

In the Matter of Broadcast Localism:

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Re: Comments regarding how broadcasters are serving the interests and needs of their communities and whether the Commission needs to adopt new policies, practices, or rules designed to promote localism in broadcast television and radio; and what those policies, practices, or rules should be.

Orchard Media Services specializes in assisting radio and television licensee's meet their obligations to the FCC through Public File organization, maintenance, consultation on how to handle public affairs programming and documentation, and other elements of FCC regulatory compliance including engineering and safety requirements. We have been contracted by the California Broadcasters Association and the Hawaii Association of Broadcasters, as inspectors for the Alternative Broadcast Inspection Program since 1999. We have physically visited, viewed and had dialogue with hundreds of stations in 8 states and feel strongly that the FCC should adopt new policies, practices and rules in order to promote localism in broadcasting, as it may be the catalyst for terrestrial broadcasting to compete with satellite.

Since the deregulation of many of the paperwork required for broadcasters, in addition to new ownership rules allowing for mega broadcast group owners, broadcasting has lost its way on why these stations are permitted to broadcast in the first place: to serve their local community. Broadcasting has become more interested in how many listeners or viewers they have in order to garner higher advertising dollars to please investors and Wall Street.

Broadcasters' used to have an altruistic approach to their programming efforts; it was crucial to be involved in their communities, no matter how large the market was. Now that one owner can own up to 50% of a market—competition for ad dollars and market share has taken first priority, and broadcasters do as little as possible in the area of community service.

Although some of these broadcasters attempt to address the problem by airing national ad council Public Service spots, these do not address the local community issues. We see this over and over again as we inspect Public Files.

Employee turnover in the industry has also been detrimental to community service efforts. Not enough market managers understand their stations responsibility to localism as they are promoted primarily from the sales department. Training and education of managers should be important for station licensees.

The documentation required before deregulation was beneficial, as

broadcasters needed detailed information to please the FCC before their license would be renewed. They were also required to ascertain the community to assess these needs. This is a requirement that needs to be enforced again. Programmer's no longer care about how the station serves the community, only how they can attract listeners through music programming or shock value with obscene on air personalities. Gone are the days that radio stations (at least in medium, large and major markets) addressed the needs of the communities they were licensed to serve.

While conducting a seminar about FCC Compliance to a group of programmers, one asked us to talk to them as if they are seven years old. Broadcasters won't answer the needs of localism unless the documentation they need to keep their licenses is fully scrutinized and managed by law. Just as, drivers would continue to speed out of control if laws were not in place to keep them at safe speeds.

When the FCC gave broadcasters the right to keep less documentation as to why they had the right to broadcast in a specific community, the "honor system" failed. Owners no longer live in those communities, they are run by a corporate office in the mid-west somewhere, and market managers are transferred from one market to the next. This breeds apathy to the community, and it is the reason why broadcasting is struggling. If stations don't support their community, the community will not support their local station.

Our suggestion for what should be done:

We closely followed several of the localism hearings, and its not what was said from the panel's, or people who came to these hearings to make comments, its what you find (or, actually do not find) in the stations' Public Files. The real key to localism is what a station does to serve their community and how they document the material and place it in their Public File.

û The Quarterly Issues and Program report must be kept for the last 8 years, just like the email and letters are to be retained for the last 3 years. Why must the Issues and Program Reports be kept for 8 years; why? Lawmakers have determined under the current FCC rules that as soon as the renewal application is granted that all Public File documentation (except for letters and email) can be thrown away, including the renewal application. What's to stop a station from lying about the community service efforts when the 8-year history can be discarded the minute their license is renewed? There is no way to verify that the station has actually served the community in any way. Why keep letters and email and not the Quarterly Issues reports? Why keep EEO and Political information, when it appears that the efforts to serve the community are less important?

We suggest that the FCC rules be re-evaluated and detailed that the renewal application should be kept for the full 8-year period, and quarterly reports must be kept for a period of 8 years. Just as lawyers and IRS documents are to kept for audit purposes.

û Next, the station should be required to broadcast Public

Announcements every quarter to alert listeners that they are placing their localism efforts in the Public File so that the Public will be more aware of their obligation to the community. These announcements should be required to be aired in all day parts, along with a certification and placed in their Public File along with their Quarterly Report. Part of the announcement should include the address of the station and where the Public File is located. The current FCC rules have allowed stations to relocate their studios to as many as 40-50 miles away from the Community of License. The community itself will then have an awareness that these airwaves belong to them and that the station they are listening to is making every effort to serve that community.

Additional observation: The rule about moving the main studio where the Public File would be outside the community of license due to another station being in the same community such as an AM station with a TV station in the same community, where the little AM station can move 65 miles away, how does that serve that particular local community? We're hoping that by having to give the address as to where the Public File is every quarter will bring attention to the station and force them to do more for that community even though they are located 65 miles away.

Further observation: If the station receives complaint letters or static about this locale of station, the FCC should then order the station to move back to their Community of License, or issue an NAL for breaking Main Studio Rules, and this fine should be substantial. If a group has more than one station that has broken that same rule, the fine should be exponential.

û In this localism effort, how did particular stations come up with their Issues List? No longer are stations dictated HOW they determine the issues. This should be readdressed, as it appears that since they don't have to show how they come up with the significant issues they address, they just don't address any at all. In our findings of hundreds of Public Files, stations will use the same four or five issues over and over again for the entire 8-year period, with an attitude of "well, that's the way the previous owner did it before, so it must be the correct way". Once again, education is key.

û Different FCC law firms interpret these rules differently. This is our biggest problem as we consult our clients on the requirements for their Public Files. One law firm will tell them to do the minimum and another will say something completely different as to what to keep in their Public File. As with transportation, if the speed limit is 65, then that is the law, its cut and dry. The FCC needs to be clearer as to the requirements and needs to update the Public and Broadcast Manual from 1999 to 2005 as many of these rules have changed from the Communications Act of 1996.

û In August of 1998, the FCC revised its local public inspection file rule and as part of its obligations as a public trustee, a broadcast licensee must make available for public inspection and copying certain materials and records. In this revised list of material to be kept in the public file, stations

with multiple ownership may elect to retain certain items at their head office and if somebody wants to see those items they must be sent to them within 7 days postage free. Never once have we seen this list in the hundreds of Public Files we have inspected in the past 6 years.

Suggestion: The station has a choice to keep this info at their station, or at the head office. Every two years when station is to file their Ownership Report, stations should have to broadcast announcements that they elect to keep it at their head office in order so that viewers/listeners will know who is the owner of the station and how to contact them.

Stations should be required to make the public constantly aware of the Public File and where it is and what is required to be placed in it. This is the most efficient way to insure that stations are meeting their obligations to serve the community of license as spelled out in the 1999 Public and Broadcast Manual.

If the FCC in the future would like to create a task force or panel of people that are actually conducting this kind of work and are actually visiting station by station and viewing these Public Files and interviewing the staff delegated to maintaining this information, we would be very interested in being invited to participate in that.