

SEATTLE STATEMENT ON RADIO



Fixing Radio Forum Seattle 2004

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Introduction

In February 2004, a diverse group of commercial and noncommercial radio professionals, musicians, union leaders, artist representatives, consumer advocates and public officials met in Seattle to discuss the current state of radio broadcasting in the United States. Our Fixing Radio Forum took place at a time when many Americans were, for the first time, paying attention to the Federal Communications Commission, and to the laws and policies by which our broadcast media are held accountable to the public good.

As the year began, Congress and the federal courts were still occupied with questions about the FCC's June 2003 decision to dramatically loosen media ownership rules. While lauded by the few broadcasting companies who would benefit from deregulation the decision was otherwise almost universally denounced as antidemocratic. A completely unprecedented public outcry emerged despite meager press coverage, with hundreds of thousands demanding that Congress overrule the controversial decision. Despite several stalled attempts to reinstate ownership limits through legislation, however, Congress accomplished relatively little.

Then, at the beginning of February, Janet Jackson's infamous breast-baring "wardrobe malfunction" during CBS' Superbowl broadcast unleashed a firestorm of criticism which raged across the media. This time Congress seemed eager to back up the FCC's immediate calls for stricter penalties for indecency and expanded enforcement. The controversy brought into focus long-standing critiques of the vulgar stunts and offensive patter which have become endemic to shock-jock commercial FM. At the same time, free speech advocates became alarmed by the sudden threat of new, broadened content restrictions or selective rule enforcement.

All in all, the recent national debates over media ownership and indecency have created a rare public conversation about the FCC's traditional regulatory values of diversity, competition and localism, and the topic of media policy has connected itself to numerous more present and ubiquitous concerns, especially US foreign policy and the war in Iraq.

The values summarized by the term "localism," including a commitment to locally originated programming and accountability to local communities, are particularly significant for radio operators. In the age of satellite broadcasts, digital cable and the Internet, radio remains the most local and ephemeral of our media, with a special ability to engage both our imagination and our sense of community. The local character of radio is its last unique asset. However, regulatory changes in recent decades, especially the 1996 Telecommunications Act, set the stage for dramatic consolidation of radio ownership, and a corresponding plunge in many measures of local accountability. Local musicians have diminished access to the airwaves. Local news coverage, especially substantive, balanced coverage of elections, is nearly nonexistent outside public radio.

During the Fixing Radio Forum, we asked whether radio could do a better job at serving local communities with cultural and informational programming. Inspired by the federal government's recent interest in changing the media landscape by making changes to

regulation, we asked how policy changes might improve radio's ability to embody the values of diversity, competition and localism, and to serve the public interest. As our discussion evolved from general critiques to specific proposals, we arrived at the recommendations contained in this Statement on Radio.

Recommendations on Content

- The tendency towards vulgar and discriminatory shock-value programming on talk radio is encouraged and amplified by commercial factors, and the desire to attract attention at little cost. The problem is systemic, and should be addressed by systemic transformation rather than by selective fines and making examples out of individual violators. While the FCC should use greater discernment in reviewing license renewal applications, threats of nonrenewal should be linked to a station's commitment to diversity and local accountability, not the selective enforcement of industry-wide problems.
- Current FCC rules on indecency and obscenity are vague and subject to wide interpretation, opening the door to selective enforcement. Standards and enforcement methods should guarantee that stations are not targeted for fines because of unpopular political or cultural content.
- Fines for on-air violations should fall upon the station licensee, not upon individual announcers or artists whose work is broadcast.
- Fines for content violations should be scaled according to a station's revenues.
- The broadcast of public service announcements should be mandatory, and evenly distributed throughout the broadcast day. Local organizations' PSAs should be solicited and given privileged airplay.
- The Fairness Doctrine should be reinstated, along with requirements to air local public affairs programming.
- Stations should be programmed in the communities where they are licensed. Local program directors should have the right to preempt content provided by absentee owners or networks.

Recommendations On Artists' Concerns

- The current broadcast rights remuneration system is unfair to recording artists, who receive no performance royalties for the broadcast of their works on commercial radio. This omission constitutes a loophole which allows radio companies to exploit artists'

work without fair compensation. Just as songwriters earn royalties from broadcast, so should performers.

- Payola, or pay-for-play, is bad for listeners, local programmers, and artists not backed by large promotions budgets. Congress should enact legislation ending so-called "toll-booth" practices by explicitly banning the exchange of cash, services or other considerations for airplay or other forms of promotion by broadcasters.
- Local recording artists should have fair opportunities to access local airwaves.

Recommendations On Accountability

- Radio stations have public service obligations to the markets they serve. License renewals should be local processes, with real public input and community accountability. Stations should be required to hold annual public forums in which local station managers report on PSA broadcasting and community service activity and demonstrate to the public that the station has met its public interest obligations. These forums should be advertised on the air, and should be held in a location convenient to where most listeners live and work.
- All stations are required to maintain a public file. These files should include complete records of all on-air promotions, contest rules and copy; public service announcements and time of air, reports on community service activities, Arbitron or other ratings information, and all submitted complaints.
- Accessing the public file should be as simple as possible. Stations should be required to post the entire contents of their public file on the Internet, easily accessible from their website's top page. Low-revenue stations may be exempted from this requirement.
- Broadcasting companies should not institute drawbridge policies designed to unreasonably restrict access to station directors.

Recommendations on Disclosure

- On-air legal identification should include both the city or town where a station is licensed and the location of the corporate owner, e.g. "KUBE Seattle - Clear Channel Communications San Antonio."
- License renewal windows should be announced frequently on the air, and on local government websites.

- Programs involving voice tracking and syndicated news should be disclosed as such on the air.
- Promotional events sponsored by radio stations should disclose all exchanges and consideration.
- The FCC needs to have better access to data on listenership trends, station operations, and so forth. The FCC should allocate funds to gather its own data, rather than relying on private, proprietary information. All licensed broadcasters must share their own audience research data with the FCC, whether public or proprietary, whether internally developed or purchased from third party firms.
- The FCC should review changes in advertising rates resulting from industry consolidation.

Recommendations on Spectrum Allocation

- While new technologies such as digital radio and narrow band-separation hold the promise of increasing access to existing airwaves, access to broadcasting will remain a limited resource. As policies are created to take advantage of technological advances, new regulations should take a broad view of the public interest, prioritizing access for new noncommercial and local broadcasters above opportunities for incumbents to increase their market power.
- The "Radio Broadcasting Preservation Act of 2000" places unreasonable and unnecessary restrictions on Low-Power FM broadcasting—it should be repealed. Local nonprofit organizations and municipalities should be encouraged to apply for new LPFM broadcasting licenses in cities and rural communities across the country.
- LPFM stations should be allowed to broadcast on third-adjacent frequencies, as recommended repeatedly by the FCC.
- LPFM stations should be allowed to broadcast using directional antenna systems, in order to target population areas.
- LPFM applicants should be allowed to challenge the licenses of translator stations, in urban areas or where FM spectrum is scarce. In consideration of such challenges, locally originated programming and local ownership should be primary measures of value.
- Previous, unsuccessful LPFM applicants should be allowed to amend and resubmit their applications without prejudice.

- Former unlicensed broadcasters should not, as a rule, be prohibited from filing LPFM applications.
- A public service fund should be established to support startup LPFM stations operated by community organizations. The fund should be supported by fees and fines paid by commercial broadcasters, or by taxes on advertising.
- Digital spectrum allocation should not privilege incumbent broadcasters.
- New entrants, local owners and noncommercial broadcasters should be privileged in new license applications, and in license transfers.

Recommendations on Ownership

- No medium demonstrates more clearly than radio the essential antagonism between consolidated ownership and the democratic values of diversity, competition and localism. Regulation of radio ownership should provide a strong counterweight to the market forces which lead big media owners toward consolidation, managers toward centralization, and programmers toward hypercommercialization and uniformity. Sensible local and national radio ownership caps are needed as safeguards for diversity and competition, as well as for local accountability.
- A national market penetration limit for radio should be established. The largest owners should be brought into compliance with the new limit either by divesting stations or through Bell-style breakups.
- Stations-per-market caps should also be lowered, to prevent local monopolies or near-monopolies.
- Preference for local owners should be built into the license renewal process.
- Local media cross-ownership (radio and television stations, or broadcast stations and newspapers) should be forbidden.
- Cross-ownership of radio with booking agencies, venues, etc. is anticompetitive, and should also be disallowed.
- Noncommercial public broadcasting is an indispensable part of our radio landscape. The Federal government should increase funding to public radio through the Corporation for Public Broadcasting, and the CPB should offer increased support to new stations, including community radio and LPFM. The CPB should never require public stations to pursue “private-public partnerships” as a condition of funding.

Summary

Fixing radio will not happen overnight. Some of the recommendations outlined here would require new legislation in Congress; others would call upon the FCC to change regulations or enforcement mechanisms. But it would be too cynical to think that such changes are impossible.

Radio is the most local and ephemeral of our media, with a special ability to engage and expand both our imaginations and our sense of community. If our radio today is falling short of its potential, it lies within our power to change it for the better. The contemporary radio landscape has been primarily shaped not by some natural order of things, but by an ongoing history of public policy decisions. We and our democratic institutions have a profound responsibility to steer our media policy in a direction that better serves our democracy and our culture.

We therefore call upon the FCC and Congress to study these community-based recommendations and to use them as resources for developing new media policy which benefits the public interest; which supports local accountability and local culture; and which creates, rather than hinders, new opportunities to communicate with one another.

We also call upon communities across the United States to organize more forums like ours, where different interest groups can meet together to discuss the future of our broadcast media. This set of recommendations is one of many possible starting points for imagining the kind of radio we want. Much more remains to be discussed—about spectrum policy and new technologies; about expanding and sustaining a diverse public broadcasting sphere; about campaign finance; about the right to communicate as a human right. The airwaves belong to us—we're taking a step towards making that real.

Fixing Radio Forum participants

Frank Barrow, Operations Manager, Kris Bennett Broadcasting (Seattle)
Michael Bracy, Director of Government Relations, Future of Music Coalition (Washington, DC)
Ann Chaitovitz, Director of Sound Recordings, AFTRA (Washington, DC)
Dow Constantine, King County Councilmember (Seattle)
Simon Grant, board member, American Federation of Musicians (Seattle)
Jonathan Lawson, Co-director, Reclaim the Media (Seattle)
Phil Manning, Program Director, KNDD-FM (Seattle)
Tom Mara, Executive Director, KEXP-FM (Seattle)
Susan McCabe, board member, Voice of Vashon (Vashon, WA)
David Meinert, Pacific Northwest Chapter President of the Recording Academy (Seattle)
Sir Mix-A-Lot, recording artist (Seattle)
Vickie Nauman, Online Director, KEXP-FM (Seattle)
John Sandifer, Executive Director, AFTRA Seattle (Seattle)
Deborah Semer, former Executive Director, Pacific NW Chapter of the Recording Academy (Seattle)
Sarah Sternau, Experience Music Project (Seattle)
Michael Tierney, Blue Team Management (Seattle)
Bruce Wirth, Public Affairs Director, KBCS-FM (Seattle)
Billy Zero, host of "Unsigned," XM Satellite Radio (Washington, DC)

The Fixing Radio Forum took place in February 2004 at the Experience Music Project in Seattle, and was organized by a coalition of groups including the Future of Music Coalition, Reclaim the Media, and the Pacific Northwest Chapter of the Recording Academy, with support from Music for America, the Experience Music Project and KEXP-FM. For more information see www.reclaimthemedial.org/fixingradio.