low cost to them. Freedom Fest costs \$20,000 to produce and would not be possible for one small town radio station to conduct on its own. Furthermore, the stations regularly serve as media sponsor for events such as the March of Dimes Walk-a-thon; the American Cancer Society's Relay for Life; the Mardi Gras Masquerade Ball to benefit Genesis House (a local shelter for victims of domestic violence); the Multiple Sclerosis Walk-a-thon; the Make a Difference Day; the Fall Fun Fest (a community event that includes a barbeque cook-off); and the Putnam County Fair. Also, our stations have "adopted" three area schools (Cookeville High School; Park View Elementary; and Jere Whitson Elementary), for which we actively and routinely participate in pep rallies, school events and job fairs. Lastly, the stations donate between \$6,000 and \$7,000 in advertising time each month to the child identification program, a home fingerprinting kit for child identification.
- 14) On a national level, we joined with Clear Channel on September 12th to help promote the *Clear Channel Worldwide Relief Fund*. At this point the Fund has exceeded \$19 million and has contributed to numerous organizations. The Cookeville stations alone have raised \$27,748 for the Fund. On a local level, our stations organized a candlelight vigil/prayer

service at the local courthouse for those in need of comfort, companionship and fellowship after September 11th. It also helped coordinate efforts to send supplies to relief organizations in New York and sponsored a drive for gifts for U.S. servicemen and their families at Christmas time.

The foregoing is true to the best of my knowledge.



Dave Thomas
Vice President/Market Manager – Cookeville
Clear Channel Communications, Inc.

March 27, 2002

EXHIBIT 6

STATEMENT OF PROFESSOR JERRY A. HAUSMAN ("HAUSMAN II")

Statement of Professor Jerry A. Hausman

1. My name is Jerry A. Hausman. I am MacDonald Professor of Economics at the Massachusetts Institute of Technology in Cambridge, Massachusetts, 02139.

2. I received an A.B. degree from Brown University and a B.Phil. and D. Phil. (Ph.D.) in Economics from Oxford University where I was a Marshall Scholar. My academic and research specialties are econometrics, the use of statistical models and techniques on economic data, and microeconomics, the study of consumer behavior and the behavior of firms. I teach a course in "Competition in Telecommunications" to graduate students in economics and business at MIT each year. Competition among broadcast TV, cable networks, direct to home satellite (DTH) providers, newspapers, and radio is one of the primary topics covered in the course. In December 1985, I received the John Bates Clark Award of the American Economic Association for the most "significant contributions to economics" by an economist under forty years of age. I have received numerous other academic and economic society awards. My curriculum vitae is attached as Exhibit 1.

3. I have done significant amounts of research in the telecommunications industry. I have published numerous papers in academic journals and books about

telecommunications. I have also done research and published academic papers regarding advertising on TV and radio.

4. I have previously submitted Declarations to the Commission regarding the competitive impacts of policies affecting DTH, DBS, cable TV, and broadcast TV service offerings. I have also submitted Declarations regarding competition between cable TV and DTH and broadcast TV. I have previously made presentations to the Department of Justice regarding competition in TV, cable TV, and radio. I have served as a consultant to the Tribune Corporation over the past decade. Tribune owns broadcast TV stations, radio stations, and newspapers. I have also consulted over the past 10 years for a variety of companies which sell consumer goods and do large amounts of advertising, e.g. Budweiser, Kodak, and Revlon.

5. I am submitting a separate declaration in this proceeding consisting of two empirical studies that analyze changes in advertising prices and format variety. (Hausman Statement I) In this declaration I respond to certain economic issues raised in the NPRM (MM Docket No. 01-317)

I. Summary and Conclusions

6. At least three services (products) compete within a relevant antitrust product market to allow advertisers to reach their target audiences. TV advertising is by

far the largest. Different programming attracts different concentrations of given demographic groups. Next in importance are newspapers which allow targeted advertising in different sections of the papers. Lastly, radio targets different demographic groups by different stations broadcasting different formats. Many advertisers use one or more of these media to reach their target audiences. Advertisers often switch among the media in an attempt to reach their target audiences in a cost efficient manner. My empirical results demonstrate this conclusion since I found that the prices of TV advertising and newspaper advertising vary with the price of radio advertising, and that TV and newspaper advertising are substitutes for radio advertising.

7. Radio is a differentiated market in which different stations broadcast in different formats that appeal to different audiences. This economic factor of differentiation has an important effect on competitive and antitrust analysis. The HHI has limited usefulness, because anti-competitive outcomes typically arise from “unilateral effects” in differentiated product markets. My empirical results demonstrate that high concentration or high shares for the largest or two largest firms does not lead to higher advertising prices. Thus, the concern over market share, defined in a standalone radio market, is misplaced. The empirical results demonstrate that a wider market definition than only radio is required to do correct economic analysis.

8. Within a differentiated product market, barriers to entry are typically not as important as barriers to mobility. My empirical results demonstrate that barriers to mobility do not exist in radio. Given the ease with which radio stations are able to switch formats, any attempt to exercise market power by unilateral action would be defeated by other stations switching to that format.

9. My empirical results find benefits to consumers without offsetting costs from industry consolidation. The creation and exercise of market power has not occurred because my empirical results demonstrate that advertising rates did not increase more in markets that experienced more consolidation. Also, consumers were not harmed by industry consolidation because the number of formats increased with consolidation, giving consumers a wider range of listening choices. The benefits from industry consolidation are greater format diversity and decreases in the change in advertising prices. The goals of the Telecommunications Act of 1996 have been realized. Less regulation has allowed market outcomes to determine the appropriate industry structure. Prices have not increased from this consolidation and consumer welfare has increased.

II. Product and Geographic Market Definition: Radio is Not a Separate Market

10. The NPRM (¶ 41-42) raises the question of product market definition. It notes that the DOJ considers radio to be a separate market. However, the DOJ market definition is not determined by the actual competition in the marketplace and is

refuted by the empirical evidence in my accompanying declaration. (Hausman Statement I)

11. In my view at least three services (products) compete within a relevant antitrust product market to allow advertisers to reach their target audiences. TV advertising is by far the largest. Different programming attracts different concentrations of given demographic groups, e.g. professional basketball compared to "Friends". Cable TV has been important at the national level, (e.g. MTV compared to Nickelodeon) and it is becoming increasingly important at the local level. Next in importance are newspapers which allow targeted advertising in different sections of the papers. Tires and cellular telephone are heavily advertised in the Sports section, while department stores and furniture stores advertise in the Living section or the Style section. Lastly, radio targets different demographic groups by different stations broadcasting different formats, e.g. classic rock compared to all sports radio. Many advertisers use one or more of these media to reach their target audiences.¹ Advertisers often switch among the media in an attempt to reach their target audiences in a cost efficient manner. TV, newspapers, and radio form the relevant market in which to do competitive analysis of mergers in the radio industry.² My empirical results demonstrate this

¹ Advertisers also use billboards, direct marketing, and other media to reach their targeted audiences. However, I disregard these alternative media to concentrate on TV, newspapers, and radio advertising.

² Note that if one were doing competitive analysis in the TV industry, radio might be sufficiently small so as not to create an important competitive constraint for television. However, television creates an important competitive constraint for radio.

conclusion since I found that the prices of TV advertising and newspaper advertising vary with the price of radio advertising, and that TV and newspaper advertising are substitutes for radio advertising. (Hausman Statement I, ¶ 22, Table 3)

12. I am aware that the Department of Justice (DOJ) in their Jacor Consent Decree (August 5, 1996) and other filings claimed that radio is a separate market. However, I disagree with the DOJ's claims. The DOJ states that radio gives advertisers the ability to reach target audiences "far more efficiently than other media". (p. 4) The DOJ claims that TV and newspapers are good vehicles for reaching a "broad, undifferentiated audience", but they generally lack radio's ability "to provide efficient targeting." (pp. 4-5) My experience with advertisers and in TV directly contradicts DOJ's claims. As I explained above, advertisers use broadcast and cable TV, radio, and newspapers to reach target audiences. One hour spent watching MTV and noting the advertisers followed by one hour watching ESPN and noting the advertisers will lead to the conclusion that advertisers reach targeted audiences through TV. Similarly, on broadcast TV the UPN network ("Buffy") and CBS ("60 Minutes") often offer programs that appeal to quite different demographic groups. Also, a look through the different sections of an urban newspaper will demonstrate the same outcome. Indeed, a given advertiser, e.g. Budweiser, will use a mixture of TV, cable TV, radio, and newspapers to reach its target demographic groups.

13. The Commission has previously noted that cable TV offers specialized programming in its 1990 Cable Report which discusses the "steadily-expanding complement of specialized program services offered by the typical cable system." (p. 4972). This judgment has been re-affirmed by numerous Commission Cable Reports. Specialized program networks such as MTV, Nickelodeon, and ESPN allow advertisers to reach targeted demographic groups in a cost efficient manner. Broadcast TV also reaches targeted audiences via different programs as I discussed above. Thus, the DOJ market definition does not comply with commercial reality.

14. The DOJ claim of repetition or frequency is the opposite of what many advertisers seek. In both radio and TV advertisers pay a higher rate per thousand when the audience is larger. This non-linear relationship has existed for many years. Advertisers desire a larger "reach" so that more people hear or see an advertisement, rather than a smaller group seeing the same commercial numerous times.³ The cost of producing radio commercials and the ability to get fast turnaround is not unique to radio—it is also found in newspaper advertisements. Lastly, radio reaches people in cars, but so do billboards. Also, the advent of satellite radio provides another means for advertisers to reach people in cars. Both XM and Sirius, the two new satellite radio services, provide multiple

³ A recent article explains this premium for larger audiences in the context of TV. See e.g. J.M. Higgins and A. Romano, "Cheaper by the Thousand," Broadcasting and Cable, February 4, 2002, pp. 21ff. The article states, "The bottom line is that advertisers put a premium price on reach; they want to cast as wide a net as possible." (p. 22)

channels, many of which have advertising.⁴ Thus, they will provide additional competition to broadcast radio, newspapers, and TV, all of which allow advertisers to target different demographic groups. Thus, broadcast radio does not have unique features. The NPRM recognizes that “many advertisers consider alternative media to be good substitutes for radio advertising, but the DOJ’s analysis indicates that alternative media are not good substitutes for a significant number of advertisers.” However, economic analysis demonstrates that prices are set at the margin. Thus as long as a sufficient number of advertisers find alternative media to be good substitutes for radio, radio advertising prices will not increase. The demand for all goods has this feature—many customers (“infra-marginal” customers) would not switch unless the price changed greatly, while other price-sensitive customers (“marginal” customers) would switch in response to a small price increase. These latter customers defeat an attempted price increase and hold down prices for everyone.⁵

⁴ XM has an exclusive distribution arrangement with General Motors, other automotive manufacturers, car audio dealers and national electronics retailers. XM commenced commercial service in September 2001 and launched nationwide in November 2001. XM states: “We offer advertisers an effective way to aggregate geographically disparate groups of listeners in their targeted demographic markets.” (Source: “XM Investor Information”) Sirius has agreements with Ford Motor Company, DaimlerChrysler Corporation and BMW of North America that contemplate the manufacture and sale of vehicles that include radios capable of receiving Sirius’s broadcasts. (Source: Sirius Prospectus, January 7, 2002) Sirius began operation in February 2002.

⁵ DOJ makes the classic mistake in their market definition analysis by stating that “many [advertisers] are not likely to switch any or some of their advertising budget” if radio prices rise 5-10%. (p. 5) It is well known that only a small group of marginal customers needs to exist to create a broader market. For the relevant market to be broader than only radio, economic analysis demonstrates that only 5-10% of advertisers would need to switch; thus, it is not a requirement that “many” advertisers switch in the event of a 5-10% price increase. DOJ offered this same argument, and it was rejected in Federal District Court in a case in which I testified for Kodak, U.S. v. Eastman Kodak, 853

15. The DOJ market definition is based on a qualitative description without any quantitative analysis. My empirical analysis in my accompanying declaration demonstrates that the market definition is broader than radio. As I discussed above, TV advertising and newspaper advertising are found to be significant substitutes to radio advertising. Furthermore, given the rapid consolidation in radio since the passage of the Telecommunications Act of 1996, if radio were a separate market, advertising prices should have risen significantly in markets where concentration increased greatly. In many markets that I analyze the HHI increased by more than 1000 between 1995 and 2001, a significant increase that would make the market “highly concentrated” according to the *DOJ and FTC Horizontal Merger Guidelines* (1992). If, as asserted by DOJ, radio were a separate market, changes in concentration of the size that have occurred in radio markets should have led to increased radio advertising prices. However, my empirical study demonstrates that these increases in concentration did not lead to increases in advertising prices. Thus, the empirical evidence demonstrates that the DOJ market definition is incorrect.

16. I agree with the NPRM (§ 43) that the relevant geographic market is local. While both local and national advertising are important revenue sources for radio, the

F.Supp. 1454 (W.D.N.Y. 1994), aff'd 63 F.3d 95 (2d Cir. 1995). DOJ then attempts to make a price discrimination argument but it fails to realize that the argument is also wrong because they incorrectly assume that radio stations can perfectly target customers. This argument has been rejected by the FTC in a case in which I testified, In the Matter of RR Donnelley, Final Order, July 21, 1995. See also J. Hausman, et al., "Market Definition Under Price Discrimination", Antitrust Law Journal, 1996.

local stations set advertising rates that differ across geographic markets. National advertising is generally a much less important factor for radio than it is for television.⁶ Again my empirical results demonstrate that advertising rates differ across local markets and that changes in variables such as population in local markets affect changes in advertising rates. I do not believe that the empirical analysis would be affected in any significant manner by the exact definition of the geographic market as the NPRM asks (¶ 44). My empirical results are not sensitive to the exact measure of concentration used as my accompanying declaration discusses. (Hausman Statement I, ¶ 22-23, Tables 2 and 3)

III. Radio is a Differentiated Product

17. Radio is a differentiated market in which different stations broadcast in different formats that appeal to different audiences. This economic factor of differentiation has an important effect on competitive and antitrust analysis.⁷ Thus, the HHI has limited usefulness, because anti-competitive outcomes typically arise from “unilateral effects”, actions by a single firm, in differentiated product markets.⁸ My empirical results in my accompanying declaration (Hausman Statement I, ¶ 22-23), however, demonstrate that high concentration or high shares for the largest or two largest firms does not lead to higher advertising prices. Thus, the concern over market share, defined in a radio market without taking account of competition from TV and newspapers, is misplaced.

⁶ However, a relevant economic market for television is also local advertising.

⁷ See e.g. Section 2 of the *DOJ and FTC Horizontal Merger Guidelines* (1992).

⁸ It is generally agreed that coordinated interaction does not typically occur in differentiated product markets. See *ibid.*

18. Within a differentiated product market, barriers to entry are typically not as important as barriers to mobility. (NPRM ¶ 46-47) The relevant question is whether other products can economically reposition themselves to increase supply and hold down a possible price increase. The empirical results in my accompanying declaration (Hausman Statement I) demonstrate that barriers to mobility do not exist in radio. Given the ease with which radio stations are able to switch formats, any attempt to exercise market power by unilateral action would be defeated by other stations switching to another format. Thus, I agree with the NPRM (¶ 47) that stations often change their programming format. These changes provide a check on the exercise of unilateral market power, as my empirical results demonstrate. As evidence of the ease of format switching, I find that over 35 percent of the stations in the markets in my sample changed formats between 1995 and 2001.⁹

19. In a recent working paper by DOJ economists C. Romeo and A. Dick, “The Effect of Format Changes and Ownership Consolidation on Radio Station Outcomes” (December 2001), the authors do an empirical analysis of format changes. They conclude that the changes are not effective in changing audience share and they also conclude that format mobility is unlikely to be effective in countering market power. However, they do find that the most important factors affecting format

⁹ I use the major format categories defined by BIA to determine whether a station changed formats.

changes are the economic incentives of attempting to improve below average listening shares.¹⁰

20. While the DOJ economists find evidence of a significant number of format changes driven by economic considerations, as do I in my separate study (Hausman Statement I), they conclude that they are not “effective”. They do not explain why the companies undertake the cost of the format changes if they are likely not to be “effective.” However, I believe that the DOJ economists have missed a basic economic point by not considering advertising prices. A company may shift format on economic grounds if it gains a higher advertising price, even if its listening share does not go up.¹¹ The economic profit to a radio station comes from the advertising price per thousand listeners times the number of listeners. The DOJ economists have only considered half of the revenue equation. Thus, if a single company gained a large “share” of a particular format, other companies would find it profitable to shift formats and constrain an attempted price increase, even if their listening shares did not increase.

21. Also, the DOJ paper does not consider the results of the increased consolidation in the radio industry that took place during their study period. As I have discussed, advertising prices did not go up more in the markets that had significantly more consolidation. I also did a more refined analysis in which I considered

¹⁰ I have significant questions about the econometric techniques used in the paper. However, since I do not have access to the data I cannot investigate further.

¹¹ Indeed, its listening share could decrease and the format change could still be profitable.

concentration within segments to see whether market power could be exercised within a given format, if mobility and format changes were insufficient supply responses (Hausman Statement I, ¶ 27). Since many of the sample markets became “highly concentrated” under the *DOJ and FTC Horizontal Merger Guidelines* (MG), often with a single company having a share significantly above 35 percent, one of three conclusions should hold: (1) the MG approach of using shares to predict the effect of mergers does not apply to the radio industry, (2) radio advertising is not a separate market,¹² or (3) format changes are effective in stopping advertising prices from increasing. My view is that all three reasons are likely to hold. The empirical fact is that advertising prices did not increase more in markets that experienced more consolidation. The DOJ economists never consider price data, and hence miss the key economic fact of testing the outcomes of consolidation in the radio industry.

IV. Potential Benefits and Costs to Radio Consolidation

22. Economists generally agree that the reason for industry consolidation is to increase the combined value of the merging companies. Increased value typically arises from two sources: (1) increased revenues, which follow from increased price or increased output, and (2) decreased costs. Increases in price (holding output constant) are anti-competitive and decrease consumer welfare. My empirical results in the accompanying declaration (Hausman Statement I) demonstrate that increased advertising prices did not occur with increased

¹² The Romeo and Dick paper states that the DOJ maintains its position that radio advertising is a separate market, p. 26, fn 31.

consolidation. Thus, increased industry consolidation did not cause an increase in advertising prices.

23. Increased output in radio arises from an increase in the number of listeners. If this event occurs, consumer welfare has increased and the outcome is pro-competitive because consumers find the new content better than the old content. Increased output can arise because of greater diversity in formats. Greater diversity in formats allows for “niches” in the market to be better served. My empirical results in the accompanying declaration (Hausman Statement I) demonstrate that the number of formats increased with industry consolidation. This outcome creates a benefit to both consumers and to advertisers.

24. Lastly, reduced costs are pro-competitive because they lead to lower prices and increased output.¹³ Lower costs appear to be the major reason for consolidation in the radio industry. Radio stations have significant fixed costs. By combining stations these fixed costs are spread over a wider base. Variable costs (which are the determinant of prices) also decrease with consolidation because labor inputs are used more efficiently. Economies of scope also occur across stations, which lead to lower costs and prices. My empirical finding that increased consolidation leads to lower changes in advertising prices (Hausman Statement I, ¶ 22-23, Table 3) is consistent with cost savings being the main reason for industry

¹³ Even a monopolist passes on part of the cost savings in terms of lower prices. See J. Hausman and G. Leonard, “Efficiencies from the Consumer Viewpoint,” with G. Leonard, George Mason Law Review, 7, 1999.

consolidation. Advertisers are the main beneficiaries of these lower costs and lower prices. Lower prices to advertisers lead to lower prices for consumers.

25. Thus, according to my empirical results industry consolidation has created benefits for consumers without any offsetting costs. The creation and exercise of market power has not occurred (NPRM ¶ 49) because my empirical results demonstrate that advertising rates did not increase more in markets that experienced more consolidation. The NPRM stated (¶ 49): “Studies and other evidence showing that advertising rates for radio station combinations are significantly higher after a consolidation than before a consolidation would be particularly useful.” However, my empirical study finds the **opposite result**: prices did not increase more in markets that experienced more consolidation and, if anything, increased by a lesser amount. Also, consumers were not harmed by consolidation (NPRM ¶ 49) because the number of formats increased with consolidation, giving consumers a wider range of listening choices. Lastly, the NPRM mentioned the possibility of coordinated behavior with increased industry consolidation. (NPRM ¶ 50) As I discussed before, it is well recognized among economists and also in Section 2 of the *DOJ and FTC Horizontal Merger Guidelines* (1992) that coordinated behavior is unlikely to occur in differentiated product markets such as radio. Further, my empirical results demonstrate that coordinated behavior did not occur since price increases were not greater in markets that experienced more consolidation.

26. Thus, the benefits from industry consolidation are increases in format diversity and decreases in the change in advertising prices. The goals of the Telecommunications Act of 1996 have been achieved. Less regulation has allowed market outcomes to determine the appropriate industry structure. Prices have not increased from this consolidation and consumer welfare has increased.

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EDUCATION:

OXFORD UNIVERSITY
D. Phil. 1973 (Ph.D)
B. Phil. 1972

BROWN UNIVERSITY
A.B. (Summa Cum Laude), 1968

THESIS: "A Theoretical and Empirical Study of Vintage Investment and Production in Great Britain,"
Oxford University, 1973.

FELLOWSHIPS, HONORS AND AWARDS:

Phi Beta Kappa
Marshall Scholar at Oxford, 1970-1972
Scholarship at Nuffield College, Oxford, 1971-1972
Fellow, Econometric Society, 1979.
Frisch Medal of the Econometric Society, 1980
Fisher-Schultz Lecture for the Econometric Society, 1982
John Bates Clark Award of the American Economic Association, 1985
Jacob Marschak Lecture for the Econometric Society, 1988
Fellow, National Academy of Social Insurance, 1990
American Academy of Arts and Sciences, 1991.
Fellow, Journal of Econometrics, 1998.

EMPLOYMENT:

1992- MASSACHUSETTS INSTITUTE OF TECHNOLOGY
1979- John and Jennie S. MacDonald Professor
1976-79 Professor, Department of Economics
1973-76 Associate Professor, Department of Economics
1972-73 Assistant Professor, Department of Economics
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VISITING APPOINTMENTS:

1986-87 Visiting Professor, Harvard Business School
1982-83 Visiting Professor, Harvard University Department of Economics

1968-70 U.S. ARMY, ANCHORAGE, ALASKA
Corps of Engineers

PROFESSIONAL ACTIVITIES:

Associate Editor, Bell Journal of Economics, 1974-1983
 Associate Editor, Rand Journal of Economics, 1984-1988
 Associate Editor, Econometrica, 1978-1987
 Reviewer, Mathematical Reviews, 1978-1980
 American Editor, Review of Economic Studies, 1979-82
 Associate Editor, Journal of Public Economics, 1982-1998
 Associate Editor, Journal of Applied Econometrics, 1985-1993
 Member of MIT Center for Energy and Environmental Policy Research, 1973-
 Research Associate, National Bureau of Economic Research, 1979-
 Member, American Statistical Association Committee on Energy Statistics, 1981-1984
 Special Witness (Master) for the Honorable John R. Bartels, U.S. District Court for the Eastern
 District of New York in Carter vs. Newsday, Inc., 1981-82
 Member of Governor's Advisory Council (Massachusetts) for Revenue and Taxation,
 1984-1992
 Member, Committee on National Statistics, 1985-1990
 Member, National Academy of Social Insurance, 1990-
 Member, Committee to Revise U.S. Trade Statistics 1990-1992
 Director, MIT Telecommunications Economics Research Program, 1988-
 Board of Directors, Theseus Institute, France Telecom University, 1988-1995
 Member, Conference on Income and Wealth, National Bureau of Economic Research, 1992-
 Member, Committee on the Future of Boston, 1998
 Advisory Editor, Economics Research Network and Social Science Research , 1998-
 Advisory Editor, Journal of Sports Economics, 1999-

PUBLICATIONS:**I. Econometrics**

- "Minimum Mean Square Estimators and Robust Regression," Oxford Bulletin of Statistics, April 1974.
- "Minimum Distance and Maximum Likelihood Estimation of Structural Models in Econometrics," delivered at the European Econometric Congress, Grenoble: August 1974.
- "Full-Information Instrumental Variable Estimation of Simultaneous Equation Models," Annals of Economic and Social Measurement, October 1974.
- "Estimation and Inference in Nonlinear Structural Models," Annals of Economic and Social Measurement, with E. Berndt, R.E. Hall, and B.H. Hall, October 1974.
- "An Instrumental Variable Approach to Full-Information Estimators in Linear and Certain Nonlinear Econometric Models," Econometrica, 43, 1975.
- "Simultaneous Equations with Errors in Variables," Journal of Econometrics 5, 1977.
- "Social Experimentation, Truncated Distributions, and Efficient Estimation," with D. Wise, Econometrica, 45, 1977.
- "A Conditional Probit Model for Qualitative Choice," with D. Wide, Econometrica, 46, 1978.
- "Specification Tests in Econometrics," Econometrica, 46, 1978.
- "Non-Random Missing Data," with A.M. Spence, MIT Working Paper 200, May 1977.

- "Attrition Bias in Experimental and Panel Data: The Gary Income Maintenance Experiment," with D. Wise, Econometrica, 47, 1979.
- "Missing Data and Self Selection in Large Panels," with Z. Griliches and B.H. Hall Annales de l'INSEE, April 1978.
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- "Les models probit de choix qualitatifs," ("Alternative Conditional Probit Specifications for qualitative Choice.") (English Version), September 1977; EPRI report on discrete choice models, Cahiers du Seminar d'Econometrie, 1980.
- "The Econometrics of Labor Supply on Convex Budget Sets," Economic Letters, 1979.
- "Panel Data and Unobservable Individual Effects," with W. Taylor, Econometrica 49, November 1981.
- "Comparing Specification Tests and Classical Tests," with W. Taylor, August 1980, Economic Letters, 1981.
- "The Effect of Time on Economic Experiments," invited paper at Fifth World Econometrics Conference, August 1980; in Advances in Econometrics, ed. W. Hildebrand, Cambridge University Press, 1982.
- "Sample Design Considerations for the Vermont TOD Use Survey," with John Trimble, Journal of Public Use Data, 9, 1981.
- "Identification in Simultaneous Equations Systems with Covariance Restrictions: An Instrumental Variable Interpretation," with W. Taylor, Econometrica, 51, 1983.
- "Stochastic Problems in the Simulation of Labor Supply," in Tax Simulation Models, ed. M. Feldstein, University of Chicago Press, 1983.
- "The Design and Analysis of Social and Economic Experiments," invited paper for 43rd International Statistical Institute Meeting, 1981; Review of the ISI.
- "Specification and Estimation of Simultaneous Equation Models," in Handbook of Econometrics, ed. Z. Griliches and M. Intriligator, vol. 1, 1983.
- "Full-Information Estimators," in Kotz-Johnson, Encyclopedia of Statistical Science, vol. 3, 1983
- "Instrumental Variable Estimation," in Kotz-Johnson, Encyclopedia of Statistical Science, vol. 4, 1984
- "Specification Tests for the Multinomial Logit Model," with D. McFadden, Econometrica, 52, 1984.
- "Econometric Models for Count Data with an Application to the Patents R&D Relationship," with Z. Griliches and B. Hall, Econometrica, 52, 1984.
- "The Econometrics of Nonlinear Budget Sets," Fisher-Shultz lecture for the Econometric Society, Dublin: 1982; Econometrica, 53, 1985.
- "The J-Test as a Hausman Specification Test," with H. Pesaran, Economic Letters, 1983.

- "Seasonal Adjustment with Measurement Error Present," with M. Watson, Journal of the American Statistical Association, 1985.
- "Efficient Estimation and Identification of Simultaneous Equation Models with Covariance Restrictions," with W. Newey and W. Taylor, Econometrica, 55, 1987.
- "Technical Problems in Social Experimentation: Cost Versus Ease of Analysis," with D. Wise, in Social Experimentation, ed. J. Hausman and D. Wise, 1985.
- "Errors in Variables in Panel Data," with Z. Griliches, Journal of Econometrics, 1986.
- "Specifying and Testing Econometric Models for Rank-Ordered Data," with P. Ruud; Journal of Econometrics, 1987.
- "Semiparametric Identification and Estimation of Polynomial Errors in Variables Models," with W. Newey, J. Powell and H. Ichimura, Journal of Econometrics, 1991.
- "Flexible Parametric Estimation of Duration and Competing Risk Models," with A. Han, November 1986, Journal of Applied Econometrics, 1990.
- "Consistent Estimation of Nonlinear Errors in Variables Models with Few Measurements," with W. Newey and J. Powell, 1987.
- "Optimal Revision and Seasonal Adjustment of Updated Data: Application to Housing Starts," with M. Watson, Journal of the American Statistical Association Proceedings, 1991.
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- "Nonlinear Errors in Variables: Estimation of Some Engel Curves," Jacob Marschak Lecture of the Econometric Society, Canberra 1988, Journal of Econometrics, 65, 1995.
- "Nonparametric Estimation of Exact Consumers Surplus and Deadweight Loss," with W. Newey, Econometrica, 1995.
- "Misclassification of a Dependent Variable in Qualitative Response Models," with F. Scott-Morton and J. Abrevaya, Journal of Econometrics, 1998.
- "Semiparametric Estimation in the Presence of Mismeasured Dependent Variables," with J. Abrevaya, Annales D'Economie et de Statistique, 55-56, 1999.
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- "A New Specification Test for the Validity of Instrumental Variables," with J. Hahn, mimeo, May 1999, revised April 2000, forthcoming Econometrica.
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II. Public Finance

- "The Evaluation of Results from Truncated Samples," with D. Wise, Annals of Economic and Social Measurement, April 1976.
- "Discontinuous Budget Constraints and Estimation: The Demand for Housing," with D. Wise, J.F. Kennedy School Working Paper, July 1977; Review of Economic Studies, 1980.
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- "The Effect of Wages, Taxes, and Fixed Costs on Women's Labor Force Participation," Journal of Public Economics, October 1980.
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- "Retirement and Unemployment Behavior of Older Men," in H. Aaron and G. Burtless, Retirement and Economic Behavior, Brookings: 1984.
- "Tax Policy and Unemployment Insurance Effects on Labor Supply," in Removing Obstacles to Economic Growth, ed. M. Wachter, 1984.
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- "The Effect of Taxes on Labor Supply," in Handbook on Public Economics, ed. A. Auerbach and M. Feldstein, 1985.
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- "Household Behavior and the Tax Reform Act of 1986," with J. Poterba, October 1986; Journal of Economic Perspectives, 1987, also published in French in Annales D'Economie et de Statistique, 1988.
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- "Income Taxation and Social Insurance in China," in Sino-U.S. Scholars on Hot Issues in China's Economy, 1990.
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- "Regulating the U.S. Railroads: The Effects of Sunk Costs and Asymmetric Risk," with S. Myers, Present at French conference on regulation, June 2000.
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III. Applied Micro Models

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- "Individual Discount Rates and the Purchase and Utilization of Energy Using Durables," Bell Journal of Economics, Spring 1979.
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- "Information Costs, Competition and Collective Ratemaking in the Motor Carrier Industry," American University Law Review, 1983.
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- "Valuation of New Goods Under Perfect and Imperfect Competition," ed. T. Bresnahan and R. Gordon, The

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"Characteristics of Demand for Pharmaceutical Products: An Examination of Four Cephalosporins," with S. Fisher Ellison, I. Cockburn and Z. Griliches, Rand Journal of Economics, 28, 3, 1997.

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"The Effect of Sunk Costs in Telecommunication Regulation," in J. Alleman and E. Noam, eds, The New Investment Theory of Real Options and its Implications for Telecommunications Economics, 1999.

"A Consumer-Welfare Approach to the Mandatory Unbundling of Telecommunications Networks," with J. Gregory Sidak, Yale Law Journal, 1999.

"Competition in U.S. Telecommunications Services Four Years After the 1996 Act, with R. Crandall, in S. Peltzman and C. Winston, eds., Deregulation of Network Industries, 2000.

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"Regulated Costs and Prices in Telecommunications," Forthcoming International Handbook of Telecommunications", 2001.

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"Project Independence: An Economic Analysis," Technology Review, May 1974.

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"A Note on Computational Simplifications and Extensions of the Conditional Probit Model," EPRI report on choice models, September 1977.

"Labor Supply Response of Males to a Negative Income Tax," Testimony for U.S. Senate Finance Subcommittee on Public Assistance, November 22, 1978.

"Appliance Choice with Time of Day Pricing," Energy Laboratory Report, January 1980.

"Discrete Choice Models with Uncertain Attributes," Oak Ridge National Laboratories Report, January 1980.

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"Merger Policy in Declining Demand Industries," Testimony before the U.S. Federal Trade Commission, November 14, 1995.

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