

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)	
)	
2006 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996)	MB Docket No. 06-121
)	
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)	MB Docket No. 02-277
)	
Cross-Ownership of Broadcast Stations and Newspapers)	MB Docket No. 01-235
)	
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets)	MB Docket No. 01-317
)	
Definition of Radio Markets)	MB Docket No. 00-244

COMMENTS OF THE RECORDING ARTISTS' COALITION

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COMMENTS OF THE RECORDING ARTISTS' COALITION

The Recording Artists' Coalition ("RAC") hereby submits its comments ("RAC Comments") in response to the Further Notice of Proposed Rulemaking in the above-captioned proceedings ("NPRM"). RAC supports the Commission's decision to engage in further serious consideration and inquiry regarding the issues raised by the opinion of the U.S. Court of Appeals for the Third Circuit in *Prometheus v. FCC* on whether the media ownership rules are "necessary in the public interest as the result of competition." RAC appreciates the opportunity to provide the Commission with the unique viewpoint of the recording artist.

RAC is a non-profit recording artist advocacy organization representing over 130 well-known featured recording artists, including Don Henley, Sheryl Crow, Jimmy Buffett, the Dixie Chicks, R.E.M., Stevie Nicks, Bonnie Raitt, and Bruce Springsteen. RAC is primarily concerned with political, legal, and business issues affecting the interests of recording artists on a federal and state level.

Ten years ago, Congress passed the 1996 Telecommunications Act ["Telecom Act"], opening the floodgates of almost unlimited and unrestricted media consolidation in the radio industry. On this important 10-year anniversary, we should all ask the question, "Is American radio better today

than it was 10 years ago? The answer, in our estimation, is an emphatic “No.”

Media consolidation has, without question, harmed localism and has inhibited free competition in radio. New and emerging recording artists, as well as local music communities, have been negatively impacted by media consolidation. Worst of all, media consolidation has harmed the American listening public and the state of American music.

The bond between a local radio station and its local listening audience has largely evaporated. Radio conglomerates have taken the “local” out of local radio to such a degree that, by and large, radio in Atlanta sounds very much like radio in Denver, Los Angeles, Nashville, or Washington, D.C. Playlists have been uniformly nationalized and sanitized. Securing airplay for local and new artists is virtually impossible.

Prior to the passage of the Telecom Act, local radio stations enjoyed a special relationship with the local music community. Each city or geographic area had its own unique cultural and musical heritage – Texas swing, Appalachian bluegrass, zydeco, Tejano, Seattle grunge, Chicago blues, and New Orleans jazz. Local radio outlets historically supported these genres, and local stations contributed to the vitality of music and radio on a local, regional, and national level.

Oftentimes, a young artist would rely on a “breakout” song on a local radio station to jumpstart a national career. Strong support from a local DJ or program director could dramatically enhance an artist’s career, and at the

same time, these relationships promoted each distinctive local music community. Each city or geographic area offered unique opportunities for artists to develop relationships with radio stations.

Unfortunately, those days are over. Media consolidation has, without question, harmed new and emerging recording artists, as well as local music communities and local radio. Due to radio consolidation, the distinctly American musical genres mentioned above have suffered immeasurably and have just about disappeared from radio. The development of uniform national playlists has negatively impacted the chances for new artists to emerge, established artists to prosper, and local music communities to remain culturally vital and economically viable. Most importantly, it has severely limited the diversity of programming available to listeners over the public airwaves.

Media consolidation has forced artists to almost exclusively deal with national and international radio conglomerates. Even in cities with an appreciable level of radio competition, local radio stations are being cut out of the process because they cannot compete with the new media giants. Without the opportunity to compete, local radio and venues will not thrive, fair competition will not be secured, and local radio and music communities will be irreparably harmed.

The cumulative effect of this damage on a city by city basis has turned into a national tragedy for American radio. Our musical culture has been diminished, a true diversity of viewpoints has been eviscerated, our freedom

of speech has been endangered, and the principle of free competition on a national and local scale has suffered.

The FCC is required to take into consideration the goals of localism, diversity, and free competition when contemplating changes in radio ownership rules. However, changes in radio ownership rules since 1996 -- most notably the increase in station ownership caps -- have only had a negative effect on localism, diversity, and competition.

Ideally, the FCC should lower the station ownership caps back to pre-1996 levels. Absent that, however, the FCC should guide itself by the Hippocratic Oath -- first do no harm. To that end, the FCC should not increase radio station ownership caps. There are no justifiable reasons to do so. Moreover, the FCC should take intermediate steps to restore some level of competition, diversity of viewpoints, and localism, which have all been lost as a result of unprecedented radio consolidation over the last 10 years.

As a first step, the FCC should adopt a new regulatory scheme -- one requiring the FCC to take into consideration the impact of media consolidation on recording artists and local music communities. Despite the FCC's mandate to consider the goals of localism and free competition when contemplating changes in radio ownership rules, the negative impact of media consolidation on recording artists and localism has essentially been ignored. Currently, the station license renewal process is a pro-forma matter, accomplished in most cases by the station's filing of perfunctory materials. This license renewal process should be drastically overhauled by

including input from the listening public as to whether a station is upholding its public interest and local broadcasting commitments. Until such a requirement is enacted and enforced, stations will continue to shirk their public interest obligations and will continue to view programming over the public's airwaves as little more than obligatory filler between advertisements.

One goal of the proposed regulatory scheme would be to ensure that the FCC better understand and take into consideration the impact of media consolidation on the artist's core business and on localism. By all economic accounts, the music industry is in trouble. While piracy is clearly the major reason for the downturn in the music business over the last several years, many believe media consolidation is also a significant factor. The harm to localism from development of uniform national playlists, and the continued possibility of horizontal and vertical media consolidation on a national scale negatively impacts the chances for established artists to prosper, new artists to emerge, and local music communities to prosper.

This new regulatory scheme will also help the FCC better understand and take into consideration how media consolidation affects the problem of payola. While payola is an insidious and harmful practice, media consolidation has arguably made it worse. Retaliation against recording artists can now take place on a national scale if, for example, an artist does not concede to unreasonable demands of a radio network to play a radio sponsored concert.

The FCC should also take into consideration the impact of media consolidation on censorship issues. The power of radio on the national political landscape has never been greater, and media consolidation puts too much power in the hands of too few radio conglomerates. Some artists have experienced this form of censorship, and the FCC should ensure that the next artist intending to exercise his or her right to free speech will not be silenced because of fear of nationwide retaliation by the radio conglomerates. The FCC can no longer ignore the fact that media consolidation can result in chilling the rights of artists to express themselves.

In addition to expanding the scope of inquiry and adopting a new regulatory scheme, the FCC should also consider potential remedies. For example, the FCC should consider mandating as part of its public interest obligations that a radio licensee must play a minimum number of hours per week of music by local artists or small independent labels -- and not just in the middle of the night. This is done in the television context, wherein broadcasters are required to provide a designated amount of children's programming each week. Radio licensees should have an analogous requirement for local artists and independent labels.

Perhaps radio licensees should also be required to redirect some of their profits to the development of local music organizations and to help fund local public radio. While this has traditionally been the domain of the federal and state government, it makes much more sense for giant media

conglomerates to provide resources in exchange for the windfall they receive through their unprecedented, unrestricted, gratis use of the public airwaves.

No one really knows the impact of media consolidation on localism and the music industry because the FCC has not studied or seriously considered these issues. The FCC should refrain from ruling on radio ownership rules until in-depth and impartial studies are complete, the public has a chance to provide comment, and the issues are thoroughly vetted. A proper examination of localism and fair competition must include consideration of these issues.

The significance of the ruling by the Third Circuit in the *Prometheus v. FCC* case cannot be understated. The court provided the FCC with suggestions and guidelines that should be implemented immediately. Specifically, the FCC should: 1) increase the number and quality of public hearings on radio station license renewals, 2) improve the research and data used by the FCC when making informed public policy decisions by commissioning independent studies on these issues, and 3) improve the transparency of the entire FCC rule-making process. In taking these steps, the FCC must focus greater attention on the intertwining relationship between localism, media consolidation, and the music industry.

In conclusion, we hope the FCC will not prematurely issue radio ownership rules without fully examining how media consolidation impacts recording artists and the music industry on a local and national scale. We look forward to working with you on these important matters.

Respectfully submitted,

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