

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

In the Matter of )  
 )  
Broadcast Localism ) **MB Docket No. 04-233**  
To: The Commission

**COMMENTS OF**  
**THE COMMUNITY BROADCASTERS ASSOCIATION**

1. The Community Broadcasters Association (“CBA”) hereby submits its Comments in response to the Commission’s Notice of Inquiry (“NOI”), FCC 04-129, released July 1, 2004, exploring whether new regulatory intervention is necessary or appropriate to promote localism in radio and television broadcasting. CBA is the trade association of the nation’s Class A and Low Power Television (“LPTV”) stations, which now number more than 2,700 stations (609 Class A stations and 2,128 LPTV stations).<sup>1</sup> As discussed below, there is no need for the Commission to impose new regulatory requirements on an industry that is already providing significant local programming. Regulatory incentives would be more effective than requirements; there are also regulatory barriers to increased local service that need to be removed.

2. Class A and LPTV stations, known as “community broadcasters,” are perhaps the leading examples of localism in television broadcasting. Class A stations are the only broadcast stations required by statute to provide locally-produced programming – each station must provide an average of three hours per week.<sup>2</sup> LPTV stations also routinely offer local

---

<sup>1</sup> See *Broadcast Station Totals as of June 30, 2004*, Federal Communications Commission, News Release, Aug. 20, 2004.

<sup>2</sup> See 47 U.S.C. § 336(f)(2).

programming without any specific regulatory requirements, because their limited geographic service areas are conducive to locally-focused services. Class A and LPTV stations operate in markets of all sizes, from New York City and Los Angeles to Hopkinsville, Kentucky, Wenatchee, Washington, and Woodstock, Virginia. Many of these stations serve minority communities, offering both local and national programming; for example, the Univision and Telemundo affiliates in the Washington, D.C. market are Class A stations. Many of these stations provide free or low-cost training to those who are just getting into the news, sales, or technical side of the television business – thereby providing important entry-level job opportunities that are difficult to find at larger stations – and they contribute to the goal of stimulating employment of minority groups and women who have traditionally been underrepresented in the broadcast industry, in both ownership and employment.

3. Local ownership and local programming are the heart of the Class A-LPTV industry, and these stations serve as an example of what localism actually means in America. The Commission’s Localism Task Force heard testimony from two CBA Directors at its recent public field hearings – Eleanor St. John, Owner and Managing Partner, White Eagle Partners, Licensee of KQEG (UPN), La Crosse, Wisconsin testified in Rapid City, South Dakota; and CBA President Warren L. Trumbly, Vice President, Broadland Properties, KAXT-CA, San Jose, California, testified in Monterey, California.<sup>3</sup>

---

<sup>3</sup> In the recent Order setting forth the digital transition rules for Class A and LPTV stations, the Commission recognized how these stations serve the goals of localism, “In many communities, viewers uniquely depend on Class A TV and LPTV stations as their source of local news, weather and public affairs programming.” See *Amendment of Parts 73 and 74 of the Commission's Rules To Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and To Amend Rules for Digital Class A Television Stations*, Report and Order, FCC 04-220 at para. 52, MB Docket No. 03-185 (rel. Sept. 30, 2004).

4. Ms. St. John testified that, for the first-time, her station taped an American Indian powwow celebration over Memorial Day weekend, which honored all armed service veterans, promoted patriotism, and provided knowledge of this truly American celebration. Viewers warmly received this unique program because it shed light on a special ceremony that seemed mysterious to many in their area. Mr. Trumbly testified that KJEO-LP, in Fresno, California, is the only television station in the Central Valley airing high school football, and the games are so popular that coaches and parents regularly request the television schedule of games and they often disconnect their cable services in order to receive the games over-the-air.<sup>4</sup> Mr. Trumbly also said that the Santa Clara County Sheriff's office brought his station, KBIT-CA, based in San Jose, California, a nanny and two very young children who were lost, who had been riding a city bus all day, and who spoke no English. Within fifteen minutes of airing an announcement on the station, the nanny and the children were reunited with the parents.

5. One of the purposes of this proceeding is to determine how much new regulatory intervention is appropriate to increase the amount of local service that broadcasters provide. CBA will allow other segments of the broadcasting industry to speak for themselves; but as representative of an industry already providing substantial local service in the public interest, CBA does not believe that any further regulatory requirements are needed to stimulate local service by Class A and LPTV stations. CBA does believe, however, that the Commission is in a position to provide regulatory incentives, and that these incentives will do much more than mandates to increase local service. At a minimum, the Commission should remove any regulatory barriers and obstacles to increased local service.

---

<sup>4</sup> Class A and LPTV stations do not have "must carry" rights on cable systems and their viewers must rely on over-the-air reception to watch their favorite local programs.

6. An example of a regulatory obstacle is the definition of “locally produced” programming for purposes of satisfying Class A program requirements. The term “local” is currently defined based on where a program is produced, without regard to its content or whether the broadcast licensee or someone else produces it.<sup>5</sup> Class A broadcasters thus get no credit for programming that is of significant local interest, but may be produced at a distant location, such as an “away” high school sports event or an interview with a local political official in Washington, D.C. or in the state capital. In order to promote innovative methods of producing and delivering such valued programming, the definition of “local programming” should be modified to include a test of “significant local interest” in a program’s content.

7. Another example of an obstacle, if not an outright barrier, is the Commission’s failure to rule on RM-10335, which has been pending for several years. Granting that petition would remedy a defect in the Commission’s network and syndicated exclusivity rules, which currently allow cable television systems to disregard the privately negotiated contractual rights of Class A and LPTV stations to such exclusivity in their markets. There is no reason for Class A and LPTV stations to have lesser rights than their full power counterparts when all is at stake is what program suppliers and station licensees have privately negotiated and not the grant of any right or imposition of any obligation by governmental regulation.

8. There can be little doubt about the value of local programming provided by Class A and LPTV stations or the benefits of incentivizing more of this programming. W25AW-CA of Trenton, New Jersey, is the only television station of any kind focusing its local service on Trenton, the capital of the heavily populated state of New Jersey. The full power stations serving Trenton are all located in the New York City or Philadelphia DMAs and their markets are highly

---

<sup>5</sup> See Sec. 73.6000 of the Commission’s Rules.

–populated and include numerous communities; in the case of Philadelphia, the DMA consists of half of New Jersey, half the population of Pennsylvania and most of Delaware. Unfortunately, these big-market stations cannot possibly produce local news for each of the hundreds of communities in their DMAs. Thus, the big market stations will mention Trenton-specific news only on occasion. In contrast, W25AW-CA produces a daily half-hour newscast in Trenton and about Trenton.<sup>6</sup>

9. Class A and LPTV stations also play a critical role in enabling public officials to respond to local emergencies. The terrible destruction from the recent severe hurricanes in Florida is well known by most of the nation, and many full power television stations responded by interrupting their regular programming to distribute emergency information. However, the full power stations are each focused on a larger market, and they cannot provide detailed emergency information for every individual community; Class A and LPTV stations can. WWCI-CA of Vero Beach, Florida, which has no locally licensed full power station, served as a critical link between local Vero Beach officials and the residents of that community during this year’s hurricane season, and the station is still performing that task today. KVHC-LP of Kerrville, Texas, recently received a call from police that the main highway was closed as a result of a break in a nearby natural gas line, which caused traffic to be rerouted and local residences and business to be evacuated. KVHC-LP immediately went on the air with the warning and then aired a 30-second spot that ran throughout the evening. Such dedication to their local communities often results in phone calls and letters of gratitude to these stations from both viewers and public officials.<sup>7</sup>

---

<sup>6</sup> See **Attachment A** for a series of “screen shots” that demonstrate the variety issues covered by W25AW-CA’s daily local newscast.

<sup>7</sup> See **Attachment B** for a showing of WWCI-CA’s activities and acknowledgments.

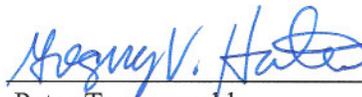
10. In the Class A/LPTV industry, there are countless examples of stations airing PSAs in their smaller communities that benefit the local community by promoting community events, charity fundraisers and social causes. In fact, various suppliers of PSAs are most appreciative of the industry's willingness to air them so frequently. Where appropriate, foreign language versions are aired as well, which are essential to the viewers to whom a foreign language is dominant. The following is a list of social topics and organizations that were covered in PSAs aired by CBA members in 3Q2004: employer support for the National Guard & Reserve, community drug prevention, get-out-the-vote efforts, the National Arbor Day Foundation, teen crime prevision, child mentoring, the United Way, parents as "first teachers," drunk driving prevention, stop domestic abuse program, the Partnership for a Drug Free America, public educations fairs, state social agencies, the March of Dimes, forest fire prevention, the National Center for Literacy, early intervention with learning disabilities, the United Negro College Fund, promotion of a new free medical clinic, the Hispanic Christian Churches Assn., the American Cancer Society and the Library of Congress online. These PSAs demonstrate that the Class A/LPTV industry is clearly focused on suitably serving their local communities.

11. The Commission's response to the need for more local service should include incentives in addition to any requirements the Commission may find appropriate. Incentives are often more effective than requirements, because incentives encourage behavior, while regulations that are not accompanied by incentives often breed avoidance schemes. Class A and LPTV stations – whose bread-and-butter is local service – should be included in those incentives. Two examples of suggested incentives are discussed above: a more rational definition of "local programming" and recognition of privately negotiated exclusively rights. CBA also believes that the Commission should move promptly to offer a new opportunity, for at least existing LPTV

stations, to qualify for Class A status. There is nothing in 47 U.S.C. § 336(f)(1) that prevents the opening of a new Class A eligibility window.

12. In sum, CBA urges the Commission to do more to raise the visibility of Class A and LPTV stations, whose heart-and-soul is their valuable local community services. Providing positive regulatory incentives to these stations will increase the number of stations providing local service and the amount of local service each station is able to provide. Localism is best promoted by facilitating business opportunities for those who are most likely to provide it. There is certainly no reason to allow regulatory obstacles and barriers to impair the growth of an element of the broadcasting industry that is focused more on the diversity of individual communities that make our nation so strong and less on the uniform nationally distributed programming that is becoming increasingly prevalent as ownership in the full power television and radio industries continues to consolidate.

Respectfully submitted,



Peter Tannenwald  
Gregory V. Haledjian<sup>8</sup>

*Counsel for the Community Broadcasters Assn.*

Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Ave., N.W., Suite 200  
Washington, DC 20036-3101  
Tel. 202-728-0400  
Fax 202-728-0354

November 1, 2004

---

<sup>8</sup> Admitted in Maryland; Not in D.C.

**ATTACHMENT A**

# LPTV, Class A Station in Trenton, NJ

## W25AW-CA

### (WZBN-TV25)

**W25AW-CA is licensed to Trenton, Mercer County, New Jersey.**

Mercer County NJ is one of 21 counties in New Jersey, located Midway between New York DMA Rank:1 and Philadelphia DMA Rank:4.

W25AW, known as WZBN TV25, has been producing a daily local newscast of the NJ Capital Region for the past 11 years. The following clips of W25AW's newscast are examples of local "Mercer County" government and community events not covered by the New York or Philadelphia TV stations.



Trenton Mayor Palmer



Hamilton Mayor



Princeton Mayor



Mercer County Executive



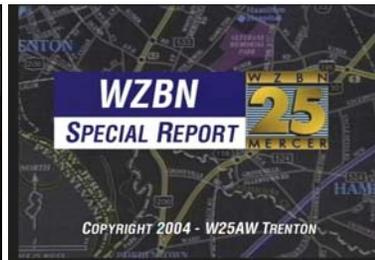
Little League Baseball



Supervisor Lifecom Center



Community Blood Council



Trenton FD Battalion Chief



Mercer County "In The School House"



H.S. Sports



## **ATTACHMENT B**

November 1, 2004

Dear Mr. Tanenwald,

WWCI-TV10, an independently owned and operated television station, broadcasts the only local television news in Indian River County, Florida.

When Hurricane Frances hit our coast on September 5, TV10 quickly realized the community's need for hurricane recovery information. So, while the networks resumed normal programming, TV10 assumed the responsibility of getting the guests, and the information, necessary to rebuild our homes, our lives and our piece of paradise.

Beginning on September 9, TV10 aired a commercial-free, live, call-in show from 8 pm to 10 pm each weekday evening. Viewers were invited to call in with their own questions and pleas for help. The phones never stopped ringing.

And then, just weeks into our county's recovery -- Hurricane Jeanne hit on September 25. We continued our hurricane call-in show until October 18, when we shifted focus to the elections.

During that time frame, TV10 solicited help from corporations -- such as the Coleman Corp., which donated 100 5-day coolers to residents who didn't have power; and the Anheiser Bush Co, which donated hundreds of bottles of water because tap water was unsafe to drink. TV10 also requested help from tree removal professionals, roofers and electricians to help the elderly and the poor who couldn't afford to hire them. People with electricity loaned out generators to those who didn't when we put the information on the air. The stories are actually endless.

With a skeletal staff, due to evacuations, WWCI-TV10 worked tirelessly day and night to line up guests that could provide valuable information WITHOUT commercial interruptions. The following is a log of TV10's guests and topics:

9/9/04 - Lisa Rymer, News Director, and Todd Wood, Director of Marketing, giving FEMA info., school info., water and food distribution info. Also, footage of interview with Gov. Jeb Bush at New Piper Aircraft.

9/10/04 - Sheriff's Deputy Teddy Floyd talking about what went on in the community during and after the hurricane; two

pastors praying with the viewers for speedy recovery; John May talking about the status of a soup kitchen in a low income neighborhood.

9/11/04 - Sheriff's Deputy Teddy Floyd requesting help from the community for the poor; Bob Roth, who hosts a show on WWCI-TV10 showing footage of the guests he brought into his house, the children washing clothes by hand, and the flooding of his neighborhood.

9/14/04 - Hurricane recovery information

9/15/04 - FEMA spokesperson, Lynn Keating, with hurricane recovery information

9/16/04 - Nate McCollum, emergency management services coordinator for Indian River County, with information about hurricane recovery.

9/17/04 - Joe Baird, Indian River County administrator, with hurricane recovery information.

9/18/04 - Hurricane recovery information.

9/21/04 - FEMA spokesperson, Lynn Keating, with hurricane recovery information.

9/22/04 - Hurricane recovery information.

9/23/04 - Vero Beach mayor Tom White, Indian River County Commissioner Caroline Ginn, and Jones & Jones, a mold remediation company with hurricane recovery information.

9/24/04 - Tom Gallagher, CFO of Florida, with insurance information, i.e. contesting double deductibles and free state mediation services. Also appearing, Vero Beach mayor Tom White.

10/4/04 - FEMA spokesperson Len DeCarlo, with hurricane recovery information.

10/5/04 - Hurricane recovery information.

10/6/04 - Kay Clem, supervisor of elections, with information about precinct changes and early voting.

10/7/04 - Longevity Fitness (Bonnie and Steve Pheister) with stress relieving stretches and exercises. Also, Dr. Josefina Monestario with positive attitude message.

10/11/04 - Roofing expert, Angelo Arcure of Arcure Roofing.

10/12/04 - FEMA spokesperson, Len DeCarlo.

10/13/04 - Indian River County director of community development, Bob Keating, with information re: permits and building codes.

10/14/04 - Real estate consultant, Steve Boyle, about value of property after the hurricanes.

We have scheduled a FEMA representative, county administrator Joe Baird, and state senator Mike Haridopolous to appear on the live, call-in show beginning November 3, the day after the elections.

This is an example of dedicated journalists and the community oriented nature of independent local television.

Also enclosed in this correspondence are letters from local government officials testifying to the value of this kind of community service. Unfortunately, these letters were emailed, thus not containing government letterhead.

Sincerely,

Lisa Rymer  
News Director  
WWCI-TV10

October 29, 2004

To Whom It May Concern:

I would like to take a moment to express my sincere appreciation to WWCI-TV10 for the timely information they have been providing to our community.

In the aftermath of Hurricanes Frances and Jeanne, TV10 has hosted many two hour live call-in shows featuring a variety of guests that provided important and necessary information to the public. Among the list of featured guests were City and County Officials, FEMA representatives, insurance specialists, and building experts.

Many residents in Indian River County suffered considerable losses and were unsure how to proceed. The value of independent, local television has never been more apparent. TV10 is performing a necessary service in assisting with the restoration efforts of our community, and for that I am grateful.

Sincerely,

Joseph A. Baird  
County Administrator

November 1, 2004

To Whom It May Concern:

In the aftermath of Hurricane Frances and Jeanne, the residents of Vero Beach struggled to make sense of the damage to their homes and their city. They needed information about boiling water orders, where to get food and ice, how to seal up their homes with tarps, how FEMA could help, where to seek shelter, and school cancellations. Sometimes, all they needed was someone to talk to.

WWCI-TV10, a local independent television station, was there for the people. For two hours every weekday evening, WWCI-TV10 broadcast a live, call in show featuring guest that could provide the information so desperately needed. As the Mayor of Vero Beach, I appeared several times on the show to answer questions and provide guidance during a time of chaos.

Other guests included Tom Gallagher, CFO of Florida, FEMA spokespersons; emergency management services spokespersons; county government officials; and experts in the fields of roofing, construction and mold remediation.

The phones never stopped ringing. Elderly men and women in need of assistance were connected with electricians, tree removal specialists and even plumbers who volunteered their services. Families who had lost all their belongings were given clothes and furniture. And, generators were loaned out by citizens who quickly got power restored to those who didn't.

If it wasn't for our local, independent station, none of this would have been possible via television. The network affiliate stations resumed their normal broadcast programs almost immediately after the storms passed. I applaud the efforts of WWCI-TV10 to serve the people of Indian River County.

Sincerely,

Thomas P. White, Mayor  
City of Vero Beach



Sarah Siciliano-Hartt, Ph.D. - Licensed  
 Psychotherapy ADHS/ADD Grief

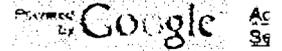
### WEB E-MAIL

Home Email Site Search Maps Technical Support

Eng

Search The Web Yellow Pages

SEARCH



- [Inbox](#)
- [Compose](#)
- [Folders](#)
- [Addresses](#)
- [Get POP mail](#)
- [Options](#)
- [Help](#)
- [Logout](#)

**Read Message** Previous Next Back to: [Inbox](#)

From: "Nate McCollum" <NMcCollum@ircgov.com>

Date: 2004/10/27 Wed PM 03:51:40 EDT

To: "WWCI TV10 (E-mail)" <wwciv10@bellsouth.net>

Subject: Work By Channel 10

Reply Reply All Forward Delete Move To: (Choose Folder)

[MailGuard](#)  
[Options](#)

[What is MailGuard?](#)

To Whom It May Concern:

Please accept this e-mail as my offer of thanks to WWCI Channel 10 in Vero Beach, Florida, for outstanding work in informing the public during Hurricanes Jeanne and Frances. After both hurricanes Channel 10 started live call in shows during the recovery phase of each event. The information these programs helped to excel the overall recovery in our county. Without their unselfish broadcast of these live programs, valuable information would not have been received by our residents.

Nathan McCollum  
Indian River County Emergency Management

Reply Reply All Forward Delete Move To: (Choose Folder)

Search Messages Previous Next Back to: [Inbox](#)



© 2000 BellSouth Telecommunications, Inc. All Rights Reserved.  
[Legal Notices and Privacy Statement](#)