

COMMENTS OF KEN SUTHERLAND/RUBY RADIO CORPORATION

My name is Ken Sutherland, and I am the President of Ruby Radio Corporation, headquartered in Elko, Nevada. My wife, Alene and I own 100% of the stock in this company. I have been in broadcasting for 38 years. In 2002 we signed on a new class C-1 construction permit in Carlin, Nevada, KHIX. In 2005, we signed on another new construction permit, a C-0 in Elko, Nevada, KOYT, and in 2007, we signed on yet another C-1, licensed to Spring Creek, Nevada, KEBG. All three stations serve Elko County, Nevada with regional signals from studios in Elko. Following are my comments on the issue of localism in broadcasting.

It is important for a radio station to *survive* in order to serve its community. This, I believe reflects the basic “deal” the American people make with their broadcasters. Research has shown repeatedly that people are generally happy with this deal – they get good radio service for free, and we are permitted to make a living in the process. In our little operation, we take that arrangement very seriously.

As a relatively new company in a very small market, we have dedicated our efforts and our dollars to an operating plan that includes compliance with the regulations as we found them. We simply do not have the cash resources to make the kind of dramatic changes proposed by the commission. We see the proposal by the FCC to revert to the Main Studio Rule and require 24 hour staffing as applying an archaic standard to a modern problem. In the past, when these rules were tested with logical thought, they failed and were thrown out. Now the commission proposes a return to these outdated procedures, while applying no new logic to the issue. And the advisory board is just plain ridiculous. I feel very strongly that these proposals will do nothing at all to improve localism, while placing an unfair burden on broadcasters, particularly those of us in small markets

The Main Studio Rule. We serve our communities and comply with the regulations as they were established at the time we acquired the stations, and we have relied on these regulations in our business plan. Each of our three FMs is licensed to a different community. In the case of our newest station, which signed on only last November, KEBG, we REQUESTED a change in the city of license so that we could provide first-time service to the community of Spring Creek.

We are a Mom & Pop company in a tiny market, and simply cannot afford to staff three different operations in three different towns. The technological expense, the real estate costs and the additional manpower would lead to a bankruptcy scenario. The existing main studio rule allows us to operate all three of our local stations from a single studio location. We would not have been motivated to acquire them had the older Main Studio Rule been in place. While I know that

the FCC is not particularly interested in the financial well-being of any one broadcaster, I must believe that the commission understands that a radio company has to remain in business if it is to serve its community.

We DO cover the issues of importance in our three communities, and we go to a great deal of effort in the doing. Although the ascertainment process has long been out of style, we still choose to do an informal version of it. We find it is an excellent method for determining the needs of our community. We travel the short distance to our communities of license and hold public meetings to determine local issues. We pre-promote the time and location of these meetings well in advance over our air. We have always believed very strongly that community service is the essence of good broadcasting, and we routinely air six public affairs programs per week that relate directly to the issues in EACH of our three communities. That amounts to 18 programs each week on our three stations. If the Main Studio Rule were changed to require us to have a separate main studio in each community of license,, our financial resources would be diluted by the costs of maintaining a chain of redundant studios to the point that we simply could NOT afford to cover these issues with any level of effectiveness. . Under the present regulations, we are able to apply our resources to serving our community, rather than paying for additional office suites, electric bills and personnel, that have *nothing* to do with community service.

Moreover, we find it more than a little troubling that the FCC modified the main studio rule just over 10 years ago to make it possible for broadcasters to serve multiple communities from a single main studio, and then compounded the issue by allowing multiple ownership, only to change their mind AFTER broadcasters have relied on the new system. Broadcasting is hard enough already without this regulatory schizophrenia from the FCC.

There is simply no value in this requirement. It adds extreme expense to some broadcasters like us with licenses in multiple cities, in effect, punishing us by rendering us less competitive, and offers nothing in return. The people who live in our communities of license have no inherent shyness about contacting us in our present studios, and community leaders either come to see us, or welcome us when we go to see them, which we do. We are accessible now by telephone, email, fax and US Mail. And if they want to come to our studios, we are closer to them than the local Wal-Mart store. If the commission is concerned with content, then please focus on content and not unrelated issues like street addresses. The most useful tool we use to interview public officials isn't even a modern one – we go see them with a cassette tape recorder! On that note, ONE of our stations, KOYT, does have studios in its city of license. And we still find ourselves traveling to the offices of the local officials. They are welcome in our studios, but rarely come here.

24 Hour Staffing. Early in my career I was an all-night disk jockey. I will state for the record that I was the most uninformed person in the radio station. Having me on duty guaranteed that the station complied with FCC regulations (I had a first phone) and did nothing to contribute to the localism of the community. I was only there to read the meters and play the next hit by Three Dog Night.

Today, automation – *smarter and more reliable than most all-night DJs* - is the standard for efficient broadcasting. Our stations are able to compete in our little marketplace primarily because we do not have to pay people simply to monitor the transmitter and read meters, but we can instead concentrate our resources so that we can afford competent people who might otherwise be out of our financial reach. For example, we have on our staff a veteran news professional with major market experience. He understands our desire for local content and knows how to deliver it. If we had to split his salary with an all night disk jockey – a position we currently do not have, and do not plan to have – I am certain we could no longer afford him, and he would doubtless return to the larger markets where he would make a better living.

24 hour staffing would put such a drain on our payroll resources that I feel certain we would not be able to attract competent people who are capable of serving the FCC's goal of providing local coverage. There is no guarantee that hiring under-qualified people to watch the stations in the wee hours of the night would do ANYTHING to improve localism. We submit that it would actually accomplish the opposite, which is to hamper our ability to provide service to these communities. We suspect this scenario would be true in most small markets. An option, that we would be forced to consider if full time staffing of three separate studios were required, would be to do as broadcasters did in the old days, and simply sign off at 10 PM. This would allow us to operate more cost-efficiently, and would certainly be a form of compliance, but could hardly be seen as increasing localism, and in fact would deny ALL service to listeners during overnight hours. The automation allows us to continue operating with locally created programming during all hours of the day and night. The idea that round-the-clock staffing would improve anything for anybody is simply not a sound one in the modern world.

The goal, it seems to me, is to make the station available for disaster or other emergency coverage. This problem is easily solved with modern technology. I have a beeper that goes off when one of my stations is silent for more than three minutes. This very same technology can be expanded and applied to bulletins from the EAS system, amber alerts, and even linked to the local Sheriff's office. It is not difficult to set up, and is certainly more cost effective than requiring an all night employee. (*More reliable, too, if you'll please listen to the voice of experience.*) I would certainly rather have the News Director or the Program Director summoned with a beeper than leave it to the judgment of a minimum wage employee. And it is far better than shutting the entire station down altogether after 10 PM.

Advisory Boards. We do not believe that requiring radio stations to establish local advisory boards would further “localism” in any meaningful way. We operate in very small community. While there is a high percentage here of people who wish to serve the community, each of those people has an agenda of his or her own. Assembling a board comprised of busy people representing diverse interests in the community that would meet on a regular basis to “advise” our stations would be a monumental task. And once assembled, the board members would almost certainly believe that their opinion as to the nature, quantity and timing of public issue programming to be presented on our stations trumps our views as experienced station operators. We have no objection to the Commission re instituting a requirement that station management consult with a wide cross section of their community as to local issues and needs on an on going basis. However, we believe it would be a bad idea for the Commission to mandate that stations appoint representatives from various community groups to sit on a permanent advisory board which, by its very creation, would lead the board members to believe that their views on what issues should be addressed on the station, and how, take precedence over the views of other members of the community and station management. The proposal that stations appoint permanent advisory boards is a bad idea that should be discarded.

Here is a common-sense question that may shed light on the issue: *Why do we need a committee of people to tell us the issues of the people in the community when we already have direct access to the people in the community?* We have radio stations, for heaven’s sake! The simplest and most effective way to ask the people what is going on, is to open the microphone and ASK them.

There was nothing wrong with the ascertainment process of the past. We still use our own version of it, and we currently air announcements on all three of our stations that invite people to contact us via email and fax. We actually read the responses, and use them to craft public affairs programming and public service announcements. We would have no objection to expanding this into a more formalized procedure. Our objection is not to a requirement that broadcasters engage in ongoing efforts to ascertain the needs and interests of the communities that they serve. Rather it is to the misguided notion that the best way to accomplish this is to require stations to appoint permanent community advisory boards.

If you want to know what the people think, don’t ask their pastor or their hairdresser or their teacher or even their mayor. **Ask the people.** There was never anything wrong with the ascertainment process. We still use a version of it and it works. Simply return to it, and open it up to electronic correspondence. Advisory boards only politicize the process.

Renewal Based on Community Service. We applaud the idea that stations should be responsible for airing locally created programming. As stated above, all three of our stations take that responsibility seriously. As a startup, our first station ran a large percentage of network programming. Even then, we earned accolades from people in our city of license about the quality of our public affairs and public service content. Today, except for a couple of features, 100 percent of our programming on all three of our stations is local, and we feel that we do a really good job. But we would find it difficult to comply with an attempt by the commission to quantify our community service.

Frankly, we believe it would lead only to “lip-service” compliance from most broadcasters, and the result would be a reduction in the amount of real community interaction with radio stations.

During that stint I mentioned as an all-night Top-40 DJ, I had to air 10 minutes of news per hour, and several syndicated (non-local) public affairs programs. Why? Because in those days, the commission had a similar regulation in place, and the station I worked for did what MOST stations did then – they *buried* their commitment in the overnight hours. Not many people actually HEARD it, but the station could certainly tell the commission that they had aired it. Lip service.

Let the market decide. We support the community and they return the favor by supporting us. That is how it is supposed to work, and it does. My observation is that stations who don't participate in this basic deal with their community ultimately pay the price in lost revenue. Quantifying the public affairs only encourages lip service-compliance, and does nothing to guarantee genuine service to the community.

Websites. Does the commission actually believe it is a good idea to post the entire public file on the station's website? We're a relatively new company, but in the past I've worked at stations where the public file runs to multiple file cabinets. Every correspondence with the commission, every thank-you card from the Girl Scouts, every email and fax, every petition to be scanned and posted in digital language? What an administrative nightmare! It isn't what radio stations DO, and it creates a monumental nuisance. In our experience, the public has no interest whatsoever in viewing the contents of radio station public files. In the nearly 6 years that we've been in broadcasting, we have had only two requests to see the file: one from the former owner and one from the FCC inspectors who came to see us. We believe that our experience is typical. Since the public has never shown any interest in inspecting documents that the FCC requires stations to keep in their public files, and since most of the documents, exclusive of letters from the public, can be obtained through the FCC's website, the Commission should give serious consideration to abolishing the requirement that stations

maintain public files rather than considering imposing new public file burdens on licensees.

Furthermore, this requirement seems to add an absurd level of redundancy to the main studio requirement. Does the commission want us to acquire real estate in every neighborhood to make our public files more accessible AND make every document in our public file accessible via the internet?

Please don't make us put the public file on our websites. It would create an incredible burden, and solve nothing. Websites are print media; we are broadcasters. The public file is already a fine place to keep records that nobody ever wants to see. Please don't force us to undergo the expense and administrative torture of putting it into cyberspace so that even more people can ignore it.

I thank you for the opportunity to offer some common sense solutions to these issues.

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