

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

In the Matter of:
Broadcast Localism

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MB Docket No. 04-233

TO: Office of the Secretary
ATTN: The Commission

COMMENTS OF THE NEW MEXICO BROADCASTERS ASSOCIATION

Introduction and Summary

The New Mexico Broadcasters Association respectfully submits comments in response to the Notice of Inquiry of the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding, released July 1, 2004, concerning broadcast localism.¹

Localism is alive and well. This is true not only because licensees have a legal obligation to “air programming that is responsive to the interests and needs of their communities of license,”² but localism is alive and well because the market demands it.

What sets local broadcasters apart from other electronic media is that they serve distinct markets and places. Cable or satellite-delivered programming and webcasting can come from anywhere and have no inherent sense of place. But, local broadcasters are, by their very nature, somewhere in particular.

¹ 19 FCC Rcd 12425 (2004).

² *Id.* at ¶1.

They are active players in the lives of their communities. This is true because a broadcast station's audience is inherently local, even if all of a station's programming is not locally-produced. Local audiences can change stations – or move to a different medium or delivery mechanism– if their interests are not served. If a local station is not providing the most relevant programming for its listeners, its programming is no longer distinctive – and its competitive position will be diminished.

In less populous states, such as New Mexico, many local stations have traditionally provided – and continue to provide – the communications centerpoints for their communities. Whether broadcasting local news, weather, emergency information, local sports, or school lunch menus, their business success depends on serving as the voices of their communities. Local broadcasters continue to play that role and are expanding it.

As non-broadcast competitors aggressively vie for both radio and television audiences, this traditional mission has also become a significant competitive advantage for local broadcasters. Audiences in automobiles now have the ability to listen to nationally-distributed satellite radio instead of local radio, just like television viewers have been able to switch, for a generation now, from broadcast to non-broadcast channels on cable or DBS. Indeed, satellite radio subscriptions are increasing rapidly.³ The recent well-publicized migration of popular programming to such services from free over-the-air

³ Although satellite radio is in its infancy, its subscriber base is growing rapidly. See Press Release, XM Satellite Radio, XM Satellite Radio Exceeds 2,500,000 Subscribers In Third Quarter, (Oct. 1, 2004), at 3. Available at <http://www.xmradio.com/newsroom/screen/pr_2004_10_01.html>; Press Release, Sirius Satellite Radio Surpasses 600,000 Subscribers (Sep. 6, 2004), at <<http://www.sirius.com/servlet/ContentServer?pagename=Sirius/CachedPage&c=PresReleaseAsset&cid=1094570181801>>.

distribution underscores this growing competition. Local broadcaster's traditional role as the centerpoint of a community's communications is not only a commitment; it is also a business necessity that gives local broadcasters an edge in an evermore-competitive marketplace.

Television stations have lived with this reality for a generation now in the face of growing competition from mainly national programming carried on channels distributed only via such multichannel video production distributors (MVPDs) as cable and DBS that now serve over 85 percent of U.S. households. During this period, many local television stations have increased local news blocks and other programming responsive to local needs – not because of any mandates, but because success in the market demands the distinctiveness that broadcast localism brings in the competition for audiences.

It is important for the Commission to remain cognizant of these facts and enforce rigorously the bar on satellite radio delivery of local programming. Localism was always a part of local broadcasters' agenda. Now, it is also a marketplace necessity. If the Commission intends to protect the public interest in free over-the-air local broadcasting, it must not allow cherry-picking of local programming audiences by distant satellite-delivered services.

Localism is a significant public interest. Local free over-the-air broadcasters provide it. The FCC must nourish, support and protect these efforts – not by imposing expensive one-size-fits-all mandates, but by providing a regulatory framework that allows broadcasters to respond to the strong community demand for localism in way that meets the actual need of local communities. Broadcasters have been meeting those needs

this for more than three-quarters of a century, and have every incentive to continue this time-honored tradition because local broadcast audiences respond to it.

Broadcasters Ascertain Community Interests and Needs

Local broadcasters are constantly assessing the interests and needs in their communities in order to give audiences what they cannot find elsewhere. This ascertainment comes in many forms – and is pursued by broadcasters, both large and small, commercial and noncommercial. Examples abound.

Many stations report regularly scheduled meetings with local elected and appointed officials to assist in taking the pulse of their communities. In a number of instances, station managers and other personnel sit on various boards, committees, councils and commissions. This is especially true in more sparsely-populated areas where community functions depend on community participation in often voluntary public efforts.

A good example is seen at radio stations KRTN and KRTN-FM of Raton, which have established regular communications channels with federal, state and local government agencies with operations in the stations' listening area. Civic organizations are encouraged to regularly contact and provide the stations with agendas and other documentation of their activities and concerns.

Unlike distant MVPD-only channels and satellite radio producers, local station staff and management get involved in their communities. Many stations, especially public radio stations, have established community advisory boards. It is not only the right thing to do, but is, as discussed above, good business. The “local” in local broadcasting is what distinguishes free over-the-air broadcasters from their competitors.

Ascertaining what local communities want and need is part of that business imperative – and local broadcasters are doing what is necessary to compete with a multitude of media options that did not exist a generation or, in some instances, even a decade ago. Quite simply, if local broadcasters were not locally connected, they would lose audience, and their businesses would suffer.

Local News and Public Affairs Programming Represents a Core Value; Providing Emergency Information is Significant to this Commitment

As the centerpoint of a community's communications, a local broadcaster provides local news, information and public affairs. Such efforts serve as an important competitive counterpoint to the distant nationally-distributed services that dominate MVPD programming and represent the only permissible programming on satellite radio.

A good example of such local news and public affairs is heard on KTNM and KQAY, the stations of Quay Broadcasters of Tucumcari. These stations present a half-hour morning drive time news program, followed by a public affairs interview program on which municipal, county, school board and other local government and educational representatives update the community. Afterward, members of the community are invited to appear on another program to discuss local arts, entertainment and civic events. Once a week, the station puts its public affairs focus on local schools, providing parents and children with information on school projects, events and issues for that week. The stations also broadcast obituaries.

In rugged area where extremes of weather are not uncommon, New Mexico's local broadcasters provide both regular and extreme weather information. For instance, KRTN and KRTN-FM broke away from local programming three years ago to keep listeners abreast of forest fires and evacuation plans related to these extended blazes. The

stations also provide road conditions for three local schools districts – an especially important service during harsh winter weather, rains or tornadoes. Many people in the KRTN and KRTN-FM listening area receive little or no broadcast television service – and rely the stations for such information.

In communities both large and small, local school sports are an important part of community life – and stations such as these cover them. In the state’s metropolitan areas, as well, local broadcasters are providing news, emergency information and local sports, arts and entertainment coverage. In areas with multiple services, not every station attempts to market itself as all things to all people, but local broadcasters still remain at the centerpoint of a community, not because of mandates, but because it is both the right thing to do and it is good business. Broadcasters have to do more to remain relevant in a multichannel, multimedia market. Localism is what sets them apart – and leads audiences to seek them out.

Beyond EAS: Emergency Information to Protect Life and Property

Emergency Alerts are important, but New Mexico’s broadcasters go beyond mere compliance with the EAS rules. In times of local need and/or crisis, listeners turn to local broadcasters to keep them updated on protecting life and property – and broadcasters all over the state break away from normal programming to provide what only a local broadcast service can: localized information. As noted, local stations serving as a community’s communications centerpoint provide such information as a matter of course. Wildfires, blizzards, floods, and tornadoes are all native to this area. People rely and regularly tune into their local broadcasters to help them steer clear of trouble, expecting to be informed of what is most immediately relevant and important. Many

stations hold regular meetings with local first response officials to ensure that when trouble strikes, the public will be informed quickly and accurately –with greater speed or depth than is provided through EAS compliance alone.

Community Service Is an Important Element of the Broadcast Industry’s Business

A survey, conducted as part of a national project,⁴ found that New Mexico’s broadcasters contributed about 117 million dollars worth of services to their communities in 2003. This included the broadcast of public service announcements (“PSAs”), direct fundraising efforts for charitable projects, and other direct or in-kind donations.

Broadcast stations have often played a major role, from their perches at the centerpoint of community life, to garner assistance for victims of local disasters.

Broadcast stations have also been a lynchpin in public awareness campaigns concerning a host of issues from AIDS to poverty. A copy of the New Mexico Public Affairs Summary describing these efforts is attached hereto as Exhibit A.

Specific programs vary from station to station, but typical examples of such community service involvement is seen in KTNM and KQAY’s broadcast of the local United Way auction, or KRTN and KRTN-FM’s sponsorship and live broadcast of footraces that raised funds for the American Cancer Society.

These are but a few examples of broadcasters doing good and, in the process, doing well by cementing their relationship within the local communities they serve.

⁴ The survey was conducted by Public Opinion Strategies of Alexandria, Virginia, for the National Association of Broadcasters, in cooperation with the New Mexico Broadcasters Association.

Broadcasters Serve Minorities Together with their Communities' Majorities

In larger metropolitan areas, broadcasters serve both niche markets and the broader community. Some do it through programming, others through news and public affairs, and others still through public service. Even in smaller, more rural markets – where few stations operate – broadcasters reach out to minorities. For instance, KTNM and KQAY, while programming in English, will run Spanish spots and PSAs as requested. The stations have also broadcast Spanish language programs, despite the predominance of English on their airwaves. In a state with significant Hispanic heritage, Spanish-language formats are also widely available in New Mexico. Radio stations licensed to operate from Native American reservations also provide programming attuned to the needs of their local residents.

Conclusion

New Mexico's local broadcasters respond to the need for localism in their broadcasting activities both because it is the right thing to do and because it makes good business sense in the multichannel, multimedia universe in which they compete. Broadcasters are no longer the only electronic mass media in town. It is their sense of place and their connections to their communities that give them a distinctive edge in their competition with electronic mass media delivered by other means. A broadcaster that fails to heed this reality will fail in the marketplace. The Commission need not intercede because broadcasters have long been a communications centerpoint in their communities,

and marketplace realities keep localism as an imperative for broadcast stations.

Respectfully submitted,
THE NEW MEXICO BROADCASTERS
ASSOCIATION

A handwritten signature in black ink that reads "Michael W. Richards". The signature is written in a cursive style and is positioned above a horizontal line.

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EXHIBIT A

New Mexico Public Affairs Summary

Introduction

Broadcasters have a mandate to serve the public interest of the communities in which they operate. Given the diversity of communities in the United States, there is a multitude of needs which could be and are addressed over the public airwaves by broadcasters. Indeed, broadcasters are recognizably in a very unique position – every station in the country is a local station and very much a part of the community it is licensed to serve.

Public affairs activities are an integral part of broadcast stations' community involvement. Through public affairs activities, stations help increase awareness of issues that affect their audiences. Radio and television broadcasters invest both programming and non-programming time and efforts to educate and involve their communities. Programming activities include, but are not limited to, public service announcements wherein stations donate valuable commercial time for messages alerting the public about health threats and other issues. Stations also produce public affairs programs featuring in-depth discussions of problems and remedies. In addition to these programming efforts, broadcasters initiate or are involved in many activities and community groups aimed at educating and involving their communities.

While the ways in which broadcasters are involved in their communities may seem similar, every local broadcaster's efforts are different. Public service campaigns undertaken by stations nationwide integrate on-air and off-air efforts. Additionally, since each station cannot address every need of its given community as its top priority, stations each focus on different needs, thus addressing overall the diversity of issues within a community. In any given community, the local broadcasters' unique responses and approaches to the diversity of issues is also supplemented by major national efforts.

Our state association, in partnership with the National Association of Broadcasters, conducted a survey of television and radio stations in New Mexico to determine the extent of station participation in public affairs activities. A variety of methodologies were employed to reach stations – with mail, fax, and Internet surveys sent out between January and April 2004. The response rate of New Mexico broadcasters was 58%, as 9 of the 10 commercial television stations licensed to the state (90%) are represented in the data, as are 79 of the 142 radio stations (56%).

The census revealed that New Mexico radio and television stations contributed approximately 117 million dollars worth of service to their communities during 2003. The data were collected, tabulated and analyzed by Public Opinion Strategies, an Alexandria, Virginia-based opinion research firm.

Donating Time, Raising Money, and Responding to Community Needs

- ✓ Using mean figures to derive a per-station total, responding New Mexico TV stations report running approximately 148 PSAs per week, with radio stations running 401. These figures combine all PSA spot times – from ten seconds or less up to 60 second PSAs. Using the reported rate charged for each of these spot lengths, these PSAs translate into a mean cumulative amount of \$943,072 a year per TV station responding, and \$651,456 per radio station responding.

The cumulative statewide totals based on these data show the total PSA value for New Mexico TV stations as \$9,430,720 and \$92,506,752 for radio stations.

- ✓ All responding TV stations (100%) and almost all radio stations (97%) say they help charities, charitable causes or needy individuals by fund-raising or offering some other support. The mean amount raised by these TV stations was \$1,027,500, with responding radio stations reporting a mean of \$39,582. The projected cumulative amounts for this charitable giving is \$10,275,000 for TV stations and \$5,452,024 for radio stations who conducted some fundraising during the time period examined.

The charitable amount raised by responding TV stations ranged from \$50,000 up to \$2,500,000, with a range among radio stations of \$750 to \$250,000.

- ✓ One-quarter of responding New Mexico TV stations (25%) and radio stations (26%) were involved in either on-air campaigns – either through local news broadcasts, PSAs, or public affairs programming – or off-air activities to aid the victims of disasters.
- ✓ PSAs also focus largely on local issues. Among responding TV stations, respondents say that an average of 54% of PSA time is devoted to local issues; the percentage of PSAs devoted to local issues among responding radio stations was 74%.

Broadcasters Addressing Important Topics

- ✓ The following table examines some specific issues and the response by responding stations. As in previous years, broadcasters continue to devote time and resources to addressing important and relevant topics.

Each respondent was asked to respond whether their station aired PSAs, locally produced public affairs programs/segments (not including news broadcasts), or news segments on each of the following topic areas. The numbers here are the percentages of all state TV and radio stations who say they have addressed a particular topic through one of those methods:

Issue	TV			Radio		
	PSA	PA Program	News Segment	PSA	PA Program	News Segment
AIDS	56%	22%	56%	65%	29%	47%
Alcohol abuse	89%	44%	44%	95%	72%	81%
Adult educ./literacy	56%	33%	56%	76%	85%	58%
Anti-crime	67%	33%	56%	76%	73%	76%
Anti-smoking	78%	44%	33%	63%	69%	56%
Anti-violence	89%	33%	44%	96%	68%	78%
Breast cancer/other women's health	67%	22%	44%	83%	68%	62%
Children's issues	67%	44%	44%	96%	87%	71%
Drinking during pregnancy	44%	11%	33%	46%	26%	54%
Drunk driving	89%	78%	44%	96%	81%	79%
Drug use/abuse	89%	56%	33%	85%	79%	77%
Homeland security issues	56%	33%	33%	60%	59%	62%
Hunger/poverty/homelessness	67%	33%	33%	71%	62%	51%
Fund raising drives	89%	78%	33%	91%	77%	55%

Promoting Participation

- ✓ Fully 75% of responding radio stations and 67% of responding TV stations report airing public affairs programs of at least 30 minutes in length.
- ✓ The leading topics of public service campaigns by New Mexico broadcasters in 2003 included alcohol and drug abuse issues, poverty/hunger/homelessness issues, national charities (such as Easter Seals, Goodwill, etc.), literacy and adult education, and blood donations. Some primary recipients included the Boys and Girls Club, Children's Miracle Network, Grants Food Pantry, Relay for Life, The Salvation Army, and The United Way.

Methodology Notes

Continuing our participation on this project with the National Association of Broadcasters, a number of continued refinements were made from 2001, including the addition of issues such as anti-smoking and homeland security matters as possible topics for news segments, public affairs programming, and PSAs. Market size and revenue data for stations was linked to survey data, allowing for more precise weighting and sample procedures.