

Before the
Federal Communications Commission
Washington, DC 20554

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

COMMENTS OF CAPITOL BROADCASTING COMPANY, INC.

I. Introduction

Capitol Broadcasting Company, Inc. (“CBC”) hereby submits its comments *In the Matter of Localism Notice of Inquiry*, MB Docket No. 04-233 (July 2004) (“*Localism NOF*”). CBC files these comments in its capacity as the licensee of WRAL-TV, WRAL-DT, WRAZ-TV, WRAZ-DT and WRAL(FM), Raleigh, North Carolina; WJZY-TV and WJZY-DT, Belmont, North Carolina;¹ WWWB-TV and WWWB-DT, Rock Hill, South Carolina;² and WILM-LP, Wilmington, North Carolina.

First, CBC commends the Federal Communications Commission (“the Commission”) for initiating this localism proceeding, but encourages the Commission to act on the 1999 *Notice of Inquiry* concerning the public interest obligations of digital broadcasters,³ as well as the 2000 *Notice of Proposed Rulemaking* related to standardized

¹ Charlotte Designated Market Area (“DMA”).

² Charlotte DMA.

³ See *Public Interest Obligations of TV Broadcast Licensees*, 14 FCC Rcd 21633 (1999) (“*DTV Public Interest NOF*”).

disclosures of broadcasters' public interest activities.⁴ Each of these overdue proceedings contains issues inherent to localism.

Second, CBC fears the debate over structural versus behavioral rules and market forces versus regulation may overshadow a focus on a broadcaster's most fundamental obligation – to serve the public interest. With or without structural rules, a broadcaster, by statute, must serve the public interest. With or without behavioral rules, a broadcaster, by statute, must serve the public interest. With or without competitive market forces, a broadcaster, by statute, must serve the public interest. As the Commission notes in the first paragraph of the *Localism NOI*:

Broadcasters, who are temporary trustees of the public's airwaves, **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. (*Footnotes omitted and emphasis added.*)

To that end, CBC supports a balance of structural and behavioral rules that do not impede First Amendment rights. Although structural rules as such are not a part of this proceeding, CBC believes that ownership underlies all aspects of how a broadcaster serves its local community. Many citizens agree, as evidenced during the recent media ownership rulemaking.⁵

⁴ See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, 15 FCC Rcd 19816 (2000) (“*Enhanced Disclosure NPRM*”).

⁵ *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) (“*2002 Biennial*”).

Third, as outlined in these comments, CBC supports a number of specific behavioral rules that support localism, including community outreach and minimum public interest obligations. CBC also supports a number of rules to clarify the relationships between networks and affiliates, including the necessity that local broadcasters have the opportunity to preview network programming.

II. Local Programming is the Heart of Localism

Localism – operating a local station to serve the particular needs and interests of an individual local community – is the foundation of free over-the-air broadcasting, and the heart of localism is local programming. As such, any behavioral rules the Commission adopts should include local programming obligations.

Locally produced programming differentiates local broadcast stations from the networks and from cable and satellite channels. Local news, sports, weather, public affairs, children's and entertainment programming define a station's relationship with its community. Each community is different, and each local station serves its communities in different ways – whether it is having a large 100 plus news operation as we do at our stations in Raleigh-Durham or whether it is running thousands of public service announcements as we did on our stations in Charlotte in 2003.

Digital signals offer television broadcasters new opportunities to better serve the public interest. To ensure that our local communities benefit from digital multicasting, CBC urges the Commission to include local programming minimums on each non-subscription based multicast channel. A station's local produced programming should reflect the needs, problems and interests of its local community as learned through the station's own community outreach process.

III. Needs, Interests, and Problems Must Be Assessed through Community Outreach

Although every broadcaster believes that he/she is doing a good job of serving the public interest, there is always room for improvement. Public input is vital. Therefore, CBC supports rules requiring stations to develop methods for determining the primary issues, needs and interests in the community on a regular basis. To give stations individual choices, the Commission should develop alternative methods for seeking this input, which could range from old-fashioned face-to-face meetings to town hall web casts. Through standardized reporting on a quarterly basis, stations should report to the public and the Commission how community needs, interests and problems are being served through local programming.

IV. Minimum Public Interest Obligations Benefit Viewers and Broadcasters

Today broadcast licenses are being challenged with petitioners claiming that broadcasters are not serving the public interest. Although not a complete safe harbor, objective minimum public interest obligations can provide clarity to viewers and broadcasters. CBC recommends the following public interest minimums:

- Public Affairs Programming – two hours weekly phased in as follows: six months – one-half hour; twelve months – one hour or two half-hours; and eighteen months – two hours. At least one hour of public affairs programming should be locally produced and should run between the hours of 6:00 and 11:00 p.m. (*News is excluded from public affairs minimums.*) Thirty to sixty days before a general election public affairs programming should focus on candidate-centered election issues.

- Public Service Announcements (“PSAs”) – 110 to 150 per week for each station or multicast channel. At least half of the PSAs should be locally produced and directed toward local issues and a significant number should run in prime time for television and drive times for radio.

These minimums will clarify to all public airwaves stakeholders what is expected. Will many broadcasters do more than the minimum? Yes, but during the past year, the public – our viewers or potential viewers – has become increasingly aware that the airwaves belong to them and that we, as broadcasters, are accountable. Defined minimum standards give them and us a starting point.

V. To Be Accountable, Local Stations Must Preview Network Programming

As noted numerous times previously, CBC believes that we are ignoring our obligation to the community if we do not preview network programming before it airs. This problem could be (*and probably should be*) addressed contractually between an affiliate and its network. If not, the Commission should adopt rules supporting an affiliate’s right to preview.

VI. Conclusion

CBC respectfully urges the Commission to act on the *Enhanced Disclosure NPRM* and the *DTV Public Interest NOI* immediately. Rules resulting from these proceedings will likely address many of the issues outlined in this *Localism NOI*.

Respectfully submitted,

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