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

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In the Matter of:	)	
	)	
Broadcast Localism	)	MB Docket No. 04-233
	)	

NOTICE OF INQUIRY

Adopted: June 7, 2004 **Released: July 1, 2004**

Comment Date: September 1, 2004
Reply Comment Date: October 1, 2004

By the Commission: Chairman Powell and Commissioner Martin issuing separate statements; Commissioner Copps approving in part, dissenting in part, and issuing a statement; Commissioner Adelstein approving in part, concurring in part, and issuing a statement.

I. INTRODUCTION

1. As with competition and diversity, localism has been a cornerstone of broadcast regulation for decades.[1] Broadcasters, who are temporary trustees of the public's airwaves,[2] must use the medium to serve the public interest, and the Commission has consistently interpreted this to mean that licensees must air programming that is responsive to the interests and needs of their communities of license. Even as the Commission deregulated many behavioral rules for broadcasters in the 1980s, it did not deviate from the notion that they must serve their local communities. Rather, the Commission at that time found that market forces, in an increasingly competitive environment, would encourage broadcasters to accomplish this goal, and that certain rules were no longer necessary.[3]

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[1] *See, e.g., Deregulation of Radio*, 84 F.C.C.2d 968, 994 ¶ 58 (1981) ("*Radio Deregulation Order*") ("The concept of localism was part and parcel of broadcast regulation virtually from its inception.").

[2] Broadcasters are considered to be temporary trustees of public spectrum because the Communications Act instructs the Commission to award licenses to use the airwaves expressly on the condition that licensees serve the public interest. *See* 47 U.S.C. § 309(a) (requiring the Commission to determine, in the case of applications for licenses, "whether the public interest, convenience, and necessity will be served by granting such application"). This model is often referred to, by commentators and the Commission itself, as one of public trusteeship. *See, e.g., Advanced Television Sys. & Their Impact upon the Existing Television Broadcast Serv.*, 12 FCC Rcd 12809, 12829 ¶ (1997) (noting that, even as they transition to digital technology, "broadcasters will remain trustees of the public's airwaves").

[3] *See, e.g., Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, 98 F.C.C.2d 1075, 1091-92 ¶¶ 31-32 (1984) ("*Commercial TV Deregulation Order*").

2. The concept of localism derives from Title III of the Communications Act, and is reflected in and supported by a number of current Commission policies and rules. Title III generally instructs the Commission to regulate broadcasting as the public interest, convenience, and necessity dictate, and section 307(b) explicitly requires the Commission to "make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."[4] Pursuant to this mandate, when the Commission allocates channels for a new broadcast service, its first priority is to provide general service to an area, but its next priority is for facilities to provide the first local service to a community.[5] In carrying out the mandate of Section 307(b), the Commission has long recognized that "every community of appreciable size has a presumptive need for its own transmission service."[6] Indeed, the Supreme Court has stated that "[f]airness to communities [in distributing radio service] is furthered by a recognition of local needs for a community radio mouthpiece."[7]

3. Once awarded a license, a broadcast station must place a specified signal contour over its community of license to ensure that local residents receive service.[8] A station must maintain its main studio in or near its community of license to facilitate interaction between the station and the members of the local community it is licensed to serve.[9] For similar reasons, a station "must equip the main studio with production and transmission facilities that meet the applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence."[10] The main studio also must house a public inspection file, the contents of which must include "a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period."[11] The purpose of this requirement is to provide both the public and the Commission with information needed to monitor a licensee's performance in meeting its public interest obligation of providing programming that is responsive to its community.[12] In addition, as a general matter, when a broadcast station seeks to renew or transfer its license, it must give public notice to its community to

[4] 47 U.S.C. § 307(b).

[5] *See Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d 88, 92 ¶ 11 (1982) ("*FM Allocation Priorities Order*"), *on recon.*, 56 Rad. Reg. 2d (P&F) 448 (1984); *Amendment of Section 3.606 of the Commission's Rules and Regulations*, 41 F.C.C. 148, 167 (1952) ("*TV Allocation Priorities Order*"). The Commission's first FM allocation priority is first-time aural service, followed by second full-time aural service and first local service; the latter two have "co-equal status." *See FM Allocation Priorities Order*, 90 F.C.C.2d at 92. The Commission's first television allocation priority is "[t]o provide at least one television service to all parts of the United States"; its second is "[t]o provide each community with at least one television broadcast station." *TV Allocation Priorities Order*, 41 F.C.C. at 167. Although AM stations are not allotted, where mutually exclusive AM applications are filed, they are first evaluated under similar section 307(b) criteria.

[6] *Pacific Broadcasting of Missouri LLC*, 18 FCC Rcd 2291 (2003) (quoting *Public Service Broadcasting of West Jordan, Inc.*, 97 F.C.C.2d 960, 962 (Rev. Bd. 1984)).

[7] *FCC v. Allentown Broadcasting Corp.*, 349 U.S. 358, 362 (1955).

[8] *See* 47 C.F.R. §§ 73.24(i) (for AM), 73.315(a) (for FM), 73.685(a) (for TV).

[9] *See id.* § 73.1125.

[10] *Amendment of Sections 73.1125 and 73.1130 of the Commission's Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, 3 FCC Rcd 5024, 5026 ¶ 24 (1988).

[11] 47 C.F.R. §§ 73.3526(e)(11)(i) (commercial TV issues/program list), 73.3526(e)(12) (commercial AM and FM issues/program list). These lists must be retained until final action has been taken on the station's next renewal application. *Id.* §§ 73.3526(e)(1)(i), 73.3526(e)(12).

[12] *See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, 15 FCC Rcd 19816, 19821 ¶ 13 (2000) ("*Enhanced Disclosure NPRM*"), citing *Commercial TV Deregulation Order*, 98 F.C.C.2d at 1076, 1107-11 (explaining the purpose of issues/programs lists for commercial television).

ensure that members of the community have an opportunity to file a petition to deny if they object to the station's application for renewal or transfer of license.[13]

4. All of these rules, policies, and procedures reflect the Commission's overarching goal of establishing and maintaining a system of local broadcasting that is responsive to the unique interests and needs of individual communities. Various former rules and procedures also served this purpose, including the ascertainment process, the processing guidelines used to evaluate the programming performance of licensees at renewal, and the credit awarded for integration of local ownership and management under the Commission's prior comparative licensing scheme.[14]

5. During the recent review of our structural broadcast ownership rules, we heard concerns from the public that broadcast stations may be failing to meet the needs of their local communities. As we found in our recent broadcast ownership decision, there is a correlation between certain classes of broadcast station owners and certain characteristics of localism exhibited by those stations, such as the quantity of local news and public affairs programming.[15] This *Notice of Inquiry*, however, will address behavioral rules that promote localism, regardless of identity of ownership. As stated by Senate Commerce Committee Chairman John McCain at a hearing last summer on localism and the public interest: "This Committee has spent considerable time examining and debating the role of ownership limitations to achieve public interest goals. . . . Today's hearing is to consider whether Congress should use *other* means to achieve these goals, such as putting 'teeth' in the public interest standard."[16]

6. As part of the Commission's effort to better understand whether broadcast stations are serving the needs and interests of their local communities, and whether any behavioral regulation is needed, Chairman Powell recently established a Localism Task Force to gather empirical data on broadcast localism, and to advise the Commission on concrete steps to promote this significant policy goal.[17] In order to hear directly from the public about the localism efforts of broadcasters, the Task Force is charged with conducting a number of field hearings around the country. The Task Force has already held three of these events (Charlotte, North Carolina; San Antonio, Texas; and Rapid City, South Dakota), during which it heard from the public, with a wide variety of views, on the issue of whether and how broadcasters are serving the needs and interests of their communities. The Task Force will soon hear from the public in other areas of the country.

7. Given the importance of localism, we initiate this proceeding to receive direct input from the public on how broadcasters are serving the interests and needs of their communities; whether we need to adopt new policies, practices, or rules designed directly to promote localism in broadcast television and radio; and what those policies, practices, or rules should be. For each of the public policy goals discussed below, we seek comment on the particular mechanism needed to ensure that licensees satisfy the stated goal. We seek comment on whether market forces will provide enough incentive for a broadcast station to satisfy a particular policy goal, or whether regulation is needed. Finally, we seek a similar range of

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[13] *See* 47 C.F.R. § 73.3580.

[14] *See Bechtel v. FCC*, 10 F.3d 875, 878 (D.C. Cir. 1993).

[15] *See generally 2002 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*, etc., 18 FCC Rcd 13620 (2003).

[16] Statement of Hon. John McCain, Chairman, U.S. Senate Commerce Committee, *available at* http://commerce.senate.gov/hearings/testimony.cfm?id=874&wit_id=2447 (emphasis added).

[17] *See* Press Release, "FCC Chairman Powell Launches 'Localism in Broadcasting' Initiative," at 2-3 (rel. Aug. 20, 2003). Information and analysis developed by the task force may be placed in the record of this proceeding, as time and relevance direct.

comment on any other rules, policies or procedures, not specifically reviewed below, that might be relevant to our objectives.

II. LOCALISM TOPICS FOR INQUIRY

A. Background

8. In 1999, the Commission issued a *Notice of Inquiry* concerning the public interest obligations of broadcast television licensees.[18] The inquiry focused on the nature of television broadcasters' public interest obligations as they transitioned to digital television ("DTV"). Subsequent to the *DTV Public Interest NOI*, the Commission adopted two *Notices of Proposed Rulemaking*. One considered several concrete proposals to enhance television broadcasters' disclosures of their public interest activities;[19] the other considered television broadcasters' obligations with respect to children's programming in the DTV environment.[20] We requested in our recent DTV periodic review that parties update the record in all three of these earlier proceedings.[21] With respect to the *DTV Public Interest NOI* proceeding, we encouraged parties to focus on "those issues relating to the application of public interest obligations to broadcasters that choose to multicast," and "whether our approach to multicast public interest obligations should vary with the scope of whatever final digital must-carry obligation the Commission adopts."[22] In response to our request for updates in the three earlier proceedings, we have received a number of additional comments. We will incorporate relevant portions of the comments received in response to the *DTV Public Interest NOI* and associated *Notices* into the record of this proceeding, although in doing so we do not intend to delay the issues that are otherwise ripe for resolution in those earlier proceedings, and we intend to bring them to an appropriate conclusion promptly. We may also launch additional rulemaking proceedings as appropriate.

9. Communication with Communities. In the past, the Commission regulated the way in which broadcasters obtained input from their local communities regarding matters of local interest, in order to ensure that they air programming that responded to those interests. Through its "ascertainment" requirement, the Commission directed broadcasters to comply with detailed procedures for determining the problems, needs, and interests of their communities.[23] In addition, the Commission required broadcasters to maintain programming logs, which broadcasters used to inform their communities about how they serve the public interest, for purposes of program planning, and to ensure compliance with program oversight by the Commission.[24] In the 1980s, the Commission eliminated these rules, first for radio, and then for television, reasoning that market forces in conjunction with an issue-responsive programming obligation and the petition to deny process could be relied upon to ensure that broadcasters

[18] *See Public Interest Obligations of TV Broadcast Licensees*, 14 FCC Rcd 21633 (1999) ("*DTV Public Interest NOI*").

[19] *See Enhanced Disclosure NPRM*, 15 FCC Rcd 19816, *supra*.

[20] *See Children's Television Obligations of Digital Television Broadcasters*, 15 FCC Rcd 22946 (2000).

[21] *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, etc., 18 FCC Rcd 1279, 1317-20 ¶¶ 107-112 (2003) ("*Second DTV Periodic Review NPRM*").

[22] *Id.* at 1320 ¶ 112.

[23] *See generally Primer on Ascertainment of Community Problems by Broadcast Applicants*, etc., 27 F.C.C.2d 650 (19[illegible]).

[24] *See, e.g., Amendment of Section 3.663(a) (Now § 73.670), the Program Logging Rules for Television Broadcast Stations*, 5 F.C.C.2d 185 (1966); *Revision of Programming Policies and Reporting Requirements Related to Public Broadcasting Licensees*, 87 F.C.C.2d 716, 721 ¶ 12 (1981).

aired programming responsive to the needs and interests of their communities.[25] The Commission indicated that it would no longer regulate how a broadcaster determined the needs and interests of its community, and would require a station only to maintain issues/programs lists of its most significant treatment of community issues, updated quarterly, in its public inspection file.[26]

10. In the *DTV Public Interest NOI*, the Commission discussed the requests of certain groups that the agency regulate the way in which television broadcasters determine the needs and interests of their communities and report on how they fulfill those needs and interests.[27] Based on the comments received, the Commission released the *Enhanced Disclosure NPRM*, which proposed to replace the issues/programs lists with a standardized form.[28] The proposed form asks broadcasters to report on their efforts to identify the programming needs of various segments of their communities, and list their community-responsive programming by category.[29] The *Enhanced Disclosure NPRM* also proposed that broadcasters make these forms, as well as the rest of their public inspection files, available on the Internet, and sought comment on a proposal to encourage stations to use their websites to conduct online discussions and facilitate interaction with the public.[30] We received a number of comments, both supporting and opposing the proposals.

11. We ask generally, beyond the specific *Enhanced Disclosure NPRM* and *DTV Public Interest NOI*, whether there are other steps that the Commission could take to further broadcasters' communication with communities. For example, are there other ways in which broadcasters can determine the problems, needs, and interests of their communities? How effectively have market forces fulfilled the goal of ensuring that broadcasters air programming responsive to the needs and interests of their communities?

12. Nature and Amount of Community-Responsive Programming. Sensitive to the First Amendment concerns inherent in any form of content regulation, the Commission has never attempted to define with exact precision the programming that a broadcaster should air to serve the needs and interests of its local community. From time to time, however, the Commission has attempted to describe the nature of community-responsive programming. For example, in 1960, the Commission identified, by way of guidelines rather than rules, the "major elements usually necessary to meet the public interest, needs and desires of the community in which the station is located, as developed by the industry, and recognized by the Commission."[31] The Commission identified fourteen "major elements,"[32] but made clear that these

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[25] *See Radio Deregulation Order*, 84 F.C.C.2d at 997-98 ¶¶ 66-69; *Commercial TV Deregulation Order*, 98 F.C.C.2d at 1099 ¶ 49.

[26] *See Radio Deregulation Order*, 84 F.C.C.2d at 1009-1010 ¶¶ 103-105; *Commercial TV Deregulation Order*, 98 F.C.C.2d at 1107-108 ¶ 71. *See also* 47 C.F.R. §§ 73.3526(e)(11)(i) (commercial television issues/program lists), 73.3526(e)(12) (commercial radio issues/programs lists), 73.3527(e)(8) (noncommercial issues/programs lists).

[27] *See* 14 FCC Rcd at 21640-41 ¶ 15.

[28] *See* 15 FCC Rcd at 19819-22 ¶¶ 7-14.

[29] *See id.* at 19822-27 ¶¶ 15-20.

[30] *See id.* at 19827-31 ¶¶ 26-36.

[31] *Report & Statement of Policy Res: Commission En Banc Programming Inquiry*, 44 F.C.C. 2303, 2314 (1960) ("*1960 En Banc Programming Inquiry*").

[32] In the *1960 En Banc Programming Inquiry*, the Commission stated (*id.*):

> The major elements usually necessary to meet the public interest, needs, and desires of the community in which the station is located, . . . have included: (1) opportunity for local self-expression, (2) the development and use of local talent, (3) programs for children, (4) religious programs, (5) educational programs, (6) public affairs programs, (7) editorialization by licensees,

(continued....)

"are neither all-embracing nor constant," and "do not serve and have never been intended as a rigid mold or fixed formula for station operation."[33] Later, the Commission streamlined renewal processing guidelines for broadcasters that aired specified amounts of specified programming. For example, the Commission authorized the staff to act, through delegated authority, on applications for renewal of radio and television stations that aired specified amounts of certain non-entertainment programming.[34] Again, the Commission emphasized that its guidelines were "procedural rather than substantive. They do not identify a quantity – much less a quality – of programming below which no application will be granted and above which all applications will be granted."[35] Failure to satisfy the guidelines, based on a composite broadcast week analysis, resulted in the referral of a licensee's renewal application to the full Commission for its consideration.[36] As indicated above, in the 1980s, the Commission eliminated the guidelines and looked to marketplace forces and issue-responsive programming obligations to ensure that broadcasters air community-responsive programming.[37]

13. The Commission has previously noted that certain groups have complained that broadcasters do not air enough community-responsive programming.[38] For example, the Commission cited a study indicating that, in the markets examined, 35% of television stations provided no local news, and 25% provided neither local news nor local public affairs programming.[39] As a result, the Commission noted, certain groups have encouraged the Commission to adopt minimum, specific standards for community-responsive programming.[40] For example, the Commission might encourage broadcasters, through some means, to air a certain level of public affairs programming and public service announcements, with an emphasis on local programming. The Commission noted, however, that some broadcasters in the past have objected to proposals that would make their programming obligations more

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(8) political broadcasts, (9) agricultural programs, (10) news programs, (11) weather and market reports, (12) sports programs, (13) service to minority groups, [and] (14) entertainment programs.

[33] *Id.*

[34] *See Amendment of Part 0 of the Commission's Rules,* etc. 43 F.C.C.2d 638, 640 (1973). The guidelines called for AM stations to offer 8% non-entertainment programming, FM stations to offer 6%, and TV stations to offer 10%. Programming that qualified for these limits included news, public affairs, and other non-entertainment programming. *See Radio Deregulation Order*, 84 F.C.C.2d at 975 ¶ 20. Several years later, the Commission adopted more specific guidance for TV stations, and called on them to air at least "five percent total local programming, five percent informational (news plus public affairs) programming, ten percent total non-entertainment programming." *Amendment of Section 0.281 of the Commission's Rules: delegations of authority to the Chief, Broadcast Bureau*, 59 F.C.C.2d 491, 493 (1976) ("*TV Delegations*"). Applications for renewal that did not meet these guidelines could not be acted on by a delegation of authority from the Commission, but rather had to be acted on by the Commission itself.

[35] *TV Delegations,* 59 F.C.C. 2d at 491 ¶ 2.

[36] A "composite week" consisted of seven days, defined by Public Notice by the Commission, and over which the Commission measured certain aspects of a broadcast station's programming. In granting a renewal, the Commission required a licensee to make certain representations regarding the non-entertainment and local programming that it would broadcast during a typical week during the license period. The basic measure of the extent to which those representations was fulfilled was the programming broadcast during the composite week. *See Formulation of Rules and Policies Relating to the Renewal of Broadcast Licenses*, 43 F.C.C.2d 1, 42-43 ¶¶ 117-19 (1973).

[37] *See, e.g., Commercial TV Deregulation Order*, 98 F.C.C.2d at 1079-88 ¶¶ 7-24.

[38] *See* 14 FCC Rcd at 21642-43 ¶¶ 21-22.

[39] *See id.* at 21648 ¶ 36.

[40] *See id.* at 21642 ¶ 20.

specific.[41] The Commission sought comment on this question.[42]

14. We seek additional comment on the issue of how broadcasters currently are serving the needs of their communities and whether the Commission could or should take action to better ensure that broadcasters air programming to serve their communities' needs and interests. Does "local" programming best serve this goal? If so, what would qualify as "local" programming? Locally originated or locally produced programming? Or should locally oriented programming, meaning programming of particular interest to the local community, count regardless of its source? We have previously found that programming that addresses local concerns need not be produced or originated locally to qualify as "issue-responsive" in connection with a licensee's program service obligations.[43] Should programming qualify only if it treats local issues in the traditional sense of news and public affairs, or should local programs of an entertainment nature – such as the broadcast of a local high school sports event – also count? What about programming in which local residents participate, such as academic contests between local schools that are not otherwise locally oriented? Difficulties associated with defining "local" programming present geographic questions as well.[44] We also note that programming that is not specifically targeted to the local community may still serve the needs and interests of the community. A program, for example, that discusses teenage drinking generally may be highly relevant to a particular community even though it is not produced specifically for that community or tailored to its particular problems in this area. In addition, in determining if a station is serving its local community, should we focus solely on programming, or should we consider other efforts as well, such participation in local community activities or sponsoring fundraisers? Are there ways the Commission can facilitate the public's understanding of local programming opportunities?

15. Alternatively, should the Commission continue to rely on market forces and the issue-responsive programming requirement to encourage broadcast stations to air community-responsive programming? During the recent Congressional hearing on localism and the public interest, the general manager of a major-market television station reviewed his station's local news, local political, and local public affairs programming, and explained the reason that his station airs this programming: "Pardon me, but forget the government. We have to answer to our viewers. And we have to do that every day. When they have more than a hundred channels to choose from, and we want them to choose us, we think the best way to do that is to provide the best possible service."[45] We seek comment on whether the incentives inherent in market forces are sufficient to encourage broadcasters to air community-responsive programming.

16. Is it appropriate to distinguish between radio and television stations in terms of policies or rules designed to promote localism? The development of cable and satellite television services, which

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[41] *See id.* at 21642 ¶ 21.

[42] *See id.* at 21642-43 ¶¶ 21-22.

[43] *See Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations,* 104 F.C.C.2d 357, at 366 ¶ 15 (1986).

[44] For example, when the Commission established the Class A television service, it had to give effect to language in the Act that limited the low-power television stations that qualified for Class A status to those that, among other things, "broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group." 47 U.S.C. § 336(f)(2). The Commission originally proposed to define "market area" in terms of the station's Grade A protected service contour, but ultimately concluded to use a station's Grade B contour, after discounting other possibilities, such as the DMA. *See Establishment of a Class A Television Service*, 15 FCC Rcd 6355, 6363-64 ¶¶ 16-19 (2000).

[45] Testimony of Dave Davis, General Manager, WPVI-DT, *available at* http://commerce.senate.gov/hearings/testimony.cfm?id=874&wit_id=2425.

largely provide national network programming, creates the incentive for television broadcast stations to distinguish themselves by providing local programming. Until the recent development of satellite radio services, such as those provided by XM Satellite Radio and Sirius Satellite Radio, which also air national programming,[46] radio stations did not necessarily have similar incentives. Radio stations also now compete for listeners with Internet-delivered audio, including distant radio stations. Thus, to what extent do differences between radio and television remain in terms of their incentive to air community-responsive programming? Does a higher percentage of television stations than radio stations air substantial amounts of community-responsive programming? What effect will the transition to digital broadcasting, which will give broadcasters greater programming capacity by enabling them to multicast and air different programming streams simultaneously, have on the ability and incentive of broadcasters to air locally originated or oriented programming?

17. While radio and television stations must use the broadcast medium to serve the needs and interests of their local communities, we recognize that programming, whether produced in-house or purchased, costs money, and different types of programming likely have different costs and profit margins. For instance, the National Association of Broadcasters submitted a study in the broadcast ownership proceeding that identified the costs of producing local news for TV stations in midsize and small markets.[47] Although the study discounted the profitability of producing local news, it also indicated that stations in these markets have 30-40% profit margins from such operations,[48] and other information suggests that the vast majority of television stations make money airing local news, particularly those stations in larger markets.[49] We seek comment on profitability of producing local news, and how it compares to the profitability of other types of television programming that local stations air today, such as first-run and off-net syndicated programming and locally produced programming other than news. What are the implications for the public of a government requirement that local television broadcasters produce certain types of programming such as local news? Should the profitability of providing news affect the Commission's decision-making in this regard? With respect to radio, we seek comment on the cost and profitability of various types of programming including local news and public affairs programming. Are the economics of local news on radio different than for television? We also seek comment and data on the number of radio and TV stations that provide local news, the number that purchase their news from another entity or that produce news in regional or national hubs, and the number of local news personnel employed by radio and TV stations. We further seek comment on trends over time.

18. In terms of general community-responsive programming, we also seek comment on the public service announcements, or PSAs, that broadcast stations air for their communities. What types of PSAs do broadcast stations air, and how often and at what time of day do they air them? To what extent do broadcast stations deny requests from community organizations to air PSAs, or require the organizations to buy matching time?

19. Political Programming. One area in which broadcasters have concrete, defined programming obligations is political programming. Under section 312(a)(7) of the Act, the Commission is expressly empowered to revoke the license of a broadcast station that does not allow "reasonable

[46] *See Sirius Satellite Radio, Inc.*, 16 FCC Rcd 16773, 16777 ¶ 11 (2001) (restricting use of terrestrial repeaters that complement satellite digital radio service to "simultaneous retransmission of programming" from national service); *XM Radio Inc.*, 16 FCC Rcd 16781, 16784-85 ¶ 11 (2001) (same).

[47] *See* Comments of the National Association of Broadcasters in MB Docket Nos. 02-277, *et al.*, Attachment D (SmithGeiger LLC, *Newsroom Budgets in Midsize (51-100) and Small Markets (101-210)* (Dec. 2002)).

[48] *Id.* at 13.

[49] Vernon Stone, "News Operations at U.S. TV Stations," *available at* http://www.missouri/edu/~jourvs/tvops.html. Although this study provides data from 1994, and updated in 2000, it indicates, for example, that over 90% of television newsrooms of ABC, CBS, and NBC stations in the top 25 markets are profitable. *Id.* at Table 4.

access" to or the "purchase of reasonable amounts of time" on its facilities by a "legally qualified candidate for Federal elective office."[50] In addition, under section 315, "[i]f any licensee shall permit any person who is a legally qualified candidate for public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station."[51] The Commission has offered interpretations of these requirements in the past.[52]

20. The Commission has previously noted that some broadcasters have aired many hours of political programming, including conventions, debates, issue fora, and campaigns, and that several television networks have provided free airtime to candidates for President in recent elections.[53] The Commission also, however, cited studies suggesting that many television broadcasters provided little or no political programming.[54] The Commission observed that, as a result, certain groups had recommended that broadcast stations provide a limited amount of time for "candidate-centered discourse" shortly before an election,[55] and that the Commission prohibit television broadcast stations from adopting blanket bans on the sale of airtime to state and local candidates.[56]

21. At the recent Congressional hearing on localism and the public interest, one witness reported research results that suggested a decline in political programming. The research indicated that, during the 2000 election, the majority of the subject stations aired less than one minute of "candidate-centered discourse" per night before election events. During 2002, only 44% of the 10,000 news broadcasts studied contained any campaign coverage at all, and only 14% of the campaign stories that were aired focused on local elections. The research also suggested that larger station group owners air less local campaign news than smaller and mid-sized station group owners.[57]

22. Should the Commission require broadcasters to air a minimum amount of local or national political and civic discourse? How much program time in recent years has been devoted to local political coverage and to national political coverage? What steps can be taken to encourage voluntary efforts for political and civic discourse? We seek comment on the extent to which the Commission may take action in this area. Given that Congress has enacted specific requirements governing political programming, would it be appropriate or permissible for the Commission to take additional steps to enhance broadcasters' coverage of local political candidates and issues? Should the Commission consider coverage of local candidates and issues a "plus" at license renewal, without penalizing renewal applicants who have not broadcast such programming?

23. We also seek comment on whether there are ways our existing political programming rules could be revised or strengthened to facilitate political discourse. For example, is it necessary for us to change any aspect of our existing rules on advertising practices and rates for legally qualified

[50] 47 U.S.C. § 312(a)(7).

[51] *Id.* § 315(a).

[52] *See, e.g., Codification of the Commission's Political Programming Policies*, 7 FCC Rcd 678 (1991) ("*1991 Political Programming Order*"); *Law of Political Broadcasting and Cablecasting: A Political Primer*, 100 F.C.C.2d 1476 (1984).

[53] *See* 14 FCC Rcd at 21647-48 ¶ 35.

[54] *See id.* at 21648 ¶ 36.

[55] *See id.* at 21648-49 ¶¶ 37-38 (explaining that one group recommended five minutes during the evening hours for thirty days before election, and that others had recommended twenty minutes in even-numbered years and fifteen minutes in odd-numbered years (when there are fewer elections) for thirty days before election).

[56] *Id.* at 21649 ¶ 38.

[57] Testimony of Dean Martin Kaplan, Director, Annenberg Norman Lear Center, Associate Dean USC Annenberg School for Communication, *available at* http://commerce.senate.gov/hearings/testimony.cfm?id=874&wit_id=2426.

candidates for public office to ensure that such practices and/or rates do not inhibit political discourse? Section 315(b) mandates that broadcast stations not charge a "legally qualified candidate for any public office . . . during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general election or special election" more than "the lowest unit charge of the station for the same class and amount of time for the same time period."[58] To enable legally qualified candidates to take advantage of their statutory rights, our rules impose on stations "an affirmative duty to disclose to candidates information about rates, terms, conditions and all value-enhancing discount privileges offered to commercial advertisers."[59] How do stations define classes of time, and what factors are considered? Should the Commission further define classes of time? Are candidates encountering specific problems relating to rates, preemptions, or rebates, credits and make good practices? Although our rules do specify certain information that must be revealed to candidates, we offer stations "reasonable discretion in making the disclosure."[60] Should we standardize the manner in which stations disclose information by creating a form of some kind? If so, what specific information should the form solicit? In addition, although our rules require stations to maintain a record of requests for broadcast time by candidates, and certain details relating to the disposition of the requests, such as when an ad aired and the rate charged,[61] we do not otherwise require stations to disclose their advertising rates for candidates for public office to the general public. Would a change to require stations to publicize their advertising rates more prominently, such as on websites, facilitate candidate access and use of stations and therefore promote political discourse?

24. Underserved Audiences. The fact that broadcasters must air programming that responds to the needs and interests of their communities requires that they take into account *all* significant groups within their communities. For example, in its *1960 En Banc Programming Inquiry*, the Commission explained that:

> the broadcaster should consider the tastes, needs and desires of the public he is licensed to serve in developing his programming and should exercise conscientious efforts not only to ascertain them but also to carry them out as well as he reasonably can. He should reasonably attempt to meet all such needs and interests on an equitable basis. Particular areas of interest and types of appropriate service may, of course, differ from community to community, and from time to time.[62]

The Commission has elaborated on this principle, underscoring the link between community-responsive programming and "the need for programming by groups that were not being adequately served by broadcasting."[63] At the same time, the Commission has recognized that efforts to develop balanced programming does not necessarily require that a station attempt to provide service to all segments of the community in markets where multiple broadcast stations are available to satisfy the specialized needs of

[58] 47 U.S.C. § 315(b).

[59] 47 C.F.R. § 73.1942(b).

[60] *Id.*

[61] *Id.* at § 73.1943(a).

[62] *1960 En Banc Programming Inquiry*, 44 F.C.C. at 2314.

[63] *Radio Deregulation Order*, 84 F.C.C.2d at 995-96 ¶ 63. *See Stone v. FCC*, 466 F.2d 316 (D.C. Cir. 1972) (stating that licensees "may not flatly ignore a strongly expressed need" by a segment of their communities of license, such as minority groups).

certain groups.[64]

25. The Commission has previously noted the concerns of some that programming, particularly network programming, often is not culturally diverse enough to respond to the needs and interests of certain segments of a broadcaster's community.[65] The Commission noted that DTV broadcasters could use the flexibility of digital technology to serve better the needs of all in their communities in any number of ways, perhaps by entering into channel leasing arrangements with programmers that intend to serve a previously underserved audience, by otherwise "narrowcasting" to such audiences on different programming streams, or even by taking advantage of enhanced audio capabilities to air different soundtracks in different languages simultaneously.[66]

26. We seek comment on whether the Commission needs to consider additional ways, not unique to digital television, to ensure that broadcasters serve the needs and interests of all significant segments of their communities, consistent with applicable constitutional standards. We seek data and trends on the extent to which broadcast stations serve minority communities, including Spanish-speaking and other non-English-language communities, and specifically the extent to which the news operations of the broadcast stations serve these communities. We seek comment on the best way to promote coverage of issues of importance to minority communities. How do stations determine what programming serves minority communities?

27. Disaster Warnings. A fundamental way in which broadcasters use the medium to serve their communities of license is to provide emergency information. The Commission's role in ensuring that broadcasters fulfill this obligation is set forth in section 1 of the Act, which declares that the Congress created the Commission "for the purpose of promoting safety of life and property through the use of wire and radio communication."[67] The Commission has adopted the Emergency Alert System, which "provides the President with the capability to provide immediate communications and information to the general public at the National, State and Local Area levels during periods of national emergency," and in addition "may be used to provide the heads of State and Local government, or their designated representatives, with a means of emergency communications with the public in their State or Local Area."[68] The Commission also requires TV broadcast stations that provide emergency information beyond compliance with EAS standards to make the critical details of that information accessible to people with hearing and visual disabilities.[69]

28. Given the critical and fundamental role of emergency information as a component of broadcasters' local public service obligations, we seek comment on their performance in this area. In this regard, we intend to launch a broad-ranging proceeding concerning EAS in the near future. Some of the questions likely to be raised are also relevant to this proceeding: Should the Commission require that broadcasters make their facilities available to local emergency managers? If so, what should be the nature and scope of any such requirement? Would there be adverse effects from imposing some uniform

[64] *See Radio Deregulation Order*, 84 F.C.C.2d at 997 ¶ 66 ("What is important is that broadcasters present programming relevant to public issues both of the community at large or, in the appropriate circumstances, relevant primarily to the more specialized interests of its own listenership. It is not necessary that each station attempt to provide service to all segments of the community where alternative radio sources are available.").

[65] *See* 14 FCC Rcd at 21647 ¶ 32.

[66] *Id.*

[67] 47 U.S.C. § 151.

[68] 47 C.F.R. § 11.1. Part 11 of the Commission's rules "describe the required technical standards and operational procedures of the EAS for AM, FM, and TV broadcast stations, cable systems, and other participating entities." *Id.*

[69] *Id.* at § 79.2.

requirement on broadcasters rather than allowing them to continue to make voluntary arrangements with local officials? Beyond EAS, however, broadcast stations often voluntarily provide emergency information to their listeners and viewers. Are these voluntary arrangements sufficient or should the Commission impose some uniform requirement? If so, what should that requirement be? What would be the adverse impacts?

29. Finally, as digital technologies have evolved, the Commission has noted how broadcast stations can provide emergency information in innovative ways.[70] For example, broadcast stations can use the technology to pinpoint specific households and neighborhoods at risk. How can digital technology be used to enhance warnings, and to what extent are broadcast stations currently making use of that technology?

B. Network-Affiliation Rules

30. A number of Commission rules govern the relationships between television networks and their affiliated stations. The general goal of these rules is to ensure that local stations remain ultimately responsible for programming decisions, notwithstanding their affiliation with a national programming network. Under the "right to reject" rule, for example, the Commission will not license a station that has an agreement with a network that "prevents or hinders the station from: (1) [r]ejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest or (2) [s]ubstituting a program which, in the station's opinion, is of greater local or national importance."[71] The "time option" rule states that the Commission will not license a station that has an agreement with a network that "provides for the optioning of the station's time to the network organization, or which has the same restraining effect as time optioning," meaning an agreement that "prevents or hinders the station from scheduling programs before the network agrees to utilize the time during which such programs are scheduled, or which requires the station to clear time already scheduled when the network organization seeks to utilize that time."[72] By ensuring that stations themselves retain the power to make programming decisions, these rules are intended to promote localism.

31. In June of 2001, the Network Affiliated Stations Alliance (NASA) filed a motion for a declaratory ruling asking the Commission to "move forward promptly with a declaratory ruling as to specified affiliation agreement provisions whose lawfulness – disputed by the networks and NASA – turns on the proper interpretation of the Communications Act and FCC rules."[73] The rules at issue govern network affiliation agreements (that is, they regulate actual contracts) as well as the conduct of the parties. Generally, these rules protect a local broadcaster's autonomy in making programming decisions for its station, and they are critical to an affiliate's ability to promote and preserve localism.

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[70] *DTV Public Interest NOI,* 14 FCC Rcd at 21642, Para 18.

[71] 47 C.F.R. § 73.658(e).

[72] *Id.* § 73.658(d).

[73] Motion for Declaratory Ruling (filed June 22, 2001). NASA alleged that the networks: (1) assert excessive control over affiliates' programming decisions; (2) assert excessive control over affiliates' digital spectrum; and (3) use their affiliation to interfere with or manipulate station sales in a manner inconsistent with section 310(d) of the Act. *Id.* at 11. In response, the top four networks argued that: (1) NASA's request for a declaratory ruling is really a request for the Commission to amend the right to reject rule so as to give affiliates the "absolute" power to avoid their contractual obligations; (2) the evidence does not support NASA's argument that major networks have asserted excessive control over affiliates' programming decisions; (3) affiliates have sufficient operating cash flow and market strength to negotiate favorable financial terms with networks; and (4) the affiliation agreements contain language that expressly acknowledges that affiliate stations have a right to reject programming in accordance with Commission rules. *See, e.g.,* Fox Comments at 7-9, 11-14, 24-27; NBC Comments at 6-8, 12, 15-18; Viacom Comments (on behalf of CBS) at 21, 27; Walt Disney Comments (on behalf of ABC) at 8, 13, 15, 24-27.

32. We are concerned by affiliates' claims that the networks are hindering the affiliates' ability to preempt network shows for local programming. We also are concerned about allegations that affiliates are hindered in their ability to refuse to broadcast network programming that is indecent or otherwise not suitable for an affiliate's local community. We also are concerned by allegations that networks are optioning time on the affiliates' digital signals, which may be inhibiting affiliates' investment in, for instance, using its digital signal to broadcast a second standard definition channel focused on local news and public affairs. Affiliates and networks alike deserve to know the proper interpretation of the rules that govern them. We therefore do not incorporate the motion into this docket, but rather intend to issue the requested declaratory ruling expeditiously.

C. Payola and Sponsorship Identification, Voice-Tracking, and National Playlists

33. Payola. The Commission has defined "payola" as "the unreported payment to, or acceptance by, employees of broadcast stations, program producers, and program suppliers of any money, services, or valuable consideration to achieve airplay for any programming."[74] Sections 317 and 507 of the Act set forth the current statutory standards for payola.[75] As the Commission has paraphrased, "[s]ection 507 of the Communications Act requires those persons who have paid, accepted, or agreed to pay or accept ... payments to report that fact to the station licensee before the involved matter is broadcast. In turn, section 317 of the Act requires the licensee to announce that the matter contained in the program is paid for, and to disclose the identity of the person furnishing the money or other valuable consideration."[76] Section 73.1212 of the Commission's rules set forth our sponsorship identification rules, which implement the requirements of section 317, and are designed to alert listeners and viewers of a broadcast station to the fact that they are hearing or viewing programming for which the station has received valuable consideration by ensuring that the station discloses that fact.[77] When payola causes stations to broadcast programming based on their financial interests at the expense of community responsiveness, the practice is inconsistent with localism.

34. Commenters such as the Future of Music Coalition in the broadcast ownership proceeding have suggested that "standard business practices employed by many broadcasters, record labels, and independent radio promoters result in . . . a *de facto* form of payola."[78] As explained by the Future of Music Coalition, the practice involves "independent promoters" acting as a liaison between the radio stations and the record labels, so that the labels do not pay the stations in violation of current law.[79] In the typical case, a promoter pays radio stations for the exclusive right to promote music to them, and charges record labels an upfront fee to market songs to radio stations, as well as additional fees for songs that stations add to their playlists that the promoter recommended.[80] In other words, record labels pay

[74] Public Notice, "Commission Warns Licensees About Payola and Undisclosed Promotion," 4 FCC Rcd 7708 (1988) ("Payola Public Notice").

[75] 47 U.S.C. §§ 317, 508.

[76] "Payola Public Notice," 4 FCC Rcd at 7708.

[77] 47 C.F.R. § 73.1212.

[78] Future of Music Coalition, *Radio Deregulation: Has It Served Citizens and Musicians?* at 79 (2002) ("*FMC Radio Deregulation*").

[79] *See id. See also* Joseph E. Magri, *Internet Radio and the Future of Music*, Los Angeles Lawyer (May, 2003) ("In order to obtain airplay, however, record labels participate in a pay-for-play system in which they pay so-called independent promoters to influence radio airplay . . . .").

[80] The following is another description of the payola-type practice:

> Essentially all songs on FM commercial radio have indirectly been paid for by record labels. Millions of dollars each year are funneled through independent radio promoters, also known as "indies," who then transfer the money over to radio stations who add news songs to playlists. . . .

(continued....)

promoters to market their music, and for music that stations actually play, and promoters pay stations to promote music to them. The Future of Music Coalition contends that promoters subsequently are able to influence the songs that are included on the stations' playlists. They further contend that because stations tend to play mostly records that the promoter has suggested, artists and record labels often must pay promoters when they wish to be considered for airplay on the stations.[81] It has also been suggested that radio stations that have consolidated with concert promoters may tie airplay to concert performances, by refusing to give airplay to artists who do not appear at concerts sponsored by the stations.[82] These types of practices ultimately influence who chooses what the public hears on radio and what they actually hear.

35. As indicated, payola-type practices are inconsistent with localism when they cause radio stations to air programming based on their financial stakes at the expense of their communities' needs and interests. The Future of Music Coalition has provided survey evidence to suggest that a majority of the public supports regulation of payola-type practices.[83] What are the various types of payola practices today, and how frequently do they occur? Do these practices comply with the disclosure requirements of the Act and our sponsorship identification regulations? Are the existing rules in any way deficient in addressing the current practices? Should we improve our enforcement process by making it easier to file and act on complaints? How can we otherwise improve our enforcement process? Does the Commission currently have the authority to regulate in this area, pursuant to its general Title III public interest authority over broadcasters? If so, how should it exercise that authority? Are the Commission's current disclosure requirements sufficient to ensure that listeners understand the nature of the programming they hear? Do radio stations seek payment for back announcing – that is, announcing songs and artist information after a song is played? If so, does this practice violate our sponsorship identification rules?

36. Other Sponsorship Identification. Section 73.1212(a) of the Commission's rules states: "When a broadcast station transmits any matter for which money, service or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce: (1) That such matter is sponsored, paid for, or furnished, either

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> The biggest gripe about this practice . . . is that "instead of radio playing what people want to hear, they're playing music that's backed by the deepest pockets."
>
> To demonstrate how the record labels and artists are injured by payola, a typical indie lobbies a radio station to become their exclusive promoter. This exclusive relationship does not come cheap. The up-front fee generally costs record labels between $100,000 and $400,000, depending on the size of the market. The independent promoter is "the only person who is allowed to filter all the stuff that comes in from all the sources and then present it to the radio station." For every song added to a playlist, the indie then sends weekly invoices to record companies detailing which songs were added and essentially, how much it will cost the record company for adding the particular songs. An added song could range from $800 to $5,000 in the largest markets. For record companies to even launch a rock song on popular stations today, it would cost the company, and indirectly the artist, over $250,000. If the song is successful and manages to reach both rock and Top 40 markets, the indie costs could reach more than $1 million. The indie promoter, often referred to as the middleman, "sidestep[s] the federal anti-payola law by paying broadcasters annual fees they say are not tied to airplay of specific songs."

Sarah Greene, *Clear Channel v. Competition Act of 2002: Is There a Clear end in Sight?*, 12 DePaul-LCA J. Art & Ent. L. 387, 415-16 (2002) (citations omitted).

[81] *See FMC Radio Deregulation Study, supra* note 78, at 79.

[82] *See, e.g.*, Chuck Philips, *Music Industry to Call for a Federal Probe of Radio Payola*, L.A. Times, May 23, 2002, at C1.

[83] *See id.* at 80-81.

in whole or in part, and (2) By whom or on whose behalf such consideration was supplied. . . ."[84] Section 73.1212(d) of our rules applies more particular sponsorship identification requirements to "any political broadcast matter or any broadcast matter involving the discussion of a controversial issue of public importance."[85] As the Commission stated in *United States Postal Service*, the sponsorship identification requirement is "based on the principle that the public has the right to know whether the broadcast material has been paid for and by whom."[86] Thus, the rules require that "the audience be clearly informed that it is hearing and viewing matter which has been paid for when such is the case, and that the person paying for the broadcast of the matter be clearly identified."[87] The Commission has on a number of occasions reiterated the importance and breadth of the sponsorship identification requirement.[88] Thus, although we seek comment on the adequacy of our existing sponsorship identification rules, we emphasize that these rules remain in effect and we will enforce them when faced with documented complaints that they were violated.

37. In addition to the practices in radio described above, recent reports also indicate that some television stations have aired interviews with guests who pay for their appearances. According to press reports, for example, a Florida television station has aired interviews with guests who pay for their appearance on a local morning show that includes the station's news channel insignia at the bottom of the screen.[89] The television station discloses the payment at the end of the program in small type that runs for a matter of seconds.[90] There are reports that some other television stations air interviews with guests who pay for their appearances.[91] These practices have caused Senator John McCain to question whether the Commission's sponsorship rules are adequate, and/or whether legislative action is necessary.[92] How prevalent are these types of practices? To what extent do these practices cause stations to air programming to serve their financial interest at the expense of community responsiveness? Do the disclosures about payment comply with our existing sponsorship identification rules? Are viewers nonetheless deceived by these practices? If so, what can and should the Commission do to eliminate the practices? Given that disclosures may appear for less than a second on a split screen in small type, should the Commission extend the scope of its sponsorship identification rules for political advertisements, which require that a sponsor "be identified with letters equal to or greater than four percent of the vertical picture height" and "air for not less than four seconds," to all paid programming?[93] More generally, what

[84] 47 C.F.R. § 73.1212(a).

[85] *Id.* § 73.1212(d).

[86] 41 RR 2d 877, 878 (1977), *citing Sponsorship Identification*, 40 FCC 2 (1950).

[87] Public Notice, "Application of Sponsorship Identification Rules to Political Broadcast, Teaser Announcements, Governmental Entities and Other Organizations," 66 FCC 2d 302 (1977).

[88] Letter from David H. Solomon, Chief, Enforcement Bureau, to Thomas W. Dean, NORML Foundation, 16 FCC Rcd 1421, 1423 (EB 2000).

[89] Howard Kurtz, *Florida TV Station Cashes In on Interview "Guests,"* Wash. Post, Oct. 16, 2003, at C 1. The Washington Post has likened the local morning show to network morning shows, such as NBC's "Today." *Id. See also* Editorial, *Pay for Play*, Wash. Post, Oct. 17, 2003 at A28. Media General, which owns the Florida television station, contends that the program is more like "Live With Regis and Kelly." Editorial, *Entertainment, Not Journalism*, Wash. Post, Oct. 22, 2003 at A28.

[90] Kurtz, *supra* note 89.

[91] *See, e.g., All Things Considered* (NPR broadcast, Dec. 2, 2003) (referencing the Tampa, FL station described in the text and a Jackson, MS station that are alleged to "have represented paid-for infomercials as if they were part of news or public affairs programs.")

[92] Letter from Hon. John McCain, Chairman, U.S. Senate Committee on Commerce, Science, and Transportation, to Hon. Michael K. Powell, Chairman, FCC 1 (Nov. 3, 2003).

[93] 47 C.F.R. § 73.1212(a)(2)(ii).

percentage of programming is paid promotional programming, in the form of infomercials? In order to inform the public better about the extent of paid promotional time, should the Commission require broadcast stations to maintain in their public inspection files logs of all such time that exceed a certain threshold, such as, for example, five minutes?

38. Voice-Tracking. Other matters argued to impact localism negatively have been called to our attention. For example, "voice-tracking" refers to the practice of importing "popular out-of-town personalities from bigger markets to smaller ones, customizing their programs to make it sound as if the DJs are actually local residents."[94] By centralizing talent and creating name recognition, the practice would appear to enable radio stations both to decrease costs and increase ratings and thus revenue. However, according to the American Federation of Television and Radio Artists (AFTRA), "when a media company uses voice-tracking as a strategy to eliminate live broadcasts and local employees altogether, the connection to the local community can be hurt."[95] The Commission does not have rules that directly address this practice.[96] What steps are necessary to preserve localism? What is our statutory authority to adopt such regulations, and what particular practices should be defined as inconsistent with a broadcaster's programming obligations?

39. National Playlists. Another localism concern -- raised by the Future of Music Coalition in its comments in the *Biennial Ownership* proceeding -- is the effect of "national" playlists developed by large corporate radio owners on the access of local talent to air time.[97] Absent such access, local artists, it is argued, are stifled and localism suffers. We seek comment on the prevalence of national playlists and their effect on localism. To what extent does the use of such playlists prevent local stations from making independent decisions about airplay, and thereby diminish the diversity and types of music heard on the radio, such as music performed by local artists? What steps if any does the Commission need to take in this area to protect localism?

D. License Renewals

40. The periodic license renewal process is perhaps the most significant mechanism available to the Commission and the public to review the performance of broadcasters and to ensure that licensees have served their local communities. In the past, licenses were granted for a relatively short period – three years – and the Commission played an active role in evaluating licensee performance during the prior license term. Applicants were required to submit substantial amounts of programming and other data – including details of ascertainment efforts and commercial time figures – with their renewal application and the Commission reviewed this information using specific processing guidelines. Furthermore, competing applications could be filed against a renewal application. Where such applications were filed, the Commission undertook a comparative analysis to determine which licensee, the incumbent or the challenger, would provide the best service to the public.

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[94] Anna Wilde Mathews, *From A Distance: A Giant Radio Chain Is Perfecting the Art of Seeming Local*, Wall St. J. Feb. 25, 2002, at A1 ("*From A Distance*").

[95] Tom Carpenter, AFTRA, *Pitfalls of voice tracking: Does Clear Channel practice serve the public interest?*, Broadcasting & Cable, Sept. 9, 2002.

[96] The Florida Attorney General, however, investigated whether Clear Channel portrayed national call-in contests as local. Although Clear Channel admitted no law violation, it paid the state $80,000 and agreed not to "make any representation or omission that would cause a reasonable person to believe" that contests involving many stations across the station were in fact limited to local stations. *See From A Distance*, at A1. In the context of licensee-conducted contests, the Commission has rules that require the disclosure of the material terms. *See* 47 C.F.R. § 73.1216.

[97] *See* Future of Music Coalition, *Radio Deregulation: Has it Served Citizens and Musicians?*, at 79-80 (2002) (the Future of Music Coalition filed a copy of this study in MB Docket No. 02-277 on November 20, 2002).

41. Much has changed since this renewal regimen was put in place. As noted above, the Commission itself deregulated the renewal process substantially in the 1980s, turning from active review to a more passive role based on petitions to deny and license certifications.[98] Congress, in the Telecommunications Act of 1996, eliminated the comparative renewal process and extended the maximum license term for broadcasters to eight years. It also revised the standard used by the Commission to evaluate renewal applications, narrowing the range of conduct the Commission could consider in acting upon a renewal application. Section 309(k)(1) instructs the Commission to grant an application for renewal if its finds that "(A) the station has served the public interest, convenience, and necessity; (B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and (C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse."[99] Section 309(k)(2) authorizes the Commission, if an applicant for renewal does not meet these standards, to deny its application, or condition it, including reducing the license term.[100] Section 309(k)(4) explicitly states: "In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, or necessity might be served by the grant of a license to a person other than the renewal applicant."[101] Only if the Commission denies a renewal application because it fails to meet the statutory standard may it accept applications for the license from other applicants.[102]

42. These developments have caused some to suggest that we do not examine thoroughly enough whether a licensee has served the public interest.[103] Are new procedures needed to strengthen our license renewal process to ensure that the station at issue has served in the past, and will continue to serve in the future, the needs of its community of license? Given the fundamental importance of the issues and programs lists and other contents of the public file in terms of documenting how broadcast stations serve their communities, should the Commission conduct audits of these files? How can we make the license renewal process more effective, and what are the benefits and burdens of any proposals for change? Although the Act has long required us to find that a station serves the public interest in order to renew its license, what boundaries are there on the scope of our evaluation? How do the 1996 Act amendments limit our authority? Are there means by which we can better involve the station's community in this determination? Is the interval between renewals too long to permit an effective and timely review of stations' performance? If license terms of eight years are retained, should some form of mid-term review – as we now conduct for EEO compliance – be used?[104]

E. Additional Spectrum Allocations

43. In order to enhance the availability of community-responsive programming, the Commission has created new broadcasting services, such as the low-power FM (LPFM) service. The Commission authorized this service in 2000.[105] LPFM stations are small noncommercial stations that

[98] *See* 47 C.F.R. §§ 73.3580 (local public notice of filing of broadcast applications), 73.3584 (procedure for filing petitions to deny).

[99] 47 U.S.C. § 309(k)(1).

[100] *See id.* § 309(k)(2).

[101] *Id.* § 309(k)4).

[102] *See id.* § 309(k)(3).

[103] *See, e.g.*, Testimony of Commissioner Michael J. Copps, Before the Senate Committee on Commerce, Science, and Transportation (July 23, 2002), *available at* http://www.fcc.gov/commissioners/copps/statements2003.html.

[104] *See* 47 U.S.C. § 334(b) (mid-term review for television broadcast stations); 47 C.F.R. § 73.2080(f)(2) (mid-term review for radio and television broadcast stations).

[105] *See Creation of Low Power Radio Service*, 15 FCC Rcd 2205 (1999).

may broadcast at a maximum power of 100 watts, which corresponds to a coverage area of approximately a 3.5 mile radius from the transmitter.[106] During the first two years that licenses were available for application eligibility for licenses was limited to local entities.[107] In addition, in the case of mutually exclusive applications for LPFM stations, the Commission will grant the license to the applicant with the greatest number of points. Applicants that have had an established community presence for two years preceding their application[108] and those that pledge "to originate locally at least eight hours of programming per day"[109] earn points in this comparative evaluation. The Commission designed these requirements to enhance the localism of the service.

44. In 2000, Congress passed the Government of the District of Columbia Appropriations Act – FY 2001, which required the Commission to prescribe additional channel spacing requirements for LPFM stations, and thus provide existing FM stations greater interference protections.[110] This effectively limited the number of LPFM stations that can fit within the FM band plan. Congress instructed the Commission to conduct an experimental program, however, to evaluate whether LPFM stations would interfere with existing FM stations if the LPFM stations were not subject to the additional channel spacing requirements. The Commission selected an independent third-party, the Mitre Corporation, to conduct the field tests. Mitre Corporation submitted a report to the Commission, on which we sought public comment.[111] The Commission is required to submit a report to Congress, including its "recommendations to the Congress to reduce or eliminate the minimum separations for third-adjacent channels." The Commission staff recently submitted the required report, and, based on the Mitre Corporation study, recommended that Congress "modify the statute to eliminate the third-adjacent channel distant separation requirements for LPFM stations."[112] At last summer's hearing on Capitol Hill regarding localism and the public interest, Chairman McCain noted that the Mitre Corporation report concluded that reducing the spacing requirements would cause "virtually no interference" to existing FM stations, and as a result, "we should take another look at low power FM as a means of providing the public with a locally-oriented alternative to huge national radio networks."[113] Chairman McCain has thus praised the staff's recommendation to Congress to remove the third-adjacent channel spacing requirements.

45. The Commission has recently taken several steps to promote LPFM. We have opened filing windows for settlement agreements, minor change amendments, and channel change amendments to break conflicts between LPFM applications; for the settlement windows, we waived certain processing rules to allow mutually exclusive applicants to use all available frequencies to resolve conflicts and gain station licenses. To date, the Commission has granted over 1000 LPFM applications. We seek comment

[106] *See id.* at 2211 ¶ 13.

[107] *See* 47 C.F.R. § 73.853(b).

[108] *See id.* § 73.872(b)(1).

[109] *Id.* § 73.872(b)(3).

[110] *See* D.C. Appropriations – FY 2001, Pub. L. No. 106-553, § 632, 114 Stat. 2762, 2762-A-111 (2000).

[111] *See* Public Notice, "Comment Sought on the Mitre Corporation's Technical Report, 'Experimental Measurements of the Third-Adjacent-Channel Impacts of Low-Power FM Stations,'" DA 03-2277 (July 11, 2003). We have extended the comment deadline until October 14, 2003. *See The Mitre Corporation's Technical Report, "Experimental Measurements of the Third-Adjacent-Channel Impacts of Low-Power FM Stations,"* MM Docket No. 99-25, Order, DA 03-2767 (MB rel. Aug. 29, 2003).

[112] Report to Congress on the Low Power FM Interference Testing Program, Pub. L. No. 10-553 (rel. Feb. 19, 2004), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-244128A1.pdf.

[113] Testimony of Hon. John McCain, Chairman, U.S. Senate Commerce Committee, *available at* http://commerce.senate.gov/hearings/testimony.cfm?id=874&wit_id=2447.

on what additional steps we could or should take to promote LPFM further. In particular, we seek comment on how best to harmonize our licensing processes for FM translators and LPFM stations to enhance localism. FM translators were originally envisioned as a "fill-in" service for full-power FM stations; they "provide a means whereby the signals of FM broadcast stations may be retransmitted to areas in which direct reception of such FM broadcast stations is unsatisfactory due to distance or intervening terrain barriers."[114] The Commission permits noncommercial FM translators operating in the bands reserved for noncommercial FM stations to be fed programming by satellite from commonly owned stations, with the result that their associated stations may be many miles away.[115] FM translators are not permitted to originate programming themselves, except for emergency warnings of imminent danger and announcements, limited to thirty seconds per hour, seeking or acknowledging financial support.[116] LPFM stations, by contrast, often originate local programming.[117] As noncommercial stations themselves, LPFM stations compete with noncommercial FM translators for the same spectrum. Both translator and LPFM applications are required to protect translator and LPFM authorizations. Both also must protect prior filed translator and LPFM applications. What effect do these policies have on localism? How do our policies for translators affect the availability of spectrum for LPFM, and should we change any of our rules to give a preference to entities with a local presence and/or local programming?[118] If so, how? We also note that the Commission received approximately 13,300 non-reserved band FM translator filings in a window it opened approximately one year ago, and these applications propose service in many areas where LPFM stations could be located under current rules.[119] The pendency and processing of these applications may significantly restrict any additional opportunities for LPFM stations that Congress might otherwise create if it elected to follow the Commission's recent recommendation, based on the Mitre Corporation report, that the separate requirements for LPFM stations be changed. Recognizing that both LPFM stations and translators provide valuable service, what licensing rule changes should the Commission adopt to resolve competing demands by stations in these two services for the same limited spectrum?

III. CONCLUSION

46. We initiate this proceeding to begin a dialogue with the public on how the Commission can best ensure that broadcasters fulfill their obligations to serve their communities of license through particular rules or policies. Although we have identified above particular subjects of interest to us, we welcome comment on any ideas relevant to that end.

IV. ADMINISTRATIVE MATTERS

47. *Ex Parte* Rules. Pursuant to section 1.1204(b)(1) of the Commission's rules, 47 C.F.R. § 1.1204(b)(1), this is an exempt proceeding. *Ex parte* presentations are permitted, and need not be disclosed.

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[114] 47 C.F.R. § 74.1231(a).

[115] *Id.* § 74.1231(b). FM channels 201-220 are those reserved for noncommercial use.

[116] *Id.* § 74.1231(g).

[117] Although our rules do not require all LPFM stations to originate local programming, the mechanism we use to resolve mutually exclusive LPFM applications awards a point to applicants that "pledge to originate locally at least eight hours of programming per day." *Id.* § 74.872(b)(3).

[118] As indicated, as between mutually exclusive LPFM applications, we award a point to applicants that pledge to originate local programming. *Id.*

[119] LPFM stations, and all noncommercial stations, are permitted to operate in both the reserved and non-reserved bands.

48. Comments and Reply Comments. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties must file comments on or before **September 1, 2004**, and reply comments on or before **October 1, 2004**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (tty).

49. Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

50. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail, should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

51. Additional Information. For additional information on this proceeding, contact Ben Bartolome, ben.bartolome@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2120.

V. ORDERING CLAUSE

52. Accordingly, **IT IS ORDERED** that, pursuant to the authority contained in sections 4(i), 303(g), 303(r), and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 303, and 403 , this Notice of Inquiry **IS ADOPTED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

STATEMENT OF
CHAIRMAN MICHAEL K. POWELL

Re: Broadcast Localism, Notice of Inquiry

Fostering localism is one of this Commission's core missions and one of three policy goals, along with diversity and competition, which have driven much of our radio and television broadcast regulation during the last 70 years. Today's Notice of Inquiry is another step in that long legacy and will serve as a primary information gathering source for the work of the Commission's Localism Task Force. Along with several public hearings, three of which have been conducted, to date, the Task Force will take the information filed in this NOI and the results of its own studies designed to measure localism in broadcasting to advise the Commission on steps it can take and, if warranted, will make legislative recommendations to Congress that would strengthen localism in broadcasting.

Over the last several years, the Commission's review of the media marketplace has clearly demonstrated that the broadcast community, at large, has made great strides in serving the needs of their local communities. Indeed, long gone are the days in which the three local broadcast stations in any given community offered a scant five minutes of local news. Today, local newscasts have become the staple of any successful local broadcast television station, demonstrating that serving the needs and wants of your local community does not just fulfill their public obligations, but also simply make good business sense.

This, too, has been seen as new media outlets—from new broadcast stations to cable and satellite television and radio programming to the Internet—increasingly offer our citizens more access to locally produced content and content of interest to local communities throughout the country. That said, even as audiences continue to fragment across an increasingly diverse and competitive media marketplace, and at a time in which they have access to more local content than at any time in our nation's history, the public still looks first to the broadcast industry to serve its localism needs. It is this fact that makes our work in this area so important. So as I urge broadcasters to fully inform the Commission of the laudable steps they take in serving the interests of their local communities, I urge that they join us in recognizing that there is always room for improvement.

STATEMENT OF COMMISSIONER KEVIN J. MARTIN

Re: Broadcast Localism, Notice of Inquiry (June 7, 2004)

I support this Notice of Inquiry into the manner and extent to which broadcasters are serving their local communities. I write separately to address an issue critical to a broadcaster's ability to serve its local community: an affiliate's right to reject network programming. Three years ago, the Network Affiliated Stations Alliance filed a motion for declaratory ruling asking us to clarify that our rules protect an affiliate's ability to refuse to air network programming when, for instance, the licensee believes it is unsuitable for the local community, or when another program is of greater local importance. Since that time, I have been calling on the Commission to resolve this and other questions contained in that motion. This Commission states in this Notice today that we "intend to issue the requested declaratory ruling expeditiously." I hope we resolve this issue soon.

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS
APPROVING IN PART AND DISSENTING IN PART

Re: Broadcast Localism, Notice of Inquiry

From the earliest days of broadcasting, we have obligated licensees to serve the needs and interests of their local communities. The principle of localism is at the heart of the public interest. I support the Commission's renewed interest in promoting localism, although we should have examined these issues ***prior*** to loosening our media concentration protections, not after those rules were gutted. While I am comfortable with parts of today's NOI, I must nevertheless dissent to those sections that concern issues that have already been raised in other long outstanding proceedings or that are otherwise ripe for decision by the Commission, or at this late juncture, overripe. There are issues here where we should be acting, not asking more questions, and putting them off will raise questions in some minds about our seriousness of intent to resolve such matters.

During the hearings and forums on media ownership that Commissioner Adelstein and I attended across the country, we heard time and again from citizens about the detrimental impact that consolidation has already had on localism and diversity and we heard their fears about where still more concentration will lead. I would have heeded the calls from millions of Americans and considered these important localism issues before we voted last June to allow media conglomerates to get even bigger. Localism is one of the fundamental goals of our ownership rules and of the public interest. I believe that it is impossible to divorce localism from ownership. What if we get to the end of this new proceeding and determine that localism is ***not*** served by ever greater media concentration? With the consolidation genie out of the bottle, it will be too late then to stem the tide.

This NOI properly seeks information that will serve the Commission's localism task force as it writes its report and recommendations. It also raises a number of questions in areas that merit attention in our effort to increase localism and to implement the statutes. These include questions on low power FM, payola, and sponsorship identification. In the meantime, as we proceed with this inquiry to determine if we need to change our disclosure and other rules, we should also look at more immediate steps including investigating credible allegations of paid consideration that might form the basis for an enforcement action under our current rules. We have ignored this problem for too long.

Notwithstanding my support for an inquiry into ways to promote localism, I must dissent in part from this NOI. We have headed down this path of questions several times before. We started having a discussion on the public interest obligations of broadcasters several years ago. While focused primarily on public interest obligations during the digital transition, these proceedings raised questions more generally about how broadcasters are serving, or could better serve, their local communities. The Commission issued a formal Notice of Inquiry in December 1999, followed by two very specific Notices of Proposed Rulemaking the following year. And then these proceedings languished. Over a year ago, we managed to get the record refreshed with a commitment to resolve the issues promptly. We should have resolved them long ago. The public interest discussion was further expanded to include radio via a Notice of Proposed Rulemaking issued a few months ago. Today's NOI raises numerous issues that have already been raised in previous proceedings and other issues that could be resolved by the Commission without seeking comment in an NOI.

A few cases in point:

- Enhancing political and civic discourse: The NOI seeks comment on ways to enhance our country's political and civic dialogue. This is clearly an important topic, especially in an election year when so many critically-important issues confront our nation. But it is also a subject that was raised in our

previous public interest proceedings. Here is an issue that demands action now rather than another round of initial questions and comments. Study upon study depicts a bleak and depressing picture. From 1996 to 2000, coverage of even the Presidential race on the network evening news dropped by one-third. The average Presidential candidate sound bite in 2000 was 8 to 9 seconds. Local newscasts fared no better. In the 2002 election, over half of the evening local newscasts contained no campaign coverage at all. What coverage there is tends to focus inordinately on the latest tracking polls and handicapping the horse race rather than on the serious issues the nation needs to be discussing. And when you get down to the Congressional and local races, the situation is even more dismal. We also see less public affairs programming. One survey found less than one half of one percent of programming is devoted to local public affairs. We have studies. We have comments. We don't have action.

- Community-responsive programming: Broadcast stations have an obligation to air programming responsive to the needs and interests of their communities of license. In today's NOI, the Commission asks whether the Commission should take action to better ensure that broadcasters air programming to serve their communities' needs and interests or whether the Commission should rely on market forces to encourage broadcast stations to air community-responsive programming. Yet, five years ago, the Commission sought comment on similar public interest requirements. Why keep asking the same questions when we should be acting?

- License Renewals: As one part of the effort to ensure that licensees are serving their local communities, we desperately need to establish an effective license renewal process under which the Commission would once again actually consider the manner in which a station has served the public interest when it comes time to renew its license. Many of the license renewal issues raised in this NOI merit attention, but I fail to understand why we need an NOI to ask whether we should actually examine a station's public file at license renewal time, whether we should conduct audits of these files, and whether we should better involve the station's community in the license renewal determination. If this Commission was serious about its public interest responsibilities, it could implement these steps immediately as part of the current license renewal review, rather than merely asking questions that will not result in any action until the next license renewal cycle that is eight long years away. One thing is certain: the current system of postcard renewal for licenses is not serving the public interest.

- Communication with Communities: In the 1999 NOI, the Commission sought comment on how television broadcasters determine and meet the needs and interests of their communities. Based on the comments received in response to that NOI, the Commission progressed to an NPRM in 2000 seeking comment on proposals to promote broadcaster communications with communities of license. Now, four years later, the Commission launches yet another NOI seeking comment on these very same issues. As local stations come under the control of far-away media conglomerates, it is time to move forward and act on these proposals, rather than move backward from an NPRM to another NOI.

When the issue is how to hold Big Media accountable to the local communities they serve, we are stuck at the starting gate. I recognize that the NOI states that it is not intended to delay other proceedings, but I fear this will be precisely what it does. The better part of good government here is to move ahead and act on those matters where we already have compiled a record or where the statute has long since told us to be about our job of protecting the public interest. That would benefit the public interest and, in the process, help the credibility of this agency, too.

STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN
APPROVING IN PART AND CONCURRING IN PART

Re: Broadcast Localism, Notice of Inquiry

From the inception of radio and television broadcasting, they have been unique, distinctly local forms of media. In return for the temporary, exclusive right to use the public airwaves, broadcasters must serve the public interest. The Commission by law must regulate broadcasting with the foremost role of serving the public interest, convenience, and necessity.

Localism is an integral part of serving the public interest. It requires stations to be responsive to the particular needs and interests of their communities. Every community has local news, local elections, local government, local weather, local culture, and local talent. Localism means providing opportunities for local self-expression. It means reaching out, developing and promoting local performing artists, musicians and other talent. It means dedicating the resources to discover and address the unique needs of every segment of the community. It means being alert and notifying the community of crisis situations. It means being accessible, sending reporters and cameras out to all parts of the community to cover not just the problems but the positives as well. It means airing sufficient programming responsive to community needs, and making programming decisions that truly serve and reflect the makeup of the community. It means covering the issues and positions in local elections, not just the horserace. And it means documenting all these efforts in an accessible format so the local community can offer feedback.

While today's action is only a Notice of Inquiry, many of its questions pertain to areas for which more guidance from a thoughtful and discerning public is appropriate. In some areas, however, I believe we are more than ready to move directly to rulemaking proceedings, or to complete pending ones. Today's item recognizes the prompt need to resolve outstanding matters such as the enhanced public file disclosure and children's digital television rulemakings, as well as the Network Affiliated Stations Alliance petition, each pending for more than three years. I trust we will bring those to resolution right away. With the elections nearly upon us, for example, the public file item must be finalized soon to help this cycle. And reaffirming an affiliate's right to reject network programming is critical for preserving and promoting localism. I concur to the extent that today's Notice overlaps with the inquiry already conducted on digital television public interest obligations, for which a rulemaking is long overdue.

But there is much in today's item that is new and appropriate for an inquiry. I am particularly pleased that we address payola and sponsorship identification. I have heard plenty of troubling accounts of new and different forms of undisclosed direct or in-kind payments for access to the public airwaves. Today, we seek specific information to determine what actions the Commission should take to address modern-day pay-for-play practices. This problem is not limited to any single company or any one form. Nor is it simply a radio problem. Increasingly, the television world is blurring the line delineating infomercial and infotainment from genuine news and information. The effects of such undisclosed paid-for programming run deep – for artists and musicians, labor groups, politicians, journalists, researchers, educators, and each and every one of us who listens to the radio or watches television. The public deserves to know who is trying to influence them. The Commission has broad authority to do just that, and, if broadcasters aren't doing it themselves, it's time we stood up to protect the integrity of the public airwaves.

Our inquiry is also properly focused on the nature and extent of disaster warnings, which can be especially crucial for people living in rural media markets with fewer alternative outlets to receive emergency information. And I am pleased that we address ways to promote localism by creating additional broadcast outlets such as low-power FM service.

Given the overarching importance of localism, commenters should offer any and all thoughts on steps the Commission can take to better promote localism and further the public interest. We heard a great deal of input already from the localism hearings held in Charlotte, North Carolina, San Antonio, Texas, and Rapid City, South Dakota. As we strive to find ways to ensure that broadcasters routinely reach out to and serve all segments of their local communities, the Commission hearings have afforded broadcasters a way to receive valuable direct input from concerned citizens. But we need to understand the types of interactions and outreach that occur regularly between broadcasters and community representatives in each of our cities and towns.

Our country's system of local broadcasting stands as one of our greatest achievements and should be cherished. Broadcasters who serve their communities exceptionally well should be proud of their efforts. As other types of media increasingly try to emulate the touch and feel of broadcast localism, the Commission must do its part to ensure that all broadcast licensees exhibit the deep and unwavering commitment to their local communities that the public should be able to expect from its trustees.