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To the FCC - Testimony for 28 June 2007 Localism Hearing

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Federal Communications Commission  
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Thank you for coming to Maine to hear our concerns about local access to the public airwaves. I live about 2 hours from here, in the area known as Midcoast Maine. My town is not coastal, and no longer totally rural, but it is a lot like the image most people have of Maine. When I go into Rockland to shop, I am glad to be in a place where I recognize and know many of the folks that I see. This close sense of community is what brought me to Maine in the first place, and it is what keeps many of us here.

Before I get to the main purpose of my testimony, I want to tell you about something that happened ~~about~~ six years ago. At that time the radio service of the Maine Public Broadcasting Network was called Maine Public Radio and their signal in our area had a few blind spots. Our area is also served by WERU-FM, a community radio station with a transmitter in Blue Hill. After Maine Public Radio began using a translator on Ragged Mountain in Camden a large area to the south of the mountain lost reception for WERU-FM. Complaints to Maine Public Radio got no response.

But that's not why I've traveled here today.

Two towns away from me, in a place that is very coastal, lives a man named Robert Skoglund. For as long as I can remember, Robert has had a show on Maine Public Radio on Friday evenings. This program, called "The humble Farmer," combined jazz standards with the wry wit that is a trademark of our state.

Sometimes Robert's commentary is so dry that I don't quite understand what he's after. Often, when I do get his point, I don't agree with his opinion. Occasionally he tells me about something I need to know. Mostly I find his remarks entertaining. What I like best about Robert's programming, aside from a style of music that I'd like to hear more often, is his quirky, off the wall manner and the fact that, like most true Mainers, he says what he's thinking without what Utah Phillips refers to as "rant control."

Last fall, Robert made a political statement on the air. It wasn't his first. And, judging from the programming "from away" that MPBN pays for, it wasn't out of line. But although it was clearly what the Supreme court had in mind earlier this week when deciding the Federal Election Commission v. Wisconsin Right to Life and McCain v. Wisconsin Right to Life, it offended someone on MPBN's board, and Robert was asked to stop talking about substantive issues and stick to music and silly jokes. For a while he just played the music and left the jokes out completely. But pressure from his listeners prompted him to bring back the commentary. Within weeks, he and every other on-air personality at MPBN was asked to sign an agreement (which I've attached) that they would not speak out on the issues of the day. Robert refused, and now his radio voice is silenced. What is most perplexing about this situation is that MPBN has no problem paying Garrison Keillor, Michael Feldman, and the casts of "Wait, Wait Don't Tell Me" and "Says You" to say the most outlandish and pointed things about politics and other timely issues. It is only our local voice, our neighbor, who is asked to be silent on issues that matter to his listeners.

I don't know what power you have to compel MPBN to give Robert back his show. I am asking you to use whatever means you can to help keep the quirky, wry, sometimes politically incorrect voice of Maine alive on the public airwaves.

Thank you.

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This document sets forth the MPBN guidelines for all non-news and public affairs on-air personnel including announcers, producers, program hosts, freelancers and volunteers. These guidelines are designed to protect MPBN's standards of quality and sound, as well as to maintain the trust MPBN has with its audience for credibility, integrity, and impartiality. All on-air personnel are required to observe, review and sign these guidelines annually, as a condition for on-air work and/or presence. On-air personnel are encouraged to seek clarification from management as needed before signing, and discuss any uncertainties over questionable program content or plans prior to program execution.

#### News Personnel Code of Ethics

Personnel (reporters and producers) are required to observe MPBN's adopted code of journalistic ethics, the Society for Professional Journalists code of Ethics. Available on request, Posted on website [www.mpbn.net](http://www.mpbn.net). All MPBN on-air news and public affairs personnel are required to review and sign the MPBN code of ethics annually, as a condition for on-air work and/or presence.

#### GENERAL:

##### Program Content and Style

Determining program content and style is a prerogative of management and includes the authority to alter and/or terminate programming at its sole discretion. Management will work closely with on-air personnel in developing and maintaining all programs, and may endeavor to offer sporadic or regular guidance and advice, suggestions or required directives regarding the sound, style or content of the program as it develops in order to ensure it best meets organizational goals to serve our listeners: On-air personnel are encouraged to actively participate in program development and evolution by presenting ideas and offering alternative views. Final programming decisions, however, rest with management and the failure to follow and respect organizational directives may result in removal from the air. Management may require and review regular or occasional on-air skimmer tapes as part of this process.

##### Cancellations

MPBN retains the right to move, shorten, preempt, terminate or cancel any program in its schedule at any time.

##### Station Policies

On-air personnel are required to be aware of and follow additional MPBN guidelines, policies and directives, including, but not limited to:

- 1.) Indecency
- 2.) Ticket Giveaways

available on request, posted in radio master control studio and on R/radstaff/policy folder directory.

##### Competition/Exclusivity

On-air personnel must alert management of plans in advance to offer their on-air production services or any program material to another broadcast/news media outlet. Management reserves the right to approve or disallow such arrangement(s) on a case by case basis.

##### Association with MPBN

On-air personnel who are not employees of MPBN must have prior written permission from MPBN to officially represent the organization at special events or in special circumstances in public. In addition,

personnel should not include any content in MPBN services or use the services to promote any off-air activities, appearances or interests for which they may stand to gain, financially or otherwise. The last two pages of this agreement specifically address Plugola/Payola and Conflict of Interest.

#### Derogatory and Slanderous Content

On-air personnel should not make or include any derogatory remarks or content directed at specific individuals or groups of persons or entity, or make or include any slanderous statements that make a false claim, with or without malicious intent, expressly stated or implied to be factual, that may harm the reputation, character or good name of an individual, business, product, group, government or nation.

#### Lotteries, Contests, Promotions

On-air personnel will not undertake any sort of on-air lottery, contest or special promotional activity without first consulting with station management. This activity may be illegal, and it must be in adherence with station on-air aesthetics.

#### Indecency/Obscenity

On-air personnel shall follow the separate MPBN policy addressing this issue.

Summary: On-air personnel will not allow any content which is indecent to air before 10 p.m., and will permit indecent material after 10 p.m. (in "safe harbor") only with advance management approval. On-air personnel will not allow any obscene programming in any part of our schedule. Indecent programming is defined as material that depicts or describes sexual or excretory organs or activities in a patently offensive manner as measured by contemporary community standards for the broadcast medium. Going further, any other use of the "F-Word" or of the other six of the infamous "7 Dirty Words" (sh\_t, p\_ss, c\_nt, c\_cks ck\_r, m\_th rf\_ck\_r, t\_ts), or even other offensively dirty or profane words should be considered as indecent. Obscene programming, by contrast, is banned completely. Obscenity, is defined as material that appeals to the prurient interest (that is, arouses lewd and lascivious thoughts and desires), is patently offensive as measured by contemporary community standards, and lacks serious literary, artistic, political or scientific value.

#### Conflict of Interest/Plugola/Payola

No producer will make any mention on-air of any event, activity or cause that he or she (also including spouse, family member or companion) is connected to in any way. This includes concerts, public appearances, commercial establishments/ventures, political organizations/causes/beliefs/agendas or any other non-broadcast activities/associations of the producer. Using the public air waves for individual gain (monetary or other, including material goods, services, gifts, recognition or other valuable consideration) is illegal and against station policy.

On-air personnel will not air any recorded material on MPBN air for which they are being compensated, either by monetary means, material goods, services or other valuable consideration or gain. On-air personnel will also not make any mention of establishments or entities for which they are compensated in any way. Compensation includes but is not limited to monetary or material goods or services, including free musical recordings, free concert tickets, meals and travel, etc.

FCC guidelines require that any such financial or other personal relationships (by either the on-air personnel or the employer/station) must be properly and fully disclosed over the air, and therefore any personal relationships must be disclosed fully to management prior to any such airing so as to ensure proper and timely on-air disclosure will be made. However, in keeping with our standards and guidelines, MPBN does not allow personal use or gain from the public airways.

On-air personnel must observe the exact duration designation for all programs. Management may request both "voice out" and program out end times. In addition, promos must adhere to either standard (usually 30 or 60 seconds) or other specified lengths.

#### Program Guide and/or Web Listings

On-air personnel may be required to supply or post web listings to the MPBN website, and/or supply program guide listings, often as far ahead as 45 days before the scheduled day of broadcast. Such timing will be determined on a case-by-case basis, based on program listing needs and nature of the program.

#### ON-AIR STANDARDS AND LEGAL

Management will in its sole discretion, determine whether these standards have been adhered to or violated. Consistent with Management's overall control of programming, it may, in its sole discretion, alter or terminate programming without notice.

#### On-Air Station Business Material

Management may require that certain station or programming material be included within programs, such as cross promotion, station event promotion, news and/or weather, special messages or other material on a regular or sporadic basis.

#### Community Calendar

On-air personnel with scheduled Community Calendar announcements should make their best effort to treat all submissions equally and not favor any one venue, geographic area or type of performance (unless specifically called for by log or in that program design, for example; classical concerts during a classical program). On-air personnel should not promote or mention in any way any event they are associated with in any way, without prior written approval of station management.

#### Alternate Hosts/Program Guests/Format Change(s)

On-air personnel should not transfer responsibility for hosting their program(s) without management's prior awareness and approval.

All program guests (other than performers on regular live performance music programs, or on programs that regularly feature guests) should be approved by management in advance.

Any significant change in a program's designated format must be discussed with management in advance, for both consideration/approval purposes, and, if approved, to allow for quick evaluation and feedback.

#### Political and Religious Neutrality

MPBN maintains a high standard of integrity in maintaining political and religious neutrality in its programming. On-air personnel are not allowed to use this public resource to further personal agendas of any kind. On-air personnel should not make religious or political calls to action, editorialize, include content or showcase views and opinions on sensitive or controversial issues.

#### Personal use of MPBN Services

On-air personnel are not allowed to air personal grievances on MPBN services. This includes introducing content that endorses, compares or criticizes commercial products, institutions, companies, organizations, or individuals. In addition, on-air personnel should not dedicate programming or musical selections without prior knowledge of and approval from management.

MPBN does not allow the use of MPBN services for personal gain, financial or otherwise. On-air

all on-air personnel should recognize that their association with MPBN is automatically recognized by the public and should represent the organization in an appropriate and responsible manner.

#### Program Funding

On-air personnel should not solicit or enter into negotiations regarding program funding of any sort without first notifying and receiving written approval from MPBN Development Management. On-air personnel should refer any inquiries they may receive about on-air underwriting support to MPBN Development. On-air personnel who are not employees of MPBN must coordinate any program funding support with MPBN Development.

#### MISCELLANEOUS OPERATIONAL:

##### Evergreens

On-air personnel with regular air-shifts are required to produce a generic "evergreen" program that MPBN can have on hand to substitute if so desired. Once an evergreen program is aired, another may be requested for immediate production. Producers should also indicate whether regular programs are "evergreen" in nature, so that operations may choose to also set them aside for future re-use.

##### Promos

Management may request that on-air personnel supply generic or program specific promos for their programs at specified dates in advance of air and in a particular format.

##### Technology

On-air personnel are required to produce or supply their program(s) on a pre-determined technology and/or at a specified location. On-air personnel also understand that new and changing technologies may lead to changes in our operations process, and that they may be required to adjust their production processes accordingly.

On a case by case basis, on-air personnel may produce programming outside of MPBN studios. Any productions that do occur outside the MPBN studios are required to meet the same level of technical sound and production quality as an MPBN studio production. On-air personnel producing off-site understand that ownership and proper maintenance of off-site non-MPBN equipment is the responsibility of the on-air producer.

##### Volunteer Activity Forms

All volunteer producers must fill out volunteer activity forms. This will enable MPBN to include all hours in our NFFS (Non Federal Financial Support) figures that are presented to CPB each year and help determine our federal funding levels. Paper or electronic activity forms are available from Human Resources and available on the HR page of the MPBN intranet. Please return the forms promptly when they are completed.

##### Production Time

In order to ensure smooth and reliable operations, all pre-recorded programs should be produced in advance as specified by management. MPBN's "normal" advance schedule is one week, but may and often is adjusted with management's approval due to timeliness requirements and other circumstances.

##### Studio Time

On-air personnel should sign up for MPBN studio usage in advance. Studio time may not be available to volunteer producers during regular business hours due to conflicts with regular station activities.

##### Program Length

MPBN on-air personnel must be familiar with Sections 317 and 507 of the Communications Act.

MPBN on-air personnel obligations to the two sections can be outlined and presented as follows:

Every MPBN on-air personnel is prohibited from accepting any money, service or other valuable consideration from any person other than the company for broadcasting any material over the station. Every on-air individual having any voice in the selection of broadcast matter is prohibited from:

- a. Engaging in any outside business or economic activity which would create a conflict of interest in the selection of broadcast matter;
- b. Accepting any favors, loans, entertainment or other consideration from any person seeking the airing of any broadcast matter in return therefore; and
- c. Promoting over the air, except by means of an appropriate commercial announcement, any activity or matter in which the on-air individual has a direct or indirect financial interest.

I will comply with the provisions of Sections 317 and 507 of the Communications Act of 1934, as amended. I fully understand that any person who violates Section 507 of the Act is subject to the penalties set forth in Section 507(g), consisting of a fine up to \$10,000.00; imprisonment up to one year, or both. I also will comply with the policy of MPBN to prohibit every on-air individual having any voice in the selection of broadcast matter from (a) engaging in any outside business or economic activity which would create a conflict of interest in the selection of broadcast matter; (b) accepting any favors, loans, entertainment or other consideration from persons seeking the airing of any broadcast matter, in return therefore; and (c) promoting over the air (except by means of an appropriate commercial/disclosure announcement) any activity or matter in which the on-air individual has a direct or indirect financial interest.