



April 21, 2008

Marlene H. Dortch
Secretary
Federal Communications Commission
Washington, D.C.

Dear Ms. Dortch:

As the licensee of WSOU-FM, a non-commercial educational station, Seton Hall University wants the Commission to be aware of our views regarding the FCC's *Report on Broadcast Localism and Notice of Proposed Rulemaking*. We very much hope that the Commission takes our views into consideration as it drafts its final rules. There are several points for which we wish to express our concern. They are:

Community Advisory Boards

The University is opposed to the FCC's proposal to mandate Community Advisory Boards for non-commercial stations. Given that WSOU-FM already has a voluntary advisory board that includes members of the public, Seton Hall's objection to this proposal might seem surprising. Our objection to this proposed mandate centers on three key points. First, educationally licensed stations like WSOU have a particular academic mission that is essential to the station's reason for existence. This educational, co-curricular mission may not be compatible with local concerns, but is vital to meeting the concerns and needs of a university. Second, Seton Hall University is governed by a board charged with representing the community's interest. This governing body naturally has an influence on how the campus radio station serves the local community. Finally, as part of a Catholic university, WSOU must continue to be free to reflect in its programming the mission and values of the Catholic Church. A federally mandated advisory Board consisting of local elected officials, political appointees and community leaders is likely to propose programming ideas that are in conflict with Catholic teaching and our faith-based foundation.

Instead of a mandated Community Advisory Board, we recommend that the boards be voluntary for educational-licensed stations, with membership of the board at the licensee's discretion. With specific local programming requirements expected to be added to the license renewal cycle, we believe that voluntary boards will proliferate across the nation, but this must be done in manner that will respect the necessary editorial discretion and academic mission of educational broadcasters. It is essential that such licensees are able to properly balance the dual requirements of meeting the public's interests, convenience and needs with meeting the pedagogical and developmental needs of students.

Unattended Operation

It is our opinion that 24/7 staffing is unrealistic for many noncommercial broadcasters and likely unfeasible for many rural, small and medium market commercial stations, especially "mom and pop" stations. Instead, we believe that all broadcast stations should be permitted to operate unattended between the hours of midnight and 6 a.m., while certain broadcast stations be permitted extra hours of unattended operation through special temporary authority or waivers on a case-by-case basis. The FCC should allow for some flexibility here, as not all broadcasters operate in the same social and economic environment.

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As the Commission itself wrote in its *Report & Order Oct. 23, 1995*, "there is general agreement that the technology exists to automate the monitoring and control of broadcast stations and that stations may be better served with constant (automated) technical monitoring than with human attendance." Thanks to continued technology improvements, today broadcasters can safely run a station unattended and, when alerted, properly respond to a technical and community emergency. The best approach here is for the Commission to have tight standards, including emergency response, for unattended operation rather than require 24/7 staffing.

Localism

We do support and applaud the Commission's desire for more "localism" in radio programming. To that end, we believe that voice-tracking should be limited to the same hours of unattended operation - midnight to 6 a.m. Such a requirement would ensure that for 18 hours each day, stations have an announcer on hand to entertain and interact with the local audience. Again, we feel that certain broadcast stations can be permitted extra hours of voice-tracking through special temporary authority or waivers on a case-by-case basis as not all broadcasters operate in the same social and economic environment.

While localism is a laudable goal, we urge the FCC not to become over-burdensome in its rulemaking as it risks undermining localization efforts. In addition to the examples noted above, reversing the present Main Studio Rule, mandating a minimum number of local programming hours and enhanced disclosure are all a step backward into the days of over-regulation. In the 20+ years that radio has been under ongoing deregulation, the medium has prospered and the FCC has proven wise in its decisions to allow broadcasters to operate more freely. It would be unwise now to reverse course.

Prior FCC revisions to the Main Studio Rule have contributed to the greater efficiency of broadcasting by allowing stations to co-locate studios and consolidate back office operations while still communicating effectively with local residents. In the 10 years since the Commission's *Report & Order Aug. 11, 1998*, which relaxed the main studio location requirement, remote communication has only improved as e-mail, instant messaging and text messaging have become the dominate ways listeners communicate with radio stations. It is rare for a member of the public to "pop in" at his/her local radio station to lodge a complaint, make a request, suggest a programming idea or heap praise upon a DJ or reporter. To return to the pre-1987 Main Studio Rule would not change the way the public interacts with its local radio stations. What it would do is require broadcasters to spend millions of dollars to relocate their studios back within the boundaries of their community of license, a change that experience shows is wholly unnecessary in the 21st Century.

We also note that some noncommercial broadcasters could be significantly hampered or restrained by a return to the pre-1987 Main Studio Rule standard. WSOU is licensed to South Orange, NJ and our main studio is located in our community of license. However, the Seton Hall University campus straddles the South Orange/Newark NJ border and future expansion of the campus may be within the boundaries of the City of Newark. Restricting stations to operating strictly within the community of license would prevent WSOU from moving into a new campus facility that isn't precisely in South Orange. Should Seton Hall's trustees and university planners deem it best to build a new student center or school of communications just across the city line, WSOU would be unable to relocate under the proposed rules. We wish to point out to the Commission that this situation is not unique to Seton Hall University. The main campus of Rutgers University encompasses four different municipalities and Fairleigh Dickinson

University's main campus is located within two different cities, yet each school's station is licensed to one particular community. Does the Commission truly intend to interfere with an organization's ability to implement its physical master plan?

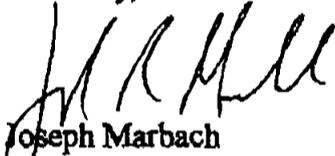
In addition, the University is concerned about potential rules mandating a minimum number of local programming hours. While more than 95% of WSOU's programming is locally produced, the amount of local programming should not be determined by federal, state or local government, but by the editorial and programming discretion that is inherent in a broadcast license. Such government mandates undermine our shared national values of having a mass media that is free from government interference and influence. If a radio station is failing to provide local programming, the FCC can, and should, address it at license renewal time.

Reporting Requirements

We also caution the Commission against requiring stations to provide the FCC with data concerning the airing of music and performances by local artists. Such requirements are unduly burdensome, especially for stations like WSOU that are operated by students, each one creating his/her own playlist. Instead, we advocate clear guidelines from the FCC on what local programming requirements it will consider during license renewal and leave it to stations to meet the goals articulated in those guidelines. If localism is the objective, the Commission must trust stations to be creative in their programming as they work to meet localism guidelines.

Seton Hall University and WSOU-FM appreciate the Commission's consideration of our opinions on its *Report on Broadcast Localism and Notice of Proposed Rulemaking*. We ask that you and the Commission carefully consider the concerns we have raised so that the FCC's final rulemaking on this matter is fair and balances the needs of the listening audience with the needs of broadcasters.

Sincerely,



Joseph Marbach
Acting Dean, College of Arts & Sciences
Seton Hall University



Mark Maben
General Manager
WSOU-FM