



April 28, 2008

Ms Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

RE: MB Docket No. 04-233

Dear Ms. Dortch:

Simmons Media, licensee of radio stations KXRK, Provo, Utah, KEGA, Oakley, Utah, KJQN, Coalville, Utah, KYMV, Woodruff, Utah, KZNS, Salt Lake City, Utah, KOVO, Provo, Utah, KEGH, Brigham City, Utah, KSLG, St. Louis, Missouri, WFFX, East St. Louis, Illinois, KQPN, West Memphis, Arkansas, KWNX, Taylor, Texas, KZNX, Creedmoor, Texas, KLRK, Marlin, Texas, KRZI, Waco, Texas, KRQX AM/FM, Mexia, Texas, KDXE, North Little Rock, Arkansas, hereby files comments with respect to MB Docket Number 04-233 as follows:

§ Community Advisory Boards

The FCC is proposing in its Notice of Proposed Rulemaking that radio stations organize local advisory boards with members representative of various community groups and organizations and that such advisory boards advise stations on issues of significant concern and interest to the station community of license.

Simmons Media believes these advisory boards are unnecessary and that their formation would largely duplicate efforts already in place to identify and serve community interests and needs.

The radio stations we own and operate in our communities of license participate regularly in a variety of community outreach endeavors including on-going local market research, local focus groups, local perceptual studies, and local music tests. This on-going research is part of the compelling need for our stations to remain competitive and relevant to their local communities. The result of our investment in local research enables us to properly identify local issues of importance to our local target audiences and help us create community service events, public awareness programs, public service announcements, and other news and information programs that respond to these identified needs and issues.

Additionally, managers and staff at Simmons radio stations are personally involved in community outreach activities almost on a daily basis. Most of our key personnel serve on a variety of local boards and are members of local community service organizations and are well connected with a broad range of community leaders who work collaboratively with them toward solving local problems and contributing to local causes. We consider it a privilege to utilize our station resources for the common good and invite local groups to use the station as a major public awareness component for many community campaigns.

Annually, Simmons radio stations are encouraged by our ownership to contribute to their communities at least as much value in estimated financial terms through community service and public affairs programs as the value they will generate in operating cash flow. We believe we can “do well” by “doing good”. The millions of dollars in value that our stations contribute to their local community causes and issues certainly evidence the effectiveness of our current efforts to be responsible community partners.

The proposal by the FCC to require the formation of “local advisory boards” in our opinion is counter intuitive to our current initiatives and would, we believe, create bureaucracy, reduce efficiency, dilute resources, and send a message that stations could “defer” to advisory boards the process of identifying local needs, rather than fulfilling their licensed mandate to take responsibility for this critical imperative. We do not believe the identification of critical local issues should be delegated to anyone outside responsible parties at licensed radio stations. The requirement to form community advisory boards would, in a de-facto sense, suggest that others, not primarily station personnel, should be responsible for making these key determinations.

§ Remote station operations

The FCC is proposing that all stations be “manned” during all hours of operation.

Simmons Media stations are currently “manned” during business hours and at most other times, with the exception of late evenings and overnights, some weekend periods and on holidays when stations utilize automatic monitoring technology to regulate programming and technical operations.

Where several of our stations operate within “clusters” located in certain markets, we often use one staff member to oversee operations of more than one station during some holiday and overnight periods.

It is our opinion that requiring each individual station to be manned 24 hours per day, 7 days per week, regardless of holidays, overnights, or combo and cluster situations would impose financial constraints upon licensees that could adversely affect a stations ability to provide responsible community service during most hours of a stations operating schedule. Currently, stations are able to utilize some economies of scale to invest in more prime time community service programming. The quality of such community service programming could decline in the event stations were required to use more of their resources to fully staff during non-prime hours or to duplicate expenses for stations in a combo or cluster structure.

§ Quantitative Programming Guidelines

The FCC proposes to regulate or impose specific guidelines on the amount of news, public affairs, public service, and other programming that radio stations broadcast during their weekly schedule.

We believe this proposal is a step backward and does not take into consideration the changing media marketplace of today.

The current FCC proposal seems to roll-back the clock to a time several years ago when the FCC imposed such requirements. At that time, however, the number of different media voices in a typical community were far fewer than exist today. With the rise of new media, and the proliferation of media choices in almost every market, the percentage of total air time allocated to news, public affairs, public service, and other programs is driven largely by competition between media, their divergent target audiences and the economics of the market.

While Simmons believes that it is essential for radio stations to broadcast news, public affairs, public service, and other programs to remain a viable and responsible community partner, we affirm that the amount or percentage of a stations total broadcast time dedicated to each of these segments should remain at the discretion of the licensee and should be based upon the overall operating strategy of the radio station including its format, target audience, and the market in which the station operates. To demand that radio stations schedule a fixed percentage of its programming to delivering news, public affairs, public service or other programs does not recognize the reality of today's media landscape and the variety of programs and program types available on all types of media. Local radio stations should not be disadvantaged in any way by a government mandate to alter or modify its programming mix when other media, most notably, unregulated new digital media outlets are able to compete for market share and revenue share without any government imposed programming percentage guidelines.

§ Main Studio

The FCC, in this notice of proposed rule making would require that radio stations maintain offices and studios in their licensed communities and operate full time from these facilities.

We reject this proposal as being economically adverse to local radio stations.

Simmons Media radio stations are operated consistent with FCC guidelines including maintaining offices and studios within appropriate signal contours of the licensed communities. We object however, to any change in the current requirements which could require radio stations to operate exclusively from offices and studios only within licensed communities. This would create severe economic distress to licensees who have operated several of their “suburban” stations at a central facility, while these “suburban” stations are actually licensed to communities adjacent or contiguous to the primary population center. This affords licensee’s an opportunity to leverage economies of scale and sustain operations that could not be sustained, if each station were required to operate full time as a separate and stand alone facility.

Most of us applied for licenses with a good understanding of the current main studio rules. We feel that it would be very unfair to change or reverse the conditions upon which these applications were made, financing arranged, and licenses obtained. This proposed rule would change the entire business model for most, if not all, radio broadcasters.

Because of the proliferation of new audio distribution channels via satellite, internet, cell phone, ipod, etc, local radio stations have seen erosion in audiences and the consequent decreases in local ad revenues. Any FCC rule requiring stations to incur more expense such as this rule proposes, suggests that the FCC is unaware of the current declining economic climate that most small market radio broadcasters face.

Radio stations, who maintain their currently required offices and studios in, near, or adjacent to their licensed communities, continue to operate in the public interest and should not be penalized by this proposed rule change. Requiring a change of this magnitude could eliminate many smaller broadcasters from obtaining radio station licenses in the future and would adversely affect radio station licensees who are presently struggling to find ways to sustain operations.

We petition the FCC to not impose this rule which would make radio station ownership economically prohibitive for many current and future broadcasters.

§ Voice Tracking

The FCC is proposing that radio stations disclose that announcers on their radio stations may have pre-recorded their programs and/or that the programs originate from outside the licensed community.

Simmons Media proposes that the FCC reconsider this issue. The FCC may propose that licensee's regularly broadcast a disclaimer such as "portions of the foregoing have been pre-recorded", or something similar. We point out, however, that music content is pre-recorded most often outside the market, that commercials are most often recorded outside the market, news and network broadcasts are most often imported from outside the local market. To require that announcers who appear on local stations disclose that they have pre-recorded their content from outside the market really serves no purpose any more than requiring television programmers, or filmmakers to disclose that their content originated at a location outside the market. This proposal appears to discriminate against radio broadcasters since internet and satellite broadcasters have no such requirement.

§ Local Music

The FCC is asking local broadcasters about a potential rule requiring local radio stations to disclose how they select their play lists and how much local music is being played.

Simmons Media rejects this proposal as being competitively unfair. The music on the Simmons stations is selected through auditorium music testing and call out research. Requirements of radio station programmers to report how they select their music content proposes that the government regulate programming formats. This, we believe, is an affront to free speech. The processes used to select music programming for radio stations could be considered proprietary for competitive reasons and any government regulation that radio stations disclose their process is, in our opinion an unwarranted intrusion into free enterprise. Several on air monitoring services now exist that capture over the air music play lists after they are broadcast. Radio stations routinely subscribe to these services to compare their play lists to those on other stations with similar formats. If the FCC wishes to audit the number of songs being played over the air on particular stations, they can obtain this information through these same monitoring services.

We believe requiring radio stations to regularly report songs they play or to disclose proprietary formulas for selecting music or requiring a local music quota is overreaching and an inappropriate regulatory function of the FCC.

Ms. Marlene Dortch, Secretary
Federal Communications Commission
April 28, 2008

We hope the Federal Communications Commission will seriously consider our response to the issues associated with the Notice of Proposed Rulemaking MB Docket 04-233 and that our views will be weighed carefully before any further action is taken or made final with respect to these proposals.

Sincerely,

G. Craig Hanson, President
Simmons Media

515 South 700 East
Suite 1-C
Salt Lake City, Utah 84102
(801) 524-2600