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

Federal Communications Commission
Office of Secretary

In the Matter of

Amendment of §73.202(b),)	
Table of Allotments)	MB Docket No. 02-266
FM Broadcast Stations)	RM-10557
(Chillicothe, Dublin, Hillsboro and)	
Marion, Ohio))	

To: Marlene Dortch, Secretary
Attn: Media Bureau

OPPOSITION TO SUPPLEMENT

The Committee for Competitive Columbus Radio (the "Committee"), by its attorney, hereby respectfully opposes the Supplement filed in this proceeding by Citicasters Licenses, L.P. and CC Licenses, LLC (hereinafter, collectively, "Clear Channel"), on November 8, 2005. In opposition thereto, it is alleged:

1. On November 8, 2005, Clear Channel filed a Supplement, purporting that it had sold Station WQIO-FM, Mount Vernon, Ohio, to BAS Broadcasting, Inc. According to Clear Channel, "This sale addresses the issues concerning the Radio Ownership Rules in §73.3555 raised by the Committee for Competitive Columbus Radio . . . in this proceeding. Therefore, the Bureau should dismiss the Committee's Petition for Reconsideration as moot."

2. Clear Channel is just plain wrong. The sale of Station WQIO-FM in no way resolves any of the issues raised by the Committee in this proceeding or in the Committee's Informal Objection to the application (File No. BPH-20050726ALM) to change the location of Station WMRN-FM from Marion, Ohio to Dublin, Ohio.

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47 C.F.R. Section 73.3555(a)(1)(ii) provides that:

“(a)(1)(ii) In a radio market with between 30 and 44 (inclusive) full-power, commercial and noncommercial radio stations, not more than 7 commercial radio stations in total and not more than 4 commercial stations in the same service (AM or FM).”

According to BIA, there are presently 44 stations in the Columbus, Ohio Market (the “Market”). See BIA Report, attached. Thus, Clear Channel may own no more than 4 FM stations in the Market.

3. At present, Clear Channel already owns 4 FM stations in the Market (WFKX(FM), WLZT(FM), WNIC(FM), and WCOL(FM)). Thus, Clear Channel may not own an additional station in the Columbus Market, at this time.

4. An application is pending (File No. BPH-20050726ALM) for a change in location of Clear Channel’s WMRN-FM, from Marion, Ohio to Dublin, Ohio, but that application has not been granted and is the subject of an Informal Objection filed by the Committee. Therefore, the Columbus Market remains a market of 44 stations and, in such a market, Clear Channel may not own an additional FM broadcast station. It is as simple as that.

5. Under the Commission’s current geographic definitions of the “market,” it is Arbitron and BIA that determine the market’s size. See, *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*, 18 FCC Rcd 13620, 13711-13747 (2003) (“Ownership Order”), aff’d in part and remanded in part; *Prometheus Radio Project, et al. v. FCC*, 373 F. 3d 372 (2004) (“Prometheus Remand

Order”), cert. denied, 73 U.S.L.W. 3466 (U.S. June 13, 2005) (Nos. 04-1020, 04-1033, 04-1036, 04-1045, 04-1168 and 04-1177).

6. Clear Channel does not determine market size and Clear Channel has submitted no evidence that BIA or Arbitron has changed the definition of the market to increase the number of stations from 44 to 45. Presumably, they will not change the definition until Station WMRN-FM actually starts operation in Dublin. However, the Commission cannot operate Station WMRN-FM to commence operations in Dublin, so long as that would violate the Commission’s Multiple Ownership Rules.

7. The position taken by Clear Channel in this proceeding is specious and inconsistent. Earlier in the proceeding, it contended that questions of compliance with the Multiple Ownership Rules should be deferred until the subsequent licensing proceeding. Now, the subsequent licensing proceeding has begun, and Clear Channel takes the position that the Commission’s hands have been tied; that the Commission is required to treat the Columbus Market as if Station WMRN-FM was already operating there, even though it is not.

8. When the Commission staff granted the rulemaking to move Station WMRN-FM to Dublin, the staff specifically provided the considerations of compliance with the Multiple Ownership Rules would be deferred until a later licensing proceeding. Clearly, the staff did not expect that its hands or the Commission’s hands would be tied. The expectation was that the issue of compliance with the Rules would be considered at the time when Clear Channel filed an implementing application for Station WMRN-FM to actually start operating as a Dublin facility. That application has now been filed, but it cannot be granted because it would give Clear Channel the ownership of 5 FM stations in

the Columbus Market, in violation of the Rule that restricts Clear Channel to the ownership of 4 stations in the Market.

9. To take a different position, as Clear Channel urges, would make a mockery of everything the staff has done in this proceeding.

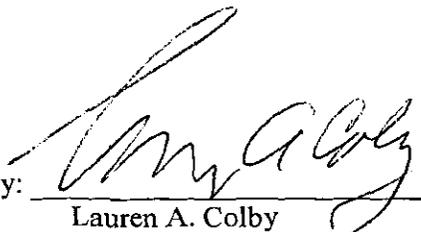
10. WHEREFORE, the premises considered, the Committee's Petition for Reconsideration should be granted and the Media Bureau should reverse its action, purporting to modify the license of Station WMRN-FM to change the city of license from Marion, Ohio to Dublin, Ohio.

Respectfully submitted,

November 19, 2005

THE COMMITTEE FOR COMPETITIVE
COLUMBUS RADIO

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CERTIFICATE OF SERVICE

I, Kelli A. Muskett, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 16th day of August, 2005, to the offices of the following:

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