

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY.....	iii
I. INTRODUCTION.....	2
II. THE COMMISSION’S PROPOSALS TO REQUIRE THE CREATION OF COMMUNITY ADVISORY BOARDS AND TO REIMPOSE ITS LICENSE RENEWAL PROGRAMMING GUIDELINES ARE REASONABLE MEASURES TO IMPROVE THE PROVISION OF LOCAL PUBLIC SERVICE PROGRAMMING.....	3
A. Community Advisory Boards.....	4
B. Renewal Processing Guidelines.....	6
C. AM Daytime Station Use of FM Translators	6
III. THE PROPOSALS TO REQUIRE 24 HOUR STATION STAFFING AND MAIN STUDIO RELOCATIONS WOULD IMPOSE UNREASONABLE EXPENSES UPON BROADCASTERS WITH NO OFFSETTING PUBLIC INTEREST BENEFIT.....	7
A. 24 Hour Staffing Requirement.....	7
B. Main Studio Relocations.....	8
IV. CONCLUSION.....	9

EXECUTIVE SUMMARY

The National Association of Black Owned Broadcasters, Inc. (“NABOB”), NABOB supports the Commission’s efforts in this proceeding to ensure that all broadcast stations provide service that addresses the needs and interests of their communities of license. In particular, NABOB supports the goal of requiring specific action by stations to demonstrate that they are reaching out to the diverse constituencies within their communities of license. NABOB supports the requirement to create community boards to provide the type of interaction between stations and communities that the former ascertainment requirement was designed to provide. NABOB also supports the re-imposition of the license renewal local programming processing guidelines.

Broadcast industry consolidation has resulted in many stations being operated as “broadcast jukeboxes,” broadcasting an endless supply of music or other entertainment programming, but providing no local service to their communities. For some audience segments, particularly younger demographics, a steady diet of music with no local public service programming can lead to increased audience ratings, but it fails to serve the needs of such an audience and fails to serve the overriding purpose of the Communications Act, i.e., to provide news, information and public affairs programming to all segments of the community. The “disengaged” music format favored by the station consolidators places those stations seeking to provide such news, information and public affairs programming at a competitive disadvantage. Therefore, a return to the Commission’s previous programming guidelines that require all stations to provide news, public affairs and information is welcomed by broadcasters committed to serving their local communities.

On the other hand, NABOB cannot support the proposals to require 24 hour staffing for all broadcast facilities or the requirement that the main studio for all broadcast stations be in the community of license. Regarding the staffing proposal, the concern the Commission has identified, responding to severe weather and other emergency situations, is not a 24 hour a day problem, and broadcasters should not be put to the considerable expense of a 24 hour a day solution. With respect to the main studio proposal, requiring stations to relocate their main studios would impose severe costs on stations with no clear public interest programming benefit. The other proposals, for community advisory boards and license renewal programming guidelines have a much greater potential for improving station programming than requiring the move of main studios. NABOB submits that the Commission should not place form over function in this instance. It is much more important to focus on the type and quantity of local programming that stations provide than to focus on the location from which the programming is provided.

**FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Broadcast Localism) MB Docket No. 04-233
)

To: The Commission

**COMMENTS
OF
THE NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS, INC.**

The National Association of Black Owned Broadcasters, Inc. (“NABOB”), by its attorneys, hereby submits its Comments in the above-captioned proceeding. NABOB supports the Commission’s efforts in this proceeding to ensure that all broadcast stations provide service that addresses the needs and interests of their communities of license. In particular, NABOB supports the goal of requiring specific action by stations to demonstrate that they are reaching out to the diverse constituencies within their communities of license.

NABOB supports the requirement to create community advisory boards to provide the type of interaction between stations and communities that the former ascertainment requirement was designed to provide. NABOB also supports the re-imposition of the license renewal local programming processing guidelines. NABOB’s member stations and good broadcasters everywhere spend a great deal of time and resources serving their local communities, and meeting the processing guidelines is consistent with the programming good broadcasters are already providing. On the other hand, NABOB cannot support the proposals to require 24 hour staffing for all broadcast facilities or

the requirement that the main studio for all broadcast stations be in the community of license.

I. INTRODUCTION

NABOB is the only trade association representing the interests of the 240 African American owned radio stations and 10 African American owned television stations in the United States. Founded in 1976, one of NABOB's principal objectives has been to promote minority ownership of broadcast facilities. In furtherance of that objective, NABOB has opposed the relaxation of the Commission's ownership rules, because that relaxation has permitted the excessive consolidation of the ownership of broadcast facilities by a small group of large corporations and has pushed numerous minority owned companies out of the industry. In recent years, NABOB has submitted numerous comments to the Commission proposing the retention of rules that preclude excessive consolidation of ownership, and proposing rule and policy changes that would promote minority ownership of broadcast facilities.¹

In addition to leading to a significant decline in the ownership of broadcast stations by minorities, consolidation has also resulted in many stations being owned by distant owners having no contact with the local community. As a result, many stations have been operated as "broadcast juke boxes," broadcasting an endless supply of music or other entertainment programming, but providing no local service to their communities. For some audience segments, particularly younger

¹ See, *In the Matter of 2002 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*, 18 FCC Rcd 13620, MB Docket Nos. 02-277, 01-235, 01-317, 00-244, Comments of NABOB and Rainbow/PUSH, January 2, 2003; Petition for Reconsideration of NABOB and Rainbow/PUSH, September 4, 2003; Comments of NABOB and Rainbow/PUSH, October 23, 2006; Comments of NABOB and Rainbow/PUSH, October 1, 2007.

demographics, a steady diet of music with no local public service programming can lead to increased audience ratings, but it fails to serve the needs of such an audience and fails to serve the overriding purpose of the Communications Act, i.e., to provide news, information and public affairs programming to all segments of the community. The “disengaged” music format stations favored by the station consolidators place those stations seeking to provide such news, information and public affairs programming at a competitive disadvantage. Therefore, a return to the Commission’s previous programming guidelines that require all stations to provide news, public affairs and information is welcomed by broadcasters committed to serving their local communities.

II. THE COMMISSION’S PROPOSALS TO REQUIRE THE CREATION OF COMMUNITY ADVISORY BOARDS AND TO REIMPOSE ITS LICENSE RENEWAL PROGRAMMING GUIDELINES ARE REASONABLE MEASURES TO IMPROVE THE PROVISION OF LOCAL PUBLIC SERVICE PROGRAMMING

In the NPRM, the Commission recognized that some broadcasters devote significant amounts of time and resources to airing “programming that is responsive to the needs and interests of their communities of license.”² The Commission also recognized that many commenters have raised serious concerns that broadcasters’ efforts, as a general matter, fall far short from what they should be.³ The Commission therefore seeks in the NPRM to focus on methods for ensuring that licensees provide community-responsive programming, such as news, public affairs and programming targeted to the particular needs or interests of the diverse segments of the public in their service areas.⁴ The Commission noted that “the centerpiece of localism is the communication between broadcasters and

² *Broadcast Localism*, MB Docket No. 04-233, FCC 07-218, released January 24, 2008 (“*Localism*”), par. 1.

³ *Id.* at par. 2.

the members of the public that they are licensed to serve.”⁵

The Commission concluded that certain modifications to its rules, policies and practices may be necessary to address the deficiencies of many broadcasters in meeting their obligations to serve their local communities. The Commission stated that the proposed changes are intended to provide viewers and listeners with greater access to locally responsive programming including, but not limited to local news and public affairs programming. The Commission added that the proposed rule, policy and practice modifications are also designed to promote diversity by increasing and expanding broadcast ownership opportunities for minority- and women-owned businesses and small businesses.⁶

NABOB concurs with the Commission’s analysis of the unsatisfactory level of local service provided by some broadcasters. Therefore, NABOB supports many of the proposals that the Commission has proposed. However, NABOB submits that some of the proposals would impose severe costs upon broadcasters without providing the public service benefits contemplated by the Commission.

A. Community Advisory Boards

The Commission states that some commenters have proposed that broadcasters be required to create permanent community advisory boards.⁷ The Commission explains that the objective of this

⁴ *Id.* at par. 2.

⁵ *Id.* at par. 2.

⁶ *Id.* at par. 3.

⁷ *Id.* at par. 14, n. 14, citing the statement of Joe Linson, Vice President of the San Antonio Branch of the NAACP (October 20, 2006).

requirement would be to serve the purpose once performed by the ascertainment requirement.⁸ That purpose would be to ensure that the licensee is in contact with all of the diverse groups within its service area to ascertain the programming needs and interests of those groups.

NABOB has long recognized that the elimination of the ascertainment requirement has been detrimental to the interests of minorities and other segments of many local communities. In markets where NABOB member stations operate, these stations serve a vital role in providing a place where members of minority communities can have a voice in their local communities and also receive information about matters of need or interest to their communities. However, there are a vast number of markets without any NABOB member stations or any stations serving the needs and interests of the minority community. Previously, in such markets, the needs and interests of the minority communities would have been completely ignored were it not for the ascertainment requirement. After the ascertainment requirement was eliminated, these minority communities were soon ignored.

The Commission's proposal to require the creation of permanent community advisory boards has the potential to restore the connection between minority communities and non-minority owned stations that was lost with the elimination of the ascertainment requirement. With respect to how the members of the community board should be chosen, NABOB submits that the board should be chosen from representatives of all of the groups previously identified in the ascertainment requirement.⁹ Such a membership requirement tracks the purpose of the ascertainment requirement and prevents the possibility that some licensees might choose their community boards from a narrow

⁸ *Id.* at par. 25.

⁹ *Id.* at n. 50, (listing the groups required under the ascertainment requirement).

segment of their communities.

B. Renewal Processing Guidelines

NABOB supports the Commission's proposal to return to renewal processing guidelines for specific programming that serves the needs and interests of the community. The purpose of the previous ascertainment requirement and the proposed community advisory boards is to have a positive effect on programming. At some point, the Commission must determine whether the community advisory boards and other measures are producing the desired effect. Reinstatement of the Commission's former renewal processing guidelines is a reasonable method for determining whether licensees are providing programming that responds to the needs and interests of their service areas.

C. AM Daytime Station Use of FM Translators

NABOB continues to support allowing AM daytime stations to use FM translators. As the Commission noted in the NPRM, NABOB has supported this proposal since it was first proposed by the Commission.¹⁰

¹⁰ *Id.* at par. 53, n. 135, citing Reply Comments of NABOB and MMTC, September 6, 2006, at 3-4.

III. THE PROPOSALS TO REQUIRE 24 HOUR STATION STAFFING AND MAIN STUDIO RELOCATIONS WOULD IMPOSE UNREASONABLE EXPENSES UPON BROADCASTERS WITH NO OFFSETTING PUBLIC INTEREST BENEFIT

A. 24 Hour Staffing Requirement

The Commission has proposed imposing a requirement that licensees maintain a physical presence at each radio broadcasting facility during all hours of operation.¹¹ NABOB understands the concerns that have caused the Commission to consider imposing a 24 hour per day staffing requirement on stations. The Commission has received comments complaining that in many areas, particularly rural areas, stations are operated remotely with no station personnel available in times of emergency. However, requiring all broadcasters to have 24 hour staffing at each broadcast facility is not the best solution to this concern.

The Commission has expressed concern about the ability of stations to provide programming in times of severe weather and emergency. However, a 24 hour daily staffing requirement appears to be an excessively expensive requirement to deal with very infrequent situations. A more reasonable approach to achieve the same objective may be to require each station to develop and file with the Commission a description of its proposed emergency operating plan. For example, stations might be required to identify in such plans: the person(s) responsible for taking control of the broadcast facility in times of severe weather or other emergencies, the length of time that it will take such person(s) to arrive at the station (with the Commission setting a maximum amount of time allowed) and a description of what actions that person will be capable of performing. The concern the Commission has identified, responding to severe weather and other emergency situations, is not a 24 hour a day problem, and broadcasters should not be put to the considerable expense of a 24 hour a

day solution. To the extent the Commission may view the 24 hour staffing issue as helping to address the requirement to provide local programming, the other initiatives, which NABOB has supported above, are much more likely to increase the provision of programming that serves the local community.

B. Main Studio Relocations

As with the proposal to require 24 hour staffing, the proposal to require the placement of main studios within the community of license would impose tremendous costs on broadcasters without any appreciable benefit to the public. Under the current rule, a licensee may locate its main studio within either: (a) the principal community contour of any station, of any service, licensed to its community of license, or (b) not more than 25 miles from the reference coordinates of the center of its community of license, whichever the licensee chooses.¹²

Under the current main studio rule, many licensees have invested significant sums in building main studios outside of their communities of license. The reasons for placing such studios outside of the community of license can be varied. Sometimes a licensee has a cluster of stations licensed to different communities in an area and desires to create a main studio location from which all of the stations can operate. Sometimes a standalone station is licensed to a community which is a suburb of a larger community. These are valid reasons for locating the main studio outside of the community of license, and requiring broadcasters to now move their main studios to their communities of license would impose severe financial burdens on some broadcasters. Moreover, there appears to be very

¹¹ *Id.* at par. 29.

¹² *Id.* at par. 41.

little public interest benefit that would accrue from imposing such a high cost.

The Commission's goal in requiring all licensees to have main studios within their communities of license is to cause the licensees to provide better local programming to their communities. The creation of community advisory boards and the reimposition of license renewal processing guidelines, go directly to the issues of requiring communication with the local community, requiring programming that serves the needs and interests of the local community, and providing a method for measuring the licensee's compliance with its local programming responsibility. Requiring stations to relocate their main studios would impose severe costs on stations, possibly much greater costs than the costs of community boards and local programming minimums, with no clear public interest programming benefit. NABOB submits that the Commission should not place form over function in this instance. It is much more important to focus on the type and quantity of local programming that stations provide rather than the location from which the programming is provided.

IV. CONCLUSION

NABOB supports the Commission's objectives in this proceeding. NABOB's members are committed to providing service to their local communities and support measures reasonably calculated to ensure that all broadcasters serve their local communities. Therefore, we support the requirement to create community advisory boards and the reimposition of the license renewal local programming guidelines. And, NABOB supports allowing AM daytime stations to use FM translators. However, the requirement to staff every station 24 hours per day and to move all main

studios to the community of license would impose excessive costs on broadcasters without appreciably improving the programming service provided to the public.

Respectfully submitted,

**THE NATIONAL ASSOCIATION OF BLACK
OWNED BROADCASTERS, INC.**

By: /s/ James L. Winston

James L. Winston
Executive Director and
General Counsel
National Association of Black Owned
Broadcasters, Inc.
1155 Connecticut Avenue, N.W.
Suite 600
Washington, D.C. 20036
(202) 463-8970

/s/ Lois E. Wright

Lois E. Wright
Counsel to the NABOB Board of
Directors
Executive Vice President and Corporate Counsel
Inner City Broadcasting Corporation
Three Park Avenue, 40th Floor
New York, NY 10016
(212) 592-0499

April 28, 2008