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

In the Matter of	)	
2006 Quadrennial 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. 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	)	MM Docket No. 01-235
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317
Definition of Radio Markets	)	MM Docket No. 00-244

COMMENTS OF CLEAR CHANNEL COMMUNICATIONS, INC. ON FCC MEDIA OWNERSHIP RESEARCH STUDIES

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COMMENTS OF CLEAR CHANNEL COMMUNICATIONS, INC. ON FCC MEDIA OWNERSHIP RESEARCH STUDIES

I. INTRODUCTION AND SUMMARY

Clear Channel Communications, Inc. ("Clear Channel") hereby submits its comments in response to the Public Notice released on July 31, 2007, which seeks comment on ten studies on media ownership that will be incorporated into the above-captioned proceeding. As explained in detail below, the studies overwhelmingly support what Clear Channel has been saying all along – relaxing, if not eliminating the local radio ownership rules has affirmative public interest benefits in terms of diversity and localism and no adverse effect on competition.

II. THE FCC STUDIES CONFIRM THAT TODAY'S CONSUMERS MAKE USE OF A BROAD ARRAY OF MEDIA OUTLETS AND THAT RADIO BROADCASTERS ARE STRUGGLING TO REMAIN COMPETITIVE IN THE EVER-EXPANDING AUDIO PROGRAMMING MARKETPLACE.

In comments and reply comments filed previously in this proceeding, Clear Channel and others provided substantial evidence that the number of radio stations has increased over time, and that free, over-the-air radio faces robust competition.[1] The FCC's recently-released studies confirm these trends. Specifically, Study 10 finds that "[t]he number of commercial radio stations has increased about 6.8 percent since March 1996."[2] Study 10 also confirms the substantial impact that competition from XM and Sirius have had on terrestrial radio, noting that "[t]he growth in subscriptions for these two systems has been dramatic since our last report [in 2002]," and in particular finds that the two companies have "exceed[ed] a 100-fold increase over the figure noted in [the FCC's] 2002 report."[3]

Also consistent with the previous showings by Clear Channel and others,[4] Study 1 demonstrates that radio unquestionably continues to play a critically important role in the lives of consumers,[5] conclusively demonstrating the need to ensure the continued viability of this free, over-

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[1] *See* Comments of Clear Channel Communications, Inc., MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*Clear Channel Comments*"), at 7-8; Reply Comments of Clear Channel Communications, Inc., MB Docket No. 06-121, *et al.* (filed Jan. 16, 2007) ("*Clear Channel Reply Comments*"), at 2-3 & n.4 (citing comments of others).

[2] *See* George Williams, *Review of the Radio Industry, 2007* (2007), *available at* http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A11.pdf (released in MB Docket Nos. 06-121, *et al.* as Study 10) ("Study 10").

[3] *See* Study 10, at 9.

[4] *See Clear Channel Comments*, at 32-38, 53-56; *Clear Channel Reply Comments*, at 26-27; *see also* Reply Comments of the National Association of Broadcasters, MB Docket Nos. 06-121, *et al.* (filed Jan. 16, 2007) ("*NAB Reply Comments*"), at 43-46; Comments of the National Association of Broadcasters, MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*NAB Comments*"), at 68.

[5] *See* Nielsen Media Research, Inc., *Nielsen Telephone Survey* (June 2007), *available at* http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A2.pdf (released in MB Docket Nos.

the-air, service. Specifically, the study found that respondents spend a substantial period of time – averaging 6.2 hours per week – listening to terrestrial radio.[6] The study found, further, that radio is an important source of local news and information. A substantial 60.1% of the respondents who listen to radio stated that they listen for local news or current affairs.[7] Among those who listen to radio as a source of information, an average of 4.8 hours a week is spent listening to radio for "news, current affairs, and local happenings."[8] For breaking news information, nearly a quarter of respondents (24.5%) rated radio as their first or second choice.[9] And for local coverage, 25.8% of respondents rated radio as their first or second choice.[10] Radio also ranks highly among sources of in-depth and national news, although it is clear that local coverage is radio's strong point. For in-depth coverage, 16% rated radio as their first or second choice.[11] For national coverage, 15.7% rated radio as their first or second choice.[12]

Study 10 confirms, however, that radio broadcasters are struggling to remain competitive, as Clear Channel has shown.[13] It finds that the average number of listeners per quarter hour has

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(Continued . . .)
06-121, *et al.* as Study 1) ("Study 1").

[6] *See id.* at 89.

[7] *See id.* at 90.

[8] *See id.* at 95.

[9] *Id.* at 104-105.

[10] *Id.* at 108-109.

[11] *Id.* at 106-107.

[12] *Id.* at 110-111.

[13] *See Clear Channel Comments*, at 10-17; *Clear Channel Reply Comments*, at 6; *NAB Comments*, at 28-29; Richard T. Kaplar and Patrick D. Maines, *Media Consolidation, Regulation, and the Road Ahead*, at 5 (Feb. 2006), *available at* http://www.mediainstitute.org/issue_papers/ ("*Media Consolidation, Regulation, and the Road Ahead*").

continued to fall since 2002.[14] In addition, it finds that, since 2002, publicly traded radio companies have exceeded the EBIT margin, but netted less in terms of net profit margin, as compared to the S&P 500 median.[15] The study finds that this result appears to be attributable to the high debt loads of publicly traded radio companies.[16] Radio companies' market value has also declined relative to the S&P 500, and stock returns have underperformed the S&P 500 since 2004.[17]

In sum, the FCC studies confirm that, as Clear Channel has previously shown, terrestrial radio today competes in a robustly competitive media marketplace. As the Commission is well aware, none of free, over-the-air radio's competitors are shackled by arbitrary restrictions on how many outlets can be owned. Repeal or, at the very least, relaxation of the local radio ownership caps will enable the free, over-the-air radio industry to remain competitive in today's age of media abundance. Not only will this ensure the survival of a resource that the FCC's studies show Americans value highly, it will also, as shown below, create other affirmative public interest benefits.

III. THE FCC STUDIES CONFIRM THAT COMMON OWNERSHIP OF RADIO STATIONS PROVIDES PUBLIC INTEREST BENEFITS AND DOES NOT CREATE ANY COUNTERVAILING HARMS.

A. The Studies Confirm that Common Ownership of Radio Stations Increases Diversity – and, in Particular, Format and Programming Diversity.

The record in this proceeding – even before the issuance of the FCC's studies – conclusively demonstrated that, as the Commission had previously found, common ownership does not adversely

[14] *See* Study 10, at 14.

[15] *See id.*

[16] *See id.*

[17] *See id.* at 13-14.

affect diversity.[18] Clear Channel and others also provided abundant real-world and empirical evidence that common ownership actually *increases* format diversity,[19] and that there is no evidence that common ownership adversely impacts viewpoint diversity.[20] As discussed below, the conclusions reached by the FCC studies add to the already substantial record on these points.

Study 5 demonstrates that common ownership does not harm diversity, but, rather, that radio consolidation is associated with a largely positive effect on diversity.[21] Specifically, it concludes that "[c]onsolidation of radio ownership does not diminish the diversity of local format offerings."[22] To the contrary, it determines that, "[i]f anything, the market level analysis suggests that more concentrated markets have less pile-up of stations on individual format categories."[23] It concludes that "the market demographics . . . appear to be better predictors of . . . format" than ownership structure.[24]

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[18] *See Clear Channel Reply Comments*, at 13; *Clear Channel Comments*, at 17-18.

[19] *See Clear Channel Comments*, at 17-32; Statement of Professor Jerry A. Hausman (Oct. 2006) (Ex. 2 to *Clear Channel Comments*); *Clear Channel Reply Comments*, at 14-15; *NAB Comments*, at 79-84; *Media Consolidation, Regulation, and the Road Ahead*, at 6.

[20] *See Clear Channel Comments*, at 19, 22-23; *Clear Channel Reply Comments*, at 24-26; *see also, e.g.*, Comments of Belo Corp., MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*Belo Comments*"), at 16; Comments of Cox Enterprises, Inc., MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*Cox Comments*"), at 19-20; Comments of Gray Television, Inc., MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*Gray Comments*"), at 17-19; Comments of Media General, Inc. , MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*Media General Comments*"), at 31-39; Comments of the Newspaper Association of America, MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*NAA Comments*"), at 83; Comments of Shamrock Communications Inc. and the Scranton Times, MB Docket Nos. 06-121, *et al.* (filed Oct. 23, 2006) ("*Shamrock Comments*"), at 3.

[21] *See* Tasneem Chipty, *Station Ownership and Programming in Radio* (June 24, 2007), *available at* http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A6.pdf (released in MB Docket Nos. 06-121, *et al.* as Study 5) ("Study 5").

[22] *Id.* at 3; *see id.* at 29, 44.

[23] *Id.* at 3; *see id.* at 27-28, 29-30, 44.

[24] *Id.* at 29.

With respect to diversity in overall programming, Study 5 also finds that "common ownership does not have any statistically significant effect on [several] measures of program content," including advertising, announcements, talk entertainment, fundraising/charity, music, news, public affairs, religious, sports, and other programming.[25] Further, the study finds that while commonly owned stations are "programmed more similarly by these measures in the daytime, evening, and midnight to 6 AM dayparts," similarities during these dayparts are offset because they are, according to the study, "programmed less similarly in the AM drive, the PM drive, and the weekend day parts."[26] Overall, then, this aspect of the study supports the view that common ownership does not decrease diversity.

Study 5 also examines the effects of ownership structure on the variety of actual, non-music programs aired, and again finds that common ownership does not decrease diversity, but has an overall positive effect.[27] Specifically, based on an analysis of news and sports formatted stations, it concludes that "common ownership results in more diversity in actual programs aired."[28] While there is "some overlap in actual programs aired across the two formats generally," this is "not" the case "within commonly owned station-pairs within the same market."[29] Furthermore, the study finds that "there is virtually no overlap in the actual sports programs aired on commonly owned sports station-pairs within the same market,"[30] and "there is only a 5 to 7 percent overlap in the

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[25] *Id.* at 34.

[26] *Id.*

[27] *See* Study 5, at 36-39, 44.

[28] *Id.* at 3, 44.

[29] *Id.*

[30] *Id.* at 45.

actual news programs aired on commonly owned news station-pairs within the same market."[31]

Clear Channel and other commenters also previously showed that common ownership does not have a negative impact on viewpoint diversity, and Clear Channel explained how its programming decisions, in particular, reflect the conventional wisdom that owners of multiple stations in a market have natural incentives to differentiate programming.[32] The studies confirm these showings. Study 6, for example, examined local television newscasts for cross-owned stations (*e.g.*, stations that were commonly owned with either a local daily newspaper or a local radio station), and found that there was "no difference between cross-owned stations and other major network-affiliated stations in the same market."[33] To the contrary, Study 6 concludes that, to the extent that partisan slant exists, it "is associated with average partisan voting preferences" in the relevant market, not ownership.[34] Study 7, which concerns minority ownership issues, similarly acknowledges that "recent research suggests that media content is driven much more by demand considerations (*i.e.* consumer preferences) than supply factors (*i.e.* owner preferences)."[35]

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[31] *Id.*

[32] *See, e.g.*, *Clear Channel Comments*, at 19, 22-23; *Clear Channel Reply Comments*, at 25-26; *Media Consolidation, Regulation, and the Road Ahead*, at 6; *see also, e.g.*, *Belo Comments*, at 16; *Cox Comments*, at 19-20; *Gray Comments*, at 17-19; *Media General Comments*, at 31-39; *NAA Comments*, at 83; *Shamrock Comments*, at 3.

[33] Jeffrey Milyo, *The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News* (June 13, 2007), at i, *available at* http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A7.pdf (released in MB Docket Nos. 06-121, *et al.* as Study 6) ("Study 6"); *see also id.* at 21-22, 23.

[34] *See id.* at i, 24.

[35] Arie Beresteanu and Paul B. Ellickson, *Minority and Female Ownership in Media Enterprises* (June 2007), at 13, *available at* http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A8.pdf (released as Study 7 in MB Docket Nos. 06-121, *et al.*) ("Study 7").

B. **The Studies Confirm that Common Ownership of Radio Stations Enhances Localism and Programming Quality.**

As Clear Channel and others have also previously explained, the efficiencies and economies that flow from common ownership enable group owners to intensify their commitments to serve their local communities by identifying issues of importance to listeners and their distinct local tastes, and by responding with broadcasts of locally-focused and locally-tailored programming.[36] Study 4-II empirically supports this conclusion, by showing that common ownership of radio stations is associated with both an increased likelihood that stations will air news, as well as increases in the overall quantity of news that stations air.[37]

Study 5 confirms that common ownership enhances audience ratings as well. That study finds "that stations operating in markets with other commonly owned stations achieve higher ratings, than do independent stations."[38] This lends support for the view that commonly owned stations serve the needs and interests of their audiences – including their needs and interests for locally-oriented news and information – well.

C. **The Studies Confirm that Common Ownership of Radio Stations Does Not Cause Advertising Rates to Rise.**

Clear Channel and others have also shown previously, increased common ownership does not adversely impact advertising rates.[39] Study 5 confirms these findings. Specifically, it measures

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[36] *See Clear Channel Comments*, at 32-41; *Clear Channel Reply Comments*, at 26-30 & n.105 (citing additional sources); *see also, e.g.*, *NAB Comments*, at 60-61, 64-68; *Belo Comments*, at 13-17, 22-26; *Gannett Comments*, at 25, 34, 46-48; *Gray Comments*, at 15-17; *Tribune Comments*, at 34-79; *NAA Comments*, at 65.

[37] Kenneth Lynch, *Ownership Structure, Market Characteristics and the Quantity of News and Public Affairs Programming: An Empirical Analysis of Radio Airplay* (July 30, 2007), at II-1, II-17-18, II-20, II-22, *available at* http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A5.pdf (released in MB Docket Nos. 06-121, *et al.*, as Study 4, Section II) ("Study 4-II").

[38] Study 5, at 3, 45.

[39] *See Clear Channel Comments*, at 43-46; *Clear Channel Reply Comments*, at 35-38; *see also NAB*

the effect of consolidation on two measures of advertising prices, and finds that that "consolidation in local radio markets has no statistically significant effect on advertising prices."[40] Accordingly, as Clear Channel has stated before, the Commission cannot rely on a supposed risk of competitive harm to retain the local radio ownership rule.[41]

IV. CONCLUSION

The FCC-commissioned studies that touch on radio issues add to the already overwhelming record evidence in this proceeding that the terrestrial radio industry is vibrantly competitive, and that greater levels of common ownership produce consumer benefits in terms of increased program diversity and increased and improved local programming, while having no adverse effect on advertising prices. Accordingly, the Commission should move forward promptly to repeal the local radio ownership rule in its entirety, pursuant to its statutory obligation to eliminate media ownership rules that are no longer necessary in the public interest in light of competitive developments. At the very least, the FCC should modify the local radio caps to allow, as Clear Channel has previously proposed, up to ten stations in markets with between sixty and seventy-four stations, and ownership of at least twelve stations in markets with seventy-five or more stations. And, as Clear Channel has

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(Continued . . .)
Comments, at 73-78.

[40] Study 5, at 3, 45.

[41] Portions of Study 5 also demonstrate that national radio consolidation has positive effects. It finds, for example, that "large national radio owners offer more formats and less [format] pile-up," *id.* at 3, 44, that "[n]ational radio ownership has a negative effect on [advertising] prices," *id.* at 3, 44, and that "[l]isteners served by large radio groups, as measured by the number of commercial stations owned nationally by in-market owners, listen more," *id.* at 42. Clear Channel continues to believe, as it stated in its reply comments, that, as the Commission itself has found, national radio ownership issues are outside of the scope of this proceeding and irrelevant to the question of the *local* radio ownership rules in question here. *See, e.g., Clear Channel Reply Comments*, at 39-40. However, to the extent that the Commission were to conclude otherwise (a conclusion which would, at best, be highly questionable), Clear Channel notes that Study 5's consideration of national concentration levels shows that *positive* effects flow from common ownership.

previously shown, the Commission should move forward to eliminate the subcaps on the number of AM and FM stations that a single party can own, due to the lack of any factual or legal basis for retaining the subcaps.

Respectfully submitted,

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