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COUNSEL

WILLIAM M. BARNARD

MAY 28 2003

May 28, 2003
Federal Communications Commission
Office of Secretary

EX PARTE COMMUNICATION
MB Docket No. 02-277

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, D.C. 20002

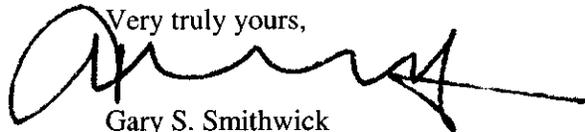
Re: Biennial Review – Radio Multiple Ownership Rules
MB Docket No. 02-277, MM Docket No. 01-317, MM Docket No. 00-244

Dear Ms. Dortch:

On behalf of Saga Communications, Inc., transmitted herewith is the original and four copies of Comments in connection with the above-referenced proceeding. As noted below, we are hand serving copies on Chairman Powell, all of the Commissioners and the Chief of the Media Bureau.

If any question arises in connection with this submission, please contact undersigned counsel.

Very truly yours,



Gary S. Smithwick
Counsel for
Saga Communications, Inc.

GSS/sls

cc: The Honorable Michael K. Powell
The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin
The Honorable Jonathan S. Adelstein
Kenneth Ferree, Esquire (Chief, Media Bureau)

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WILLIAM M. BARNARD

MAY 28 2003

Federal Communications Commission
Office of Secretary

May 28, 2003

EX PARTE COMMUNICATION

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S. W.
Washington, DC 20554

Re: Biennial Review – Radio Multiple Ownership Rules
MB Docket No. 02-277, MM Docket No. 01-317, MM Docket No. 00-244

Dear Chairman Powell:

This letter is written on behalf of our client, Saga Communications, Inc. (“Saga”), and addresses Item No. 1 (Media Bureau – the 2003 Biennial Regulatory Review of the Commission’s Broadcast Ownership Rules) on the Commission’s Agenda for the June 2, 2003, meeting (See Commission Meeting Agenda, released May 23, 2003, which found it in the public interest to extend the sunshine period to permit *ex parte* presentations to continue through Friday, May 30, 2003).

Directly or through subsidiaries, Saga is the licensee of 46 commercial FM and 26 commercial AM radio stations, many in small and medium size markets. Saga is a publicly-traded company and its stockholders could be injured by action that the Commission is contemplating. Saga is deeply concerned that the Commission is preparing to change the market definitions used to interpret Title 47 C.F.R. Section 73.3555. Published reports (Broadcasting and Cable, May 19, 2003) indicate that the Commission is considering abandonment of the signal contour method used to determine the number of stations in radio markets and replacement of that method with a new method that would be based on information supplied by BIA (Broadcast Investment Analysts) and/or Arbitron.

Honorable Michael K. Powell
Page 2 of 3
May 28, 2003

Saga has reviewed a letter dated May 23, 2003, addressed to you from Edward O. Fritts, President and CEO of the National Association of Broadcasters ("NAB"), of which Saga is a member. Saga fully endorses the position taken by Mr. Fritts in that letter; i.e., that the contour-based market definition of a radio market should be retained with the modifications suggested by Mr. Fritts. The NAB has suggested a reasonable plan for dealing with (a) the so-called *Pine Bluff* anomaly by not including in the count of stations making up a radio market those stations owned by a proposed transferee that would not be counted towards that entity's local ownership limits, and (b) the "large signal" anomaly by excluding from the count of stations in a market any station whose transmitter site is more than 58 miles from the area of common overlap of the stations being acquired. The NAB president also suggests grandfathering in perpetuity all existing station clusters, and applying any new market definition prospectively.

Replacing the current contour overlap standard with a standard based on Arbitron data could do irreparable harm to companies like Saga because a revised standard could reduce the permissible number of stations in some of the markets where licensees have acquired stations under the current rules. Those licensees could find themselves with non-complying clusters under revised rules.

Saga believes that the current method, based on predictable signal strength criteria modified as suggested by the NAB would address the Commission's concerns and could be defended in court since the market definitions are based on physical knowable criteria, i.e., signal strength. In contrast, Arbitron ratings reports were never designed for the purpose the Commission may be considering. These reports were developed as a tool for the sale of radio advertising, not to define radio markets for concentration of media purposes. The attached "Description of Methodology" from a Winter 2003 Arbitron report provides ample evidence why the Commission should not rely on Arbitron reports to define radio markets. In short, while Arbitron Reports are excellent for the purpose for which they were designed, reliance on Arbitron data to define markets is an inherently unreliable prospect. Additionally, many commercial radio stations are not located in Arbitron markets, which will force the Commission to develop some other definition to count the number of stations in those markets.

Section 73.3555 of the Rules and Section 202 of the Telecommunications Act of 1996 establish limits on the maximum number of stations in which an entity may hold an attributable interest in terms of brackets; i.e., radio markets of 14 or fewer stations (Bracket 1); 15-29 stations (Bracket 2); 30-44 stations (Bracket 3); and markets of 45 or more stations (Bracket 4). Each bracket, in ascending order, permits the ownership of more stations in that market than in the previous bracket, up to 8 stations in Bracket 4. The table¹ in footnote 1 compares the number of stations in selected radio markets as

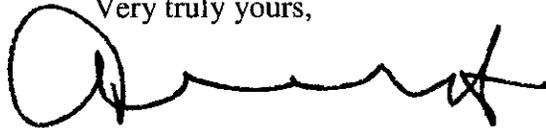
¹ Following is an illustrative table that depicts the number of permissible stations in four of the Arbitron rated radio markets where Saga owns stations using the Arbitron data contrasted with the number of stations computed using the contour method. The dates shown correlate to the multiple ownership studies

Honorable Michael K. Powell
Page 3 of 3
May 28, 2003

determined by the contour method with the number of stations listed in Arbitron reports as those stations that are "Home to the Arbitron Radio Market Area." In each market, the change in definition would result in a downgrade in the bracket for that market. Thus, were the Commission to require divestiture of non-complying clusters upon sale, it could do real economic harm to companies like Saga that have developed acquisition and operational strategies based on the existing multiple ownership rules.

Saga urges the Commission to keep its current method of defining radio markets, or, in the alternative, to revise those definitions to address its concerns using the proposal made in Mr. Fritts' letter.

Very truly yours,



Gary S. Smithwick
Counsel for
Saga Communications, Inc.

GSS/ss

Cc: The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin
The Honorable Jonathan S. Adelstein
Kenneth Ferree, Esquire (Chief, Media Bureau)

submitted when Saga was acquiring stations in those markets. Because each is case-specific, Saga's acquisition of additional stations in those markets might change the station counts under the current rules.

Radio Market	Stations in Market Per "Home to Radio Market" List	Stations in Market Per Contour Method
Columbus, OH	27 (Bracket 2)	34 (November 2002) (Bracket 3)
Des Moines, IA	21 (Bracket 2)	33 (September 1996) (Bracket 3)
Manchester, NH	11 (Bracket 1)	20 (August 1997) (Bracket 2)
Champaign, IL	13 (Bracket 1)	16 (February 2000) (Bracket 2)

Description of Methodology

Introduction

The following Description of Methodology is applicable to the data and estimates contained in the "Listener Estimates" section of this report. A more detailed description of Arbitron methodology can be found in a separate publication titled *Arbitron Radio Description of Methodology* and in other associated relevant documents, made available by Arbitron to all Arbitron syndicated Radio Report subscribers. In the event that the separate publication titled *Arbitron Radio Description of Methodology* conflicts with the "Description of Methodology" printed herein, the latter is considered the more current Description of Methodology.

The Market

1. The Market/An Arbitron Radio Market can be composed of up to three geographic areas: the Metro Survey Area (Metro), the Total Survey Area (TSA) and the Designated Market Area (DMA®). These areas are composed of counties and/or county equivalents (also known as sampling units). A county equivalent generally consists of an independent city or geographic split portion of a whole county. A geographic split county is defined as one or more zip codes within a county and is based on zip code information from Census 2000 data, as updated annually by Claritas, Inc.

a. Metro Survey Area (Metro)

The Metro Survey Area is the primary reporting area of local radio. Arbitron Radio Metros generally correspond to the federal government's Office of Management and Budget's (OMB) Metropolitan Areas. A radio Metro may deviate from its respective OMB definition due to topographical, sampling, or other considerations. The OMB updates its Metropolitan Areas every 10 years, based on the new decennial census data.

For areas that do not have an OMB-defined Metropolitan Area, Arbitron usually defines the Metro Survey Area to include the county (ies) of the majority of the local area stations' city (ies) of license. Additionally, Arbitron may consider such factors as: the historical market definition(s), local trade and commuting patterns, local radio listening patterns, and input from its subscribers.

Changes to an existing Metro definition will be considered by Arbitron upon receipt of a formal request from at least 75 percent of subscribing station owners. If there are fewer than four subscribing station owners in a market, the request must be made by all subscribing station owners for Arbitron to proceed.

Before a formal request is filed, Arbitron will provide a subscribing station owner with reports that will allow a subscriber to determine the commuting and available listenership data for existing Metro counties and any county contiguous to the current Metro. (*Complete listenership data may not be readily available for dual-city Metro redefinition requests.*)

NOTE: All existing Metro counties and all counties adjacent to existing Metro counties are subject to the Metro evaluation. The two criteria that determine whether evaluated counties are included in the Metro definition are: (i) at least 55.0 percent of listening quarter-hours from the county must be credited to existing Metro stations, and (ii) at least 15.0 percent of commuting from the county must be into the existing Metro. (*See the Arbitron Radio Description of Methodology, Chapter One, "The Market: Changes to Metro Survey Area Definitions," for further information and criteria for adjacent Metro and dual-city*

Metro redefinitions.) Metro evaluation results are final — and automatic. This rule applies even if the evaluation finds that one or more counties should be removed from the existing Metro. Changes in Metro geography implemented through this process will remain in effect for at least three (3) years.

b. Total Survey Area (TSA)

The TSA of an Arbitron Radio Market is designed to provide a comprehensive measure of listening to Metro-licensed radio stations. The TSA is composed of the Metro and any additional counties (or county equivalents) that meet certain criteria for inclusion.

TSA definitions are based on historical radio listening patterns and are updated biennially based on the syndicated diary data used for the most recent County Coverage study (excluding any extra sample used for Custom Survey Area Reports (CSARs)). The specific criteria for adding, retaining, or deleting non-Metro TSA counties are outlined in a separate publication titled *Arbitron Radio Description of Methodology* and in other associated relevant documents.

c. Designated Market Area (DMA®)

The DMA is composed of counties and/or county equivalents, and is defined and updated annually by Nielsen Media Research, Inc., based on historical television viewing patterns. A county or county equivalent is assigned exclusively to one DMA.

Arbitron reports radio listening estimates for the Top 50 DMAs (ranked on TV households) in the Radio Market Reports of all Arbitron Standard radio markets whose Metros are located within the DMA and whose names are contained in the DMA name.

Sampling & Measurement Techniques

2. Sampling Methodology/Survey sample targets are established for the Metro and, if applicable, the non-Metro TSA and/or the DMA. Sample targets are then established for each sampling unit proportional to its Persons 12+ population in the respective survey area subject to minimum sample requirements for Radio County Coverage. The amount of sample ordered is determined by dividing the sampling unit target by the expected rate of response based on previous survey (s) sample performance and other factors.

For each 12-week survey period, a new sample of telephone numbers is computer-selected for each sampling unit through the use of a systematic interval random selection technique. Listed and unlisted telephone numbers are randomly generated using the random digit dial (RDD) technique. Sample RDD numbers are generated from telephone "hundred blocks" containing at least 10 listed residential telephone numbers based on current telephone listings as provided and updated by Survey Sampling, Inc. (SSI). These qualifying hundred blocks compose the sample frame for each sampling unit. Known residential names and addresses are appended to sample telephone numbers not listed in current telephone directories. Known nonresidential telephone numbers (e.g., businesses, institutions) are excluded from the sample frame. The sample of telephone numbers is then randomly divided into approximately equal weekly groups for diary placement calling.

If a need for additional sample arises after the original sample has been selected by the computer, then such additional sample is generally selected in the same manner and from the same sample frame as the original sample.

3. Arbitron Radio Listening Diary/The Arbitron radio survey is a prealerted, telephone-placed mail survey. The survey instrument, Arbitron's seven-day

radio listening diary, is self-administered and designed to be personally maintained by all individuals 12 years of age and older (Persons 12+) in each sample household, up to a maximum of nine persons. The diary contains a varying number of questions (depending on the market/market segment) regarding socioeconomic characteristics of the survey participant (s). Bilingual (Spanish-English) diaries are provided to all survey participants in the Metro of a Hispanic-controlled market who have identified themselves as Hispanic in response to an ethnicity question or from whom ethnic information was not obtained, and to any others indicating a preference for a bilingual diary.

Premiums of varying monetary amounts are provided to encourage respondent cooperation.

4. Diary Placement and Retrieval/Initial contact with listed sample households is by mail, informing them of their selection and that an interviewer will be calling to request their cooperation in the survey. Initial contact with unlisted sample households is by telephone, when an interviewer calls to request participation in the survey.

Arbitron interviewers call selected telephone numbers to: ascertain the possibility of a media affiliation; gain consent for participation in the survey; determine the number of Persons 12+ living in the household at the time of the placement call; and, where applicable, determine the race/ethnicity and demographics of the household, including language preference (Spanish-English) of individual residents. Households with more than nine persons 12 years of age and older and media-affiliated households are ineligible for survey participation.

Interviewers are instructed to make a number of attempts to reach every telephone number in the sample. These attempts are made at different hours of the day and evening. Arbitron then sends diaries directly to consenting sample households.

In addition to follow-up by mail from Arbitron, the interviewers are directed to make further contact(s) with consenting sample households by telephone to: make sure the diaries have been received; assist members of the household in understanding the diaries' purpose; answer any questions; remind the diarykeepers to return their diaries after the survey week; and thank them for their participation in the survey.

Explicit instructions are provided to each interviewer, and validation checks are regularly conducted to help ensure that instructions are being properly followed.

Processing Techniques

5. Processing of Diaries/Arbitron makes reasonable efforts to utilize all returned diaries. However, some returned diaries are determined by Arbitron to be unusable. Among those that are unusable are diaries that Arbitron determines: are incomplete; are postmarked and/or arrive before or after established dates; or that otherwise lack essential information. The total number of in-tab diaries may differ from the sample target.

Usable diaries are prepared for computer processing in accordance with procedures listed in Arbitron diary processing manuals and in other associated relevant documents. The listening information in the diaries is then computer-entered so that certain verifications and edits can be made. These include ascription procedures, the allocation of credit for aberrated call letters, and other analyses and pretabulation preparations.

Determining Audience Estimates

6. Determining Audience Estimates/

a. Sample Balancing

The weighting system used by Arbitron, sample balancing, is an iterative marginal weighting technique designed to compensate for disproportionate in-tab from specified marginal classes. Marginal weighting means that in-tab diaries are weighted to represent the population for each specified marginal class. The number of geographic marginal classes (e.g., counties, county equivalents or county clusters) will vary. The number of sex/age marginal classes is generally 16. In addition, markets that are race and/or ethnically controlled are sample balanced so that in-tab diaries from the race/ethnic group are weighted to represent the population of that race/ethnic group. As a result of this cumulative weighting, a Persons-Per-Diary Value (PPDV) is determined for each in-tab diary. The PPDV is the number of persons that diary is estimated to represent.

b. Cume Persons Estimates

Station Cume Persons estimates are determined by summing the PPDVs for each diary in which a station received listening credit for the time the station is on the air within a daypart. PPDVs are summed for all diaries within the particular demographic group (e.g., Men 18-34, Persons 25-54), then rounded to hundreds.

c. Average Quarter-Hour (AQH) Persons Estimates

Station AQH Persons estimates are determined by multiplying, for each diary, the number of quarter-hours of listening to a station for the time the station is on the air within a daypart by that diary's PPDV. The result of this multiplication is summed for all diaries within the particular demographic group, then divided by the number of quarter-hours the station is on the air within the same daypart, then rounded to hundreds.

d. 4-Book and 2-Book Averages

4-Book and 2-Book Averages are applicable to Continuous Measurement and Fall/Spring markets, respectively. 4-Book and 2-Book Averages are averages of rounded audience estimates for the total demographic group and daypart for each applicable survey. A 4-Book or 2-Book Average is determined for a station if the station is reported in the applicable Radio Market Report for each survey included in the average. A zero value is used for survey(s) for which an estimate did not appear for a station reported in the Radio Market Report. A 4-Book or 2-Book Average is not shown if a station is not reported for one or more of the surveys to be averaged.

e. Rounding

Rounding occurs at various stages in the determination of audience estimates at demographic and daypart summation levels.

f. Broadcast Hours

(i) Local time differences within a market that overlaps time zones are accounted for by adjusting to the time observed by the majority of counties in the Metro of the market being measured. (ii) Only one set of sign-on/sign-off times for a station is used in determining audience estimates for a market report. Arbitron uses the sign-on/sign-off times reported for the month closest to December and the shortest broadcast day within that month as provided by the affected radio station. (iii) Audience estimates are adjusted for the station's broadcast schedule as reported to Arbitron. However, when a station changes sign-on/sign-off time(s) during an Arbitron survey period, the times used in determining audience estimates are based on

the sign-on/sign-off times in effect on the last day of the survey period as reported to Arbitron. (iv) Stations broadcasting for less than an entire reported daypart are indicated in the Radio Report by a footnote symbol next to the station's call letters or audience estimates for the applicable daypart(s). (v) Stations broadcasting for less than an entire daypart must be on the air for a minimum of four quarter-hours on each day of the applicable daypart in order to be reported in that daypart. (vi) Stations should notify Arbitron in writing of any changes in the station's sign-on/sign-off time(s) as soon as they occur but no later than the day after the last day of the survey.

g. Technical Difficulties

Generally, no adjustments are made to either diary entries or published audience estimates for periods of technical difficulty. The notation of technical difficulties in the "Special Notices" section of this report is to assist users of this report in making their own evaluation of the audience estimates. Arbitron will accept information on technical difficulties up to the day after the last day of the survey.

h. Stations on the Air Less Than 12 Weeks

No adjustments are made to the reported estimates for a station that does not broadcast for the entire survey period. Since the time a station is off the air is counted as zero listening in the 12-week average, the reported estimates for a station that is on the air less than the entire survey period could understate the audience for the time the station is on the air.

Criteria for Reporting Stations

7. Criteria for Reporting Stations/To be listed in an Arbitron Radio Market Report, a radio station must engage in systematic regular commercial broadcasting pursuant to the authority of the Federal Communications Commission (FCC) or other appropriate governmental authority. Call letter designations exceeding four characters are shortened to four characters. Generally, reported call letters are the FCC-authorized call letters in effect on the last day of the survey as reported to Arbitron. In the event a station has changed call letters during the survey period, the first call letters listed in the report are those in effect on the last day of the survey, with the station's previous call letters noted immediately below them.

Arbitron maintains a call letter history based on information provided by radio stations, the FCC and other sources. In the event of exchanges of frequencies between stations in a market, the call letters under which audience estimates are published in this report are based on Arbitron's verification and interpretation of information from various relevant sources, which include the FCC and the affected stations. Specifics regarding the above are listed in the "Special Notices" section of this report.

All radio stations, commercial and noncommercial alike, are measured using the same methodology and are included in Metro, TSA and/or DMA Totals. All commercial stations are evaluated using the Minimum Reporting Standards (MRS) as described in Paragraphs 8 and 9. Noncommercial stations are not eligible to be listed in this report and are not considered in MRS evaluations. For report qualification purposes, stations are considered commercial or noncommercial based on their status as of the last day of the survey as reported to Arbitron. Audience estimates for a station that does not meet MRS cannot be obtained in any way from the audience estimates published in this report, including the Target Listener Trends estimates from prior survey periods. However, individual audience estimates for commercial stations that do

not meet MRS for this report and noncommercial stations may be obtained through other Arbitron services for which the stations qualify.

8. Minimum Reporting Standards (MRS) for Nonsimulcast Stations/A commercial station that does not simulcast with another station is included in this report if it has met all of the following Minimum Reporting Standards for the Metro or, if applicable, the DMA among Persons 12+ during the Monday-Sunday 6AM-Midnight daypart for the current survey of the market:

a. The station must have received credit for five or more minutes of listening in a quarter-hour in at least 10 in-tab Metro diaries (10 in-tab DMA diaries for DMA qualification), and

b. The station must have a Metro Cume rating of 0.495 or greater (DMA Cume rating of 0.495 or greater for DMA qualification), and

c. The station must have a Metro Average Quarter-Hour rating of 0.05 or greater (DMA Average Quarter-Hour rating of 0.05 or greater for DMA qualification) for the time the station is on the air during the Monday-Sunday 6AM-Midnight daypart for the current survey of the market.

9. Minimum Reporting Standards (MRS) for Simulcast Stations/MRS for simulcast stations are generally based on the percent of quarter-hours in the Monday-Sunday 6AM-Midnight daypart (when both stations are on the air simultaneously) that the two stations simulcast for every week of the current survey:

a. 9.49 percent or less – Each station must independently meet the criteria used for nonsimulcast stations. (See Paragraph 8.)

b. 9.50 percent to 90.49 percent – If one of the two stations meets all MRS criteria described in Paragraph 8, the second station is included in the report if it (i) meets the criteria of Paragraphs 8(a) and (b) and (ii) achieves an Average Quarter-Hour rating of 0.05 or greater for any one of the four basic Monday-Friday dayparts, i.e., 6AM-10AM, 10AM-3PM, 3PM-7PM, 7PM-Midnight.

c. 90.50 percent or greater – If the combined audience of the stations is sufficient to meet all criteria of Paragraph 8, then these stations will be listed in the report even though the stations might not meet the MRS criteria if considered individually, so long as each station received a mention in at least one in-tab diary in the applicable survey area anytime during the 24-hour/7-day survey week.

10. Home and Outside Stations/Any Metro-qualifying station that is licensed to a city located within the Metro of a market, or that has requested Metro home status and is recognized under Arbitron's policies and procedures as having an acceptable alternate city identifier, is listed in the market report as a home station.

Stations that meet Arbitron's simulcasting criteria (simulcast combos) may be treated as home stations, although only one of the two stations is home to an Arbitron Metro. Stations in a simulcast combo that are home to different Arbitron radio Metros can choose to be listed "above-the-line" as home in both partners' Metros.

All other stations are classified as outside stations. For reports containing a DMA section, outside stations are further classified into: (a) outside the Metro but home to the DMA, or (b) outside the Metro and the DMA. Within each reporting classification, U.S. stations are listed alphabetically followed by non-U.S. stations listed alphabetically.