

Before the  
**Federal Communications Commission**  
MB Docket No. 04-233

Thank you for the opportunity to comment on the F.C.C.'s "Broadcast Localism," MB Docket No. 04-233.

I have been employed in professional radio for 25 years, serving 4 different ownerships at stations licensed to three different communities in mid-Michigan and West Michigan. I hold a degree in Broadcasting and Cinematic Arts from Central Michigan University. I have served as an announcer, newscaster and sportscaster, public service director, marketing consultant, station manager and general sales manager. All of my experience has been confined to small market local radio. I currently serve as General Sales Manager for an AM/FM combo (WHTC and WYVN) licensed to two different cities within one common marketplace.

Localism is the fuel that fires this operation. It has been the case for the AM station for 60 years and is the case for the FM station (which uses a satellite format but nonetheless finds ample time to provide localism) which we have operated for seven years.

At the end of each year we calculate the number of local public service messages, local newscasts, local talk and issue programming and assign it a dollar value. In 2007 our AM/FM combo provided 197,220 minutes worth of localism. That works out to 3,287 hours of programming devoted to localism. That is the equivalent of 410 eight-hour days between the two stations or 136 24-hour days. If we were to issue an invoice to the community for this service at a fraction of our average rate it would equal nearly \$2,000,000.00 per year worth of localism. I know of no other business, media or otherwise that donates anything that even approaches \$2,000,000.00 per year to the local community year in and year out. This doesn't include money we help raise for charitable and community needs, food and clothing drives, and six hours of programming per week we provide to the area's growing Hispanic community. Additionally we provide countless support to local schools, churches, service organizations, governmental units and more.

Our longstanding partnerships help to multiply the good work of everyone involved. We are local. Our service contours are of such size that trying to be anything other than local would place a financial burden on the operation as revenue would most certainly be lost. As it is now, just shy of 50% of our FM station signal is broadcast over Lake Michigan. Our AM broadcasts upwards of 10% of its signal over Lake Michigan. While this can be seen as some benefit during the boating season (roughly Memorial Day – Labor Day) there is little

benefit to us during the rest of the year. Our size and location mandate localism far more than any government dictate could.

**The FCC seeks comments on whether the main studios of stations should be located in the station's community of license.**

Broadcasters are currently required to have main studios within their city-grade contours or within 25 miles of their transmitter site. Essentially, these measures provide broadcasters with the flexibility to locate a main studio at a location that is best suited for the operation of a broadcast station that will reach the entire service area of the station. Under prior rules to which the Commission proposes to revert, even locating a studio 100 feet outside the city of license city limits required a waiver – imposing processing burdens on the FCC staff, uncertainty and costs on the licensee, and did nothing to serve the public interest. Under the current system, waiver requests are rare as the rules provide flexibility, and complaints about the inaccessibility of a station's main studio are also rare. Moreover, requiring the location of a station's studio within its city of license creates an arbitrary requirement which has little to do with the real service provided by broadcast stations.

Our specific situation would find us having to move our FM station approximately eight miles south to return its broadcast studio operation to the city of license. The original operator of the station recognized that it was very difficult to operate from that city of license and moved soon after the restrictions were lifted. The city in question is the dictionary definition of a tourist town. For nearly nine months a year the area awaits tourists to fund the local economy. The rest of the year many businesses greatly reduce or eliminate hours of operation as there is little need for their services during the off season. The original operator realized that if he was going to survive he needed to move to the economic and population center eight miles north. He was able to and we continue to serve the city of license without the economic hardship of being located there. In order for us to comply with a return to the pre-1987 policies I would have to conclude the only way to fund such a move and operation would be to trim personnel at our main location. This of course would negatively impact the AM station's ability to service its listeners.

A review of the city of license of the 40 "listenable" signals licensed within our geographic area finds that 35%, (14 of the 40) would have to relocate if the rules are returned to the pre-1987 levels. Since 1987 the FCC has addressed the issue of stations moving from their city of license with expanded band AM stations and 80-90 docket stations which have more than adequately filled any gap created by such a move. If stations are required to move back to their city of license would the FCC require them to return to their original signal strength levels or in some cases even frequency? This increased city of license operational presence would certainly have a negative affect on 80-90 docket

stations in particular which would find the operational landscape much more challenging. One could surmise that it even might drive smaller operators right out of the business.

Our own company operates nine stations in West and Southwest Michigan. Of those, five would be required to relocate. Three of the stations would literally need to move just blocks from their current location. Two others would face substantial moves to smaller population centers which they more than adequately service already. The financial burden to the operator would be great. The commitment to the cities of license is already in place. Other than to award broadcast engineers a bonanza of new, short-term business it is difficult to measure any other benefit.

### **The FCC proposes to prohibit the unattended operation of broadcast stations.**

I understand that the Commission is proposing in the localism proceeding to prohibit the unattended operation of television stations, and is considering that unattended operation of radio stations in the HD Radio proceeding.

Our AM station is licensed to broadcast at full power (1,000w) 24 hours per day and has been since the treaty with Mexico enacted in 1981. The station previously was able to operate 24 hours a day with reduced night time power of 500 watts. Despite this fact, with the exception of a brief experiment of 24 hour programming in the mid 1970s the station has only operated 24 hours per day since 2001. Previous to 2001 the station did not possess the equipment necessary to operate unattended. There was no civic or economic demand or justification to operate manned 24 hours per day. Under new ownership that took over in September 2000 among many significant physical plant upgrades we were provided with the ability to operate unattended. This now provides us with the ability to provide community service around the clock. The economic benefit of overnight programming is not monetarily measurable. The benefit to the community is immeasurable as technological systems are in place to provide any alert that might arise as immediately as if the station were attended during those hours. A return to attended operation would probably result in a return to a 16 or 18 hour programming day. This would be a government mandated detriment to community.

The FM station has operated 24 hours per day since it was licensed in 1987. Combining the burden of operation from the city of license with the burden of attended operation would result in the station's broadcast schedule being trimmed to a 16 or 18 hour day as well. Again, there is no monetarily measurable economic benefit for the station to operate 24 hours per day. The station does so to serve its community. This station, too, possesses the equipment to provide any alert that might arise during unattended operation. A

reduction of service would be of no benefit to the community but would be an absolute financial and operational drain of resources.

**The FCC seeks comments on the establishment of minimum programming requirements for processing license renewal applications.**

The MB NO. 04-233 contemplates the types and amounts of programming, including news, public affairs and local political coverage that might be required and incorporated into a license renewal process. Such requirements would displace local interests, standards and controls that have been developed over time by broadcasters and the communities they serve. Each individual broadcaster is capable of determining the types of programming they need to be responsive to their local communities and audience, and do not need prescriptive, arbitrary requirements established by FCC personnel who do not work or live in their communities. What works for one station in one format may not be appropriate for another station in a different format. A music-formatted station could not program as much informational programming as a talk station and still retain its audience (especially in light of the competition from new forms of media not subject to these regulations). Moreover, the type of information that would be provided, and the way it would be presented, would be different for a music formatted radio station than for a news-talk station. How can the Commission rationally justify a mandate of a uniform amount of these types of programming?

Broadcasters already adhere to myriad requirements and restrictions on children's programming, political advertising, indecency and other areas that have been defined by the FCC. Even the Federal Trade Commission, the Food and Drug Administration, other Federal agencies and some state legislatures have engaged in restrictions on broadcasters or their advertising clients. These types of specifically targeted programming restrictions, prohibiting programming that may be injurious to the public, may make sense in some circumstances, but imposing broad requirements of specific types of programming that must actually be broadcast by stations does not. Government-imposed cookie-cutter standards applicable to all stations are unenforceable, potentially unconstitutional, and simply will not serve the interests of the public.

**The FCC seeks comments on mandated, permanent Community Advisory Boards.**

Any owner, manager or employee of a radio or television station serves as a conduit for public feedback. News reporters get an especially accurate reading of community concerns and interests as they interact with the public on a daily basis. And any general manager of a station will tell you about the constant flow of telephone calls and emails from listeners and viewers who want to express

compliments and criticisms. All letters and emails are placed in our public file. Due to the growth of email communication our stations have placed more comments in the public file in the last five years than in the preceding 55 combined! At no time in my career has communication between station and listener been as strong as it is today.

These Boards are likely to be the source of new controversy. If the Commission mandates a large Community Advisory Board for each station, there are bound to be members of the Board who have their own favorite programming that they want to put on a station – regardless of its commercial viability. With a large board, the opportunities for conflict among the visions for the stations of members are great – and essentially unproductive.

Similarly, if a board is required for every station, where are all the members of these boards going to come from? In the Notice of Proposed Rulemaking, the Commission suggests that the community groups that formerly were used for the Ascertainment process could form the basis of the advisory board. In many communities, there are only so many community leaders in some of these categories. How would every station find people willing to serve? What potential community leader is going to want to serve on the boards of multiple stations?

I find the proposal for mandated Community Advisory Boards to be unnecessary, unwieldy, and a potential source of legal problems.

### **The FCC seeks comments on network affiliation contracts.**

All stations, whether they are running network or syndicated programming, rely at least to some degree on the reputation of the programmer to produce quality programming that the station cannot itself produce. To have stations review each and every program before it airs imposes significant costs on stations for little benefit, as incidents where such programming is improper are rare. I am unwilling to recommend governmental interference in the contractual relationships between our stations and providers.

I am also concerned that if a rule allowing prior review were in place, there would still be a great deal of reliance on subjective judgment about program content – in fact subjective programming decisions might become more problematic as stations would need to delegate to employees the responsibilities to vet such programs. What might be acceptable to one individual would be rejected by another. What might be acceptable in Detroit might not be appropriate in Holland or Saugatuck. How would the criteria be developed? Such a rule would move the location of subjective; arbitrary decisions about program content, but it would not address the greater problem created by the Commission's unpredictable approach to enforcement of indecency rules.

I urge the Commission to instead focus its attention on its inconsistent enforcement of vague indecency standards and offer broadcasters clear standards for program content and a fair approach to enforcement.

### **The FCC proposes disclosure of “national playlists” for radio stations.**

Many stations offer programs that feature local artists. All popular artists are “local” somewhere, so *de facto* requirements to play music from “local” artists would be difficult to implement. Would television face the same requirement to air or produce entertainment programs of local origination? Wasn’t Low Power Television and Radio designed to address these issues? Weren’t PEG channel mandates for cable television designed to address these issues? It would seem that enforcement of LPTV and LP Radio and PEG is minimal at best. Would the public be better served if these operations were more closely monitored rather than creating another level of regulation? Little localism has been found even with these mandates in place (other than the broadcast of very bad karaoke).

I am deeply concerned about any proposal that would require broadcasters to disclose information about how they compile their playlists, especially within the context of a station’s license renewal. This moves the Commission precariously close to the idea of mandating playlists or content on local stations. The potential for personal, subjective judgments by the Commission would be great.

I believe that such a requirement would permit the Commission to displace the public’s role in providing feedback to local broadcasters, as well as the public’s right to comment on programming issues during a station’s license renewal process. The play list and how they decide what goes on it is the brand of a station. To place that on the internet gives away a stations “secret recipe” so to speak and leaves it wide open for competition to copy. Would any other business be required to publish their blueprints, recipes, intellectual property and such?

### **Conclusions**

Technology and consumer options have moved forward at a fast pace. While broadcasters are working hard to stay at the forefront of modern information delivery options, this Notice of Proposed Rulemaking is an unwarranted attempt to turn back the clock and impose the types of regulatory requirements that were abandoned by Congress and the FCC more than a quarter century ago.

It was determined then that competition from other media made the requirements unnecessary. Clearly, in today’s exploding media and technology environments, when consumers in large and small towns are offered new choices every week, when citizens have more access to news and opinion than ever before, and

when technology consistently “outruns” attempts to regulate it, there is even less need for the types of requirements outlined in MB No. 04-233. It would return broadcasting to a time and place where no one lives anymore – the distant past.

Ultimately, MB No. 04-233 is an example of overwrought, unnecessary and prescriptive regulation of the broadcast industry. There is no need for such regulation when technology savvy, competitive markets are perfectly capable of judging, rewarding and punishing broadcasters. It is just good business for broadcasters to serve their communities. Broadcasters who do not serve their listeners and communities do not succeed.

I urge the FCC to determine that the proposals in MB No. 04-233 need no further consideration and that this proceeding be concluded with a Report and Order that imposes no further requirements on local broadcasters.

Respectfully submitted,

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WHTC, WYVN