The Nation.

Empire of the Air

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For too long, musicians have had too little voice in the manufacture, distribution and promotion of their music and too little means to extract fair support and compensation for their work. The Future of Music Coalition was formed in June 2000 as a not-for-profit think tank to tackle this problem, advocating new business models, technologies and policies that would advance the cause of both musicians and citizens. Much of the work the FMC has done in the past two years has focused on documenting the structures of imbalance and inequity that impede the development of an American musicians' middle class, and translating legislative-speak into language that musicians and citizens can understand. Our most challenging work, however, and the project of which we are most proud, is our analysis of the effects of radio deregulation on musicians and citizens since the passage of the 1996 Telecommunications Act.

Radio is a public resource managed on citizens' behalf by the federal government. This was established in 1934 through the passage of the Communications Act, which created a regulatory body, the Federal Communications Commission, and laid the ground rules for the regulation of radio. The act also determined that the spectrum would be managed according to a "trusteeship" model. Broadcasters received fixed-term, renewable licenses that gave them exclusive use of a slice of the spectrum for free. In exchange, they were required to serve the "public interest, convenience and necessity." Though they laid their trust in the mechanics of the marketplace, legislators did not turn the entire spectrum over to commercial broadcasters. The 1934 act included some key provisions that were designed to foster localism and encourage diversity in programming.

Although changes were made to limits on ownership and FCC regulatory control in years hence, the Communications Act of 1934 remained essentially intact until it was thoroughly overhauled in 1996 with the passage of the Telecommunications Act. But even before President Clinton signed the act into law in February 1996, numerous predictions were made regarding its effect on the radio industry:

§ The number of individual radio-station owners would decrease. Those in the industry with enough capital would begin to snatch up valuable but underperforming stations in many markets--big and small.

§ Station owners--given the ability to purchase more stations both locally and nationally--would benefit from economies of scale. Radio runs on many fixed costs: Equipment, operations and staffing costs are the same whether broadcasting to one person or 1 million. Owners knew that if they could control more than one station in a local market, they could consolidate operations and reduce fixed expenses. Lower costs would mean increased profit potential. This would, in turn, make for more financially sound radio stations, which would be able to compete more effectively against new media competitors: cable TV and the Internet.

§ There was a prediction based on a theory posited by a 1950s economist named Peter Steiner that increased ownership consolidation on the local level would lead to a subsequent increase in the number of radio format choices available to the listening public. (Steiner, writing in 1952, was not talking about oligopolistic control of the market by a few firms, as we have in the United States; rather, he was basing his predictions on an analysis of BBC radio, which is a nationally owned radio monopoly, not an oligopoly.) According to Steiner's theory, a single owner with multiple stations in a local market wouldn't want to compete against himself. Instead, he would program each station differently to meet the tastes of a variety of listeners.

But what really happened?

Well, one prediction certainly came true: The 1996 act opened the floodgates for ownership consolidation. Ten parent companies now dominate the radio spectrum, radio listenership and radio revenues, controlling two-thirds of both listeners and revenue nationwide. Two parent companies in particular--Clear Channel and Viacom--together control 42 percent of listeners and 45 percent of industry revenues.

Consolidation is particularly extreme in the case of Clear Channel. Since passage of the Telecommunications Act, Clear Channel has grown from forty stations to 1,240 stations--thirty times more than Congressional regulation previously allowed. No potential competitor owns even one-quarter the number of Clear Channel stations. With more than 100 million listeners, Clear Channel reaches more than one-third of the US population.

Even more bleak is the picture at the local level, where oligopolies control almost every market. Virtually every local market is dominated by four firms controlling 70 percent of market share or greater. In smaller markets, consolidation is more extreme. The largest four firms in most small markets control 90 percent of market share or more. These companies are sometimes regional or national station groups and not locally owned.

Only the few radio-station owners with enough capital to buy additional stations have benefited from deregulation. Station owners have consolidated their operations on a local level, frequently running a number of stations out of a single building, sharing a single advertising staff, technicians and on-air talent. In some cases, radio-station groups have further reduced costs by eliminating the local component almost entirely. Local deejays and program directors are being replaced by regional directors or even by voice-tracked or syndicated programming, which explains a marked decrease in the number of people employed in the radio industry.

Prior to 1996, radio was among the least concentrated and most economically competitive of the media industries. In 1990 no company owned more than fourteen of the more than 10,000 stations nationwide, with no more than two in a single local market. But we found that local markets have now consolidated to the point that just four major radio groups control about 50 percent of the total listener audience and revenue. Clearly, deregulation has reduced competition within the radio industry.

As a result, listeners are losing. With an emphasis on cost-cutting and an effort to move decision-making out of the hands of local station staff, much of radio has become bland and formulaic. Recall Steiner's hopeful theory that an owner would not want to compete against his own company and would therefore operate stations with different programming. We found evidence to the contrary: Radio companies regularly operate two or more stations with the same format--for example, rock, country, adult contemporary, top 40--in the same local market. In a recent *New York Times* article, "Fewer Media Owners, More Media Choices," FCC chairman Michael Powell denied this, propping up Steiner's theory by saying things like, "Common ownership can lead to more diversity--what does the owner get for having duplicative products?" But we found 561 instances of format redundancy nationwide--a parent company operating two or more stations in the same market, with the same format--amounting to massive missed opportunities for variety.

Still, from 1996 to 2000, format variety--the average number of formats available in each local market--actually increased in both large and small markets. But format variety is not equivalent to true diversity in programming, since formats with different names have similar playlists. For example, alternative, top 40, rock and hot adult contemporary are all likely to play songs by the band Creed, even though their formats are not the same. In fact, an analysis of data from charts in *Radio and Records* and *Billboard's Airplay Monitor* revealed considerable playlist overlap--as much as 76 percent--between supposedly distinct formats. If the FCC or the National Association of Broadcasters are sincerely trying to measure programming "diversity," doing so on the basis of the number of formats in a given market is a flawed methodology.

This final point may be the most critical one as we face an FCC that is poised to deregulate media even further in the next few months. (In September, the commissioners voted unanimously to open review of the FCC's media ownership rules.) It is time to put to bed the commonly held fundamentally flawed notion that consolidation promotes diversity--that radio-station owners who own two stations within a marketplace will not be tempted to program both stations with the same songs. There's a clear corporate benefit in "self-competition," and it's time we made regulatory agencies admit that fact.

Even in the beginning, radio was regulated to cultivate a commercial broadcast industry that could grow to serve the greatest number of Americans possible. As the decades have passed, most calls for deregulation have come from incumbent broadcasters interested in lifting local and national ownership caps that protect against the competitive pressures of other media.

While the effects of deregulation have been widely studied and discussed, scrutiny is focused on the profitability of the radio industry. But the effect of increased corporate profitability on citizens is rarely, if ever, discussed. Radical deregulation of the radio industry allowed by the Telecommunications Act of 1996 has not benefited the public. Instead, it has led to less competition, fewer viewpoints and less diversity in programming. Substantial ethnic, regional and economic populations are not provided the services to which they are entitled. The public is not satisfied, and possible economic efficiencies of industry consolidation are not being passed on to the public in the form of improved local service. Deregulation has damaged radio as a public resource.

Musicians are also suffering because of deregulation. Independent artists have found it increasingly difficult to get airplay; in payola-like schemes, the "Big Five" music companies, through third-party promoters, shell out thousands of dollars per song to the companies that rule the airwaves. That's part of why the Future of Music Coalition undertook this research. We at the FMC firmly believe that the music industry as it exists today is fundamentally anti-artist. In addition to our radio study, our projects--including a critique of standard major-label contract clauses, a study of musicians and health insurance, and a translation of the complicated Copyright Arbitration Royalty Panel proceedings that determined the webcasting royalty rates--were conceived as tools for people who are curious about the structures that impede musicians' ability to both live and make a living. Understanding radio deregulation is another tool for criticizing such structures. We have detailed the connections between concentrated media ownership, homogenous radio programming and restricted radio access for musicians. Given that knowledge, we hope artists will join with other activists and work to restore radio as a public resource for all people.