



## TABLE OF CONTENTS

|   | Page |
|---|------|
| I. INTRODUCTION AND SUMMARY .....   | 1    |
| II. REQUIRING STATIONS TO CREATE COMMUNITY ADVISORY<br>BOARDS WOULD BE UNNECESSARY, IMPRACTICAL, AND<br>SEVERELY BURDENSOME.....  | 5    |
| A. Instituting Mandatory Community Outreach Programs Would Be<br>Superfluous Because Television Broadcasters Like Belo Already<br>Actively Reach Out to Their Communities .....   | 6    |
| B. A Community Advisory Board Mandate Would Be Akin to<br>Regulations the Commission Correctly Abandoned a Quarter<br>Century Ago, and the FCC Has Not Established Any Basis for<br>Reinstating This Type of Regulation Now ..... | 12   |
| C. Community Advisory Boards Would Not Be Effective or Practical<br>Means for Ascertaining Community Issues.....  | 17   |
| D. Compelling Stations to Use Community Advisory Boards<br>Potentially Would Conflict With Their First Amendment Rights .....   | 21   |
| III. REINSTATING QUANTITATIVE LOCAL PROGRAMMING<br>GUIDELINES WOULD UNDERMINE THE FCC’S LOCALISM<br>GOALS .....   | 24   |
| A. The Wealth of Local Programming Currently Available from<br>Broadcasters Like Belo Attests to the Effectiveness of the<br>Marketplace in Promoting Localism.....   | 25   |
| B. The FCC Correctly Determined 25 Years Ago—And It Remains<br>the Case Today—That Local Programming Guidelines Are Not<br>Needed and Counterproductive.....  | 35   |
| C. Imposing Local Programming Minimums Would Be Inconsistent<br>With the First Amendment and the FCC’s Longstanding Policy of<br>Deferring to the Good Faith Discretion of Broadcasters in Making<br>Programming Choices.....     | 38   |
| D. The FCC Can Promote the Production of Local Programming by<br>Supporting Expanded Cable and Satellite Carriage Rights for<br>Digital Multicast Channels .....  | 41   |
| IV. REINSTATING THE FORMER MAIN STUDIO RULE WOULD NOT<br>BENEFIT LOCAL COMMUNITIES AND WOULD NEEDLESSLY<br>DRAIN STATION RESOURCES.....   | 43   |
| V. CONCLUSION.....  | 47   |



and practically.

In particular, Belo believes that the FCC's proposals to require stations to establish permanent community advisory boards ("CABs") and to impose content-based program reporting "guidelines" on broadcasters as a condition of their license renewals would place unjustified burdens on licensees. Similarly, re-adopting the long defunct requirement that every broadcaster operate a main studio within the boundaries of its community of license would not improve local programming and would provide no real benefit to community residents. Adoption of any of these proposals would cause an additional strain on the resources of the broadcast industry, which already faces enormous financial challenges, and impair the ability of stations to provide programming addressing local concerns.

Belo considers localism and community service to be the foundation of its business model.<sup>3</sup> Indeed, broadcasters' ability to serve their communities is essential to their survival in today's fiercely competitive information marketplace. Accordingly, Belo and its television stations have been at the forefront of expanding and improving local news and informational coverage, political programming, and community service initiatives. As a result of these efforts, the company repeatedly has been recognized at both the local and national levels, earning the most prestigious awards in the industry. In order to maintain this high caliber of service, Belo has implemented a wide range of

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<sup>3</sup> Belo's commitment to localism began when it published its very first newspaper in 1842. In 1950, the company received its first television license to operate WFAA-TV in Dallas-Fort Worth. In addition to WFAA, Belo now owns nineteen other television stations across the country, reaching nearly 14% of U.S. television households. In addition to its television properties, Belo for many years has been involved in the newspaper industry, first as a publisher of *The Dallas Morning News* and, later, the *Providence Journal* in Rhode Island, the *Riverside, California Press-Enterprise*, and the *Denton Record-Chronicle* in Denton, Texas. In February 2008, Belo completed a spin-off transaction in which the newspaper operations and certain other assets were transferred to the new A.H. Belo Corporation, a separate public company.

formal and informal practices that ensure that each of its stations remains acutely aware of the unique needs and interests of the specific community it serves. These voluntary mechanisms have a direct and substantial effect on local programming decisions at Belo stations on virtually a daily basis.

Belo submits that the performance of its television stations in identifying and responding to local concerns is representative of the experiences of many other broadcasters throughout this country. Thus, despite the vague and unsubstantiated concerns that have been raised in this proceeding, there is no localism problem in the current marketplace warranting a return to a regulatory approach abandoned decades ago as unnecessary and counterproductive. Notably, the Commission affirmatively decided decades ago to eliminate rules nearly identical to each of the key regulatory proposals that it now seeks to reinstate in this proceeding. The sound reasoning underlying the agency's previous decisions remains equally—if not even more—valid today.

The entire broadcast industry, which provides exemplary local service, should not be penalized with the imposition of onerous government regulation for the alleged, and generally undocumented, shortcomings of a few stations. Moreover, the “one-size-fits-all” CAB requirement proposed in the *Localism Report* needlessly would thwart the flexibility that stations need to best serve their markets. Belo television stations have developed varying ascertainment practices over time depending on individual station characteristics and the specific desires of their viewing audiences. What works for one station or in one community may not be practical or desired by the viewing audience in another. In any case, the FCC's mandatory CAB proposal suffers from a number of ambiguities and impracticalities that would make compliance highly burdensome.

Similarly, if the agency adopts its proposed renewal processing “guidelines,” it effectively would compel all stations to air programming fitting into the same list of pre-defined categories. Those that do not would face the severe risk of having their renewal applications denied or substantially delayed. Thus, implementing this proposal would be more likely to result in homogenized and duplicative programming than to diversify local content. Further, while Belo and many other broadcasters devote the substantial resources required to produce high-quality local news, it simply is not practical for all stations to do so. Nor is it necessary, given that the demand for local news coverage already is being fulfilled by multiple broadcasters in virtually all markets.

What is more, both the CAB and the programming guideline proposals would jeopardize core first Amendment values and would raise a host of administrative law issues. Belo submits that the Commission could foster the development of locally-oriented programming much more effectively by supporting the extension of its must-carry rules to the carriage of digital multicast channels.

Finally, Belo strongly opposes a return to the former main studio rule. This proposal has no demonstrable connection to the advancement of the agency’s localism objectives. Belo does not believe that the few miles that separate many broadcasters from the boundaries of their licensed communities has any demonstrable effect on local news coverage or other locally-originated programming. At worst, re-adopting the former restriction actually would hinder local programming efforts by requiring stations to divert resources from localism efforts to constructing and maintaining new, and in many cases duplicative, facilities. Re-regulation in this area would be particularly detrimental to duopoly stations that have consolidated their main studios in order to

conserve resources that can be better devoted to local news and other community services.

In sum, Belo submits that the FCC should continue to rely on natural marketplace incentives, recognized journalistic principles, and already existing regulations, which empower local broadcasters to make their own judgments as to how best to serve their local communities. However, if the Commission chooses to proceed with further regulation in this area, it should do so extremely cautiously and with restraint—leaving stations with ample discretion and defining “local programming” broadly to recognize the many ways in which a station may address the needs and interests of its audience.

## **II. REQUIRING STATIONS TO CREATE COMMUNITY ADVISORY BOARDS WOULD BE UNNECESSARY, IMPRACTICAL, AND SEVERELY BURDENSOME.**

In the *Localism Report*, the Commission tentatively concludes that every broadcast licensee should convene a permanent advisory board of “officials and other leaders from the service area of its broadcast station.”<sup>4</sup> Ostensibly, these community advisory boards would “promote both localism and diversity.”<sup>5</sup> Belo believes that this proposal, although premised on laudable objectives, is ill-advised. Mandating CABs unnecessarily would undermine the ongoing efforts of broadcasters to serve their communities. This type of government intervention into the programming decisions of television licensees was soundly rejected by the Commission more than a quarter century ago. The reasons that led to the demise of formal “ascertainment” requirements in the early 1980s are still valid today, and the record before the FCC provides no new

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<sup>4</sup> *Localism Report* ¶ 26.

<sup>5</sup> *Id.*

justification for the re-imposition of similar requirements now. In compelling broadcasters to create and maintain CABs, moreover, the agency would have to ignore the myriad practical difficulties inherent in such a body and overlook the potential First Amendment problems that such a requirement would pose.

**A. Instituting Mandatory Community Outreach Programs Would Be Superfluous Because Television Broadcasters Like Belo Already Actively Reach Out to Their Communities.**

Belo and other television broadcasters are acutely aware that good business practices as well as universally accepted standards of journalism demand that they stay in touch with and respond to the concerns of their communities. The Commission itself long ago recognized that “[b]roadcasters do not operate in a vacuum and . . . it is in the economic best interest of the licensee to stay informed about the needs and interests of its community.”<sup>6</sup> The FCC also concluded more than two decades ago that formal ascertainment dictated by federal regulation is not the only, nor the best, way to achieve this critical objective. Depending on the resources available to them and the characteristics of their individual communities, stations are successfully using a variety of methods to ensure that they identify and cover the topics that are most important to their local viewers.

Indeed, the *Localism Report* lists numerous specific examples of the ways in which broadcasters are communicating with their audiences and responding to

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<sup>6</sup> *The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations*, Report and Order, 98 FCC 2d 1076, 1100-01 (¶ 54) (1984) (“*TV Deregulation Order*”). Similarly, former longtime FCC Commissioner James Quello stated recently that “[l]ocalism is the very lifeblood of broadcasting. . . . [N]ot only the success of broadcasters, but their very survival, relies on serving and attracting their local audiences.” James H. Quello, *De-Regulate, Don’t Re-Regulate*, *Broadcasting and Cable*, Mar. 17, 2008.

community needs without government regulation.<sup>7</sup> These efforts range from formal ascertainment meetings and interviews with community leaders, to encouraging audience participation during local public affairs programs, to soliciting story ideas from individual viewers. As the Commission states, the record indicates “that some broadcasters engage in substantial, inventive, and ongoing efforts to identify the needs and interests of the members of their communities of license as a first step in formulating and airing locally-oriented, community-responsive programming that will meet those needs.”<sup>8</sup>

This long has been the case for Belo television stations. As an initial matter, Belo stations engage in a wide variety of formal—*i.e.*, regularly scheduled and specifically structured—ascertainment efforts. These activities have been tailored by individual stations to identify and address specific community needs in the most effective manner possible. While virtually all Belo stations incorporate some type of formal ascertainment into their practices, representative examples include the following:

- KING-TV, Seattle, Washington, teams with other broadcasters in the Puget Sound region to hold monthly ascertainment meetings with different community representatives. The station’s news department also regularly hosts “News-Maker Breakfasts,” where leaders from the area participate in off-the-record discussions about issues of community concern.
- Nine months out of the year, WVEC-TV, Hampton, Virginia, holds “Community Roundtables,” at which a dozen or more leaders from a particular community segment are invited to the station to discuss issues facing them. This past month, WVEC personnel met with representatives of 14 agencies that advocate on behalf of the community’s senior citizens.
- KGW, Portland, Oregon, also holds regularly scheduled ascertainment meetings. Just this past month, the station met with 25 community leaders at its studios. The event included small group discussions and the submission of responses to a community issues questionnaire. Additionally, KGW’s

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<sup>7</sup> *Localism Report* ¶ 13.

<sup>8</sup> *Id.*

management team performs up to 20 one-on-one interviews each quarter with community leaders, including first responders, non-profits, religious leaders, citizen activists, and individuals from the business community.

- KHOU-TV, Houston, Texas, joins with other radio and television stations in its market for ascertainment meetings with community leaders over a two-day period each quarter. Each quarterly meeting involves 24 individuals.
- At KMOV, St. Louis, Missouri, executives and managers conduct quarterly ascertainment meetings. At the start of the next quarter, the station's Manager of Programming and Production and News Director carefully review the reports from these meetings. Based on the topics addressed, they then assign producers subjects to be covered on the station's weekly public affairs program, "*Extra Edition*," as well as its monthly public affairs program, "*Eye on St. Louis*."
- WFAA-TV, Dallas, Texas, has a dedicated community service department, which meets regularly with community leaders and non-profit groups to ascertain issues of community concern.
- KTVK, Phoenix, Arizona, has a Community Relations Manager who meets with various community stakeholders each month. Information from these meetings is then communicated to the News Department for purposes of generating story ideas.

These activities are not just for show. The information gathered from these regularly scheduled meetings and other more informal efforts directly affect local programming. By way of example, KHOU staff attended a community ascertainment meeting this past March at which representatives from the American Lung Association spoke about the air quality in Houston and possible new standards being considered by the Environmental Protection Agency. The next day, KHOU aired a story on the proposed new standards and their potential effect on Houston. After a recent meeting between KTVK's management and community relations department and a local Hispanic advocacy group, the station aired a story about the organization's affordable housing program. Similarly, ideas generated from recent ascertainment activities at KMOV led the station to air a story on the state legislature's plan to cut pay for Missouri teachers.

In addition to relying on their formal ascertainment efforts, Belo stations stay apprised of the issues affecting their communities through daily contact with community leaders and other residents.<sup>9</sup> In order to ensure that its audiences receive the highest caliber of up-to-the-minute local news, Belo requires station reporters and other staff to continuously remain in contact with political and other community leaders. As a result of the dialogue that is created with local representatives, many of these same individuals, in turn, often contact the stations to request coverage of a story or event. By way of example, WVEC reports that local organizations contact the station on virtually a daily basis seeking publicity for civic and charitable activities. As a result, the station's noon newscast almost always includes a segment highlighting an ongoing or upcoming community event. In Phoenix, firefighters recently reached out to station KTVK when funding for a program supporting affordable fencing for local swimming pools was in jeopardy. After the station aired a story on the topic, enough funding was generated to keep the program alive.

Similarly, Belo station management and personnel maintain a presence in their communities by volunteering for local organizations and participating in a plethora of local public service initiatives. These activities raise awareness about a wide range of local issues and directly affect station programming. For example, an employee of KING recently gained a heightened understanding of the importance of early childhood education while serving on the board of Seeds of Compassion, a Seattle non-profit organization devoted to a variety of community issues. As a result, the station now

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<sup>9</sup> Belo station personnel also stay apprised of local developments simply by making use of the same resources as other community members: "Licensees, like other citizens, are exposed to newspapers, newsletters, town meetings and other community activities, all of which provide indications of those issues that are important to the community." *Localism Report* ¶ 13.

produces two stories each week regarding early childhood learning issues. Likewise, based on their longstanding relationships with KTVK, Phoenix area food banks contacted the station to expose the extreme need for donations in recent months, which prompted the station to air several stories about the shortages facing these organizations.

Further, like a growing number of broadcasters, Belo stations increasingly make use of the Internet and other interactive resources to reach out to local viewers. For example, both KING and KHOU have “Your News” sections on their Web sites for submission of story ideas, viewer photos, and video.<sup>10</sup> The “Interactive” sections of the Web sites for stations KGW, WVEC, and WCNC-TV, Charlotte, North Carolina serve a similar purpose.<sup>11</sup> Belo also is fostering the creation of local interactive communities by dedicating portions of station Web sites to “neighborhood bulletin boards” and news forums, where viewers can interact with each other as well as the station to discuss programming and other concerns.<sup>12</sup> News staff often use these discussions as a basis for story ideas. In addition, Belo stations continually conduct viewer surveys and polls in order to get community feedback on recently aired news stories and other programming.<sup>13</sup>

Finally, like most broadcasters today, Belo television stations have dedicated

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<sup>10</sup> KING, <http://www.king5.com/interact/yournews.html> (last visited April 22, 2008); KHOU, <http://www.khou.com/yournews/> (last visited April 22, 2008).

<sup>11</sup> KGW, <http://www.kgw.com/> (last visited April 22, 2008); WCNC, <http://www.wcnc.com/mobile/about.htm> (last visited April 22, 2008); WVEC, <http://www.wvec.com/interactive.html> (last visited April 22, 2008).

<sup>12</sup> See, e.g., KMSB, <http://www.fox11az.com/forums/> (last visited April 22, 2008); WHAS, <http://www.whas11.com/forums/index.php> (last visited April 22, 2008); WVEC, <http://www.wvec.com/forums/index.php> (last visited April 22, 2008).

<sup>13</sup> See, e.g., KMOV, <http://www.kmov.com/textsurveys/> (last visited April 22, 2008); WFAA, <http://www.wfaa.com/surveys/> (last visited April 22, 2008).

news tip hotlines, e-mail addresses, and fax lines that are promoted on-screen during programming as well as on station Web sites.<sup>14</sup> These simple features have proven to be rich sources for determining community concerns and for generating stories. Belo stations report that viewer tips from the phone, e-mail, and other means inform their local news and public affairs coverage everyday. Provided below are just a few of the innumerable examples of this phenomenon:

- When, after Hurricane Katrina, WWL-TV, New Orleans, Louisiana, received both a viewer e-mail and phone call about possible levee leaks, the station sent out a crew to investigate and aired a story that included information from the Army Corps of Engineers explaining why the leaks were normal and not cause for concern.
- WWL received a viewer email raising concerns about the plans of the Archdiocese of New Orleans to close and merge certain area churches and parishes. The station responded by clarifying the plan on the air and on [wwltv.com](http://wwltv.com). In addition, the station sought viewer comments on the closings, some of which were posted on-air during a newscast.
- WHAS-TV, Louisville, Kentucky, recently received an e-mail tip about a local preschool that was employing workers with criminal records. The station investigated and aired a story the very same night, which led to a state investigation and the eventual shut down of the school.
- KMOV received a phone tip from a viewer observing local Wal-Mart workers discarding what appeared to be usable food. The station aired an investigative piece on the store's practices, which led the Governor and two Congressmen to send letters to Wal-Mart requesting that the wasteful practice be stopped.
- KTVK airs an investigative news report, entitled "3 on Your Side," everyday on the station's "Good Evening Arizona" program. These segments are almost entirely driven by viewer e-mails. Viewers contact the station with consumer problems, and the station airs investigative reports with potential solutions.

Belo submits that the voluntary ascertainment efforts its individual stations have

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<sup>14</sup> See, e.g., KHOU, <http://www.khou.com/insidekhou/contactus/preemail.html> (last visited April 22, 2008); KVUE, <http://www.kvue.com/aboutkvue/> (last visited April 22, 2008); WCNC, <http://www.wcnc.com/investigators/tips/> (last visited April 22, 2008); WWL, [http://www.wwltv.com/helpcenter/contactus/contact\\_us.html](http://www.wwltv.com/helpcenter/contactus/contact_us.html) (last visited April 22, 2008).

developed over time enable them to reach out to local audiences in a far more inclusive, convenient, and effective manner than would the periodic convening of a government-mandated community advisory board.

**B. A Community Advisory Board Mandate Would Be Akin to Regulations the Commission Correctly Abandoned a Quarter Century Ago, and the FCC Has Not Established Any Basis for Reinstating This Type of Regulation Now.**

The Commission eliminated formal ascertainment requirements almost 25 years ago.<sup>15</sup> The *Localism Report* states that the agency has decided not to re-impose these obligations in this proceeding because it continues to believe that the potential benefits would not justify the costs.<sup>16</sup> Belo submits, however, that requiring licensees to form and consult with CABs would prove substantially more burdensome than the ascertainment regime of the 1960s and 1970s. The current proposal also would be counterproductive to the Commission's localism and diversity goals. Thus, the same rationales that led the FCC to abandon formal ascertainment in 1984 would apply with even greater force to a CAB requirement. Further, because the *Localism Report* fails to establish a record to support this proposed re-regulation, reinstating any type of formalized procedures for ascertainment of community concerns would break with well-established principles of administrative law.

When the Commission decided to repeal its former ascertainment requirements, it recognized that "market forces provide[d] adequate incentives for licensees to remain

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<sup>15</sup> *TV Deregulation Order* at 1098-1101 (¶¶ 47-54). These ascertainment rules had required periodic consultations with leaders in several specified categories or segments thought to be present in most communities as well as surveys of members of the general public in the station's service area. See *Ascertainment of Community Problems by Broadcast Applicants*, 57 FCC 2d 418 (1976).

<sup>16</sup> *Localism Report* ¶ 25.

familiar with their communities.”<sup>17</sup> The agency further predicted that “future market forces, resulting from increased competition, will continue to require licensees to be aware of the needs of their communities.”<sup>18</sup> In light of this “commercial reality,” the FCC concluded that “the need for [its] ascertainment regulation ha[d] declined and [would] continue to decline.”<sup>19</sup>

In the intervening years, the Commission’s prognostications have proven even more accurate than it could have imagined. As has been well-documented in a number of proceedings before the FCC,<sup>20</sup> broadcasters are now operating in the most abundant and intensely competitive media marketplace in history. While stations still compete with the long-established local news providers that existed in 1984—newspapers and other local broadcast stations—they also now face an unprecedented number and variety of new media rivals. In particular, the Internet has transcended the traditional means of distributing local news. In addition to the robust and around-the-clock Internet operations that have been established by the traditional media and a host of other large-scale competitors, the Internet has empowered smaller organizations, and even individuals, to provide coverage and commentary on local events and issues. Due to the ease and affordability of establishing a Web page or blog, any community member with the time and inclination now can contribute to local journalism.

Moreover, broadcasters increasingly are threatened by the cable industry, which

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<sup>17</sup> *TV Deregulation Order* at 1099 (¶ 49).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> See, e.g. *2002 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, 13667 (¶ 128) (2003).

controls broadcaster access to cable subscribers and has become a powerful provider of local content in its own right. As the FCC reported recently, there are now more than 100 local or regional cable networks in the United States.<sup>21</sup> More than half of these networks are vertically integrated with cable operators.<sup>22</sup> To make those channels successful, the cable industry has the advantages of a dual revenue stream consisting of both advertising and subscription revenues as well as a far less restrictive regulatory environment than broadcasters.

The *Localism Report* is devoid of any concrete evidence suggesting that broadcasters no longer face adequate marketplace incentives to reach out to their communities. In fact, the *Report* does not even broach the competitive developments that have occurred in the media marketplace over the past quarter century. Although the Commission asserts that “many commenters see a need for additional efforts by broadcasters to identify the needs and interests of their communities of license,”<sup>23</sup> this statement is not supported by any specific examples or concrete evidence.

In deciding to jettison its former ascertainment requirements as unnecessary, the FCC also found in 1984 that these obligations imposed unjustifiable costs on broadcasters. The Commission cited an independent study finding that the annual mean cost of compliance with the ascertainment requirements was more than \$6,500 per licensee.<sup>24</sup> Adjusted for inflation, that cost would be approximately \$13,500 today.<sup>25</sup>

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<sup>21</sup> News Release, Federal Communications Commission, *FCC Adopts 13th Annual Report to Congress on Video Competition and Notice of Inquiry for the 14th Annual Report*, at 4 (Nov. 27, 2007).

<sup>22</sup> *Id.*

<sup>23</sup> *Localism Report* ¶ 14.

<sup>24</sup> *TV Deregulation Order* at 1099 (¶ 51).

The agency further estimated that broadcast licensees lost almost 67,000 work hours per year dealing with the former ascertainment standards, while the Commission itself expended over 760 work hours per year administering the regulations.<sup>26</sup> Litigation over the details of ascertainment obligations inflicted additional costs on licensees, the Commission, and taxpayers.<sup>27</sup> The ironic effect of these expenditures was clear—resources that could have been used to expand locally-aimed program offerings instead were being used to “satisfy procedural requirements.”<sup>28</sup> In other words, local programming suffered because of the formal ascertainment requirements, rather than benefiting from them.

The *Localism Report* provides no reason to believe that the current CAB proposal would be any less expensive or burdensome to licensees today than the previous ascertainment regime. To the contrary, the currently proposed CAB obligation likely would prove even *more* costly than the prior regulations. First, as was the case under the former ascertainment regime, a station would incur substantial expenses in attempting to form a CAB.<sup>29</sup> Identifying appropriate leaders to consult for such boards is a difficult and time-consuming task. What is more, as demonstrated in detail in the following section, the specific characteristics of the CAB requirement now envisioned by the agency would make this exercise especially taxing, if not impossible, to complete. Once

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<sup>25</sup> Calculated at <http://www.westegg.com/inflation/>.

<sup>26</sup> *TV Deregulation Order* at 1099 (¶ 51).

<sup>27</sup> *Id.* at 1100 (¶ 52).

<sup>28</sup> *Id.* at 1100 (¶ 53).

<sup>29</sup> In fact, the Commission cites the long-abandoned ascertainment Primer as a potential means to determine CAB members. *Localism Report* ¶ 26.

a CAB is established, additional resources would be necessary to ensure that it somehow “inform[s] the stations’ programming decisions.”<sup>30</sup> Thus, according to the Commission itself, identification of appropriate community segments and leaders pursuant to the previous ascertainment procedures may only be the *starting point* for fulfilling the proposed CAB requirement. Ironically, then, the *Localism Report* declares the former ascertainment regime too costly, at the same time that it tentatively concludes that a more burdensome regime should be instituted.

It is a well-established principle of administrative law that an agency may not impose a regulatory “solution” in the absence of a demonstration that a specific and concrete problem exists.<sup>31</sup> When an agency seeks to reinstate a rule that already has been rescinded, the burden of justification is more stringent.<sup>32</sup> The *Localism Report* provides no legitimate basis for overturning the Commission’s conclusions in 1984 regarding the inefficacy and non-functionality of formal ascertainment requirements. Generalized complaints and isolated anecdotes about broadcasters’ performances fall far short of the evidence that would be required to re-regulate broadcasters in the manner proposed in the *Report*.

At the very least, Belo submits that the Commission should not layer a new ascertainment requirement, in the form of compulsory CABs or otherwise, on top of the

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<sup>30</sup> *Id.* ¶ 25.

<sup>31</sup> See *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977) (“*HBO*”) (citing *City of Chicago v. FPC*, 458 F.2d 731, 742 (1971) (“[W]e must consider whether the Commission has made out a case for undertaking rulemaking at all since a ‘regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist.’”).

<sup>32</sup> See *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41 (1983) (“*State Farm*”); see also *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970) (stating that the FCC must supply “reasoned analysis indicating that prior [decisions] are being deliberately changed, not casually ignored.”).

greatly expanded data collection and reporting obligations mandated in its separate *Enhanced Disclosure* proceeding.<sup>33</sup> The Form 355 filings contemplated in that proceeding, if they become effective, will require the submission of extensive data regarding broadcasters' community outreach efforts.<sup>34</sup> The FCC lacks the justifications that would be needed to simultaneously pursue both greatly expanded reporting obligations *and* mandatory ascertainment or quantitative programming requirements.

**C. Community Advisory Boards Would Not Be Effective or Practical Means for Ascertaining Community Issues.**

As stated above, Belo believes that the factual and legal justifications underlying Commission's tentative conclusion to require CABs are tenuous. Apart from these difficulties, the practical problems underlying the implementation and function of a CAB counsel overwhelmingly against this approach. The CAB proposal rests on a series of assumptions that fail under close examination and should give the Commission serious pause.

First, the FCC's suggested requirement that a CAB represents "all segments of the community"<sup>35</sup> assumes that each broadcaster—or perhaps, alternatively, the FCC—readily can define the various "segments" in a particular market. Belo submits that this daunting exercise would be extremely subjective and politically sensitive and, ultimately,

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<sup>33</sup> *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Report and Order, MM Docket No. 00-168, FCC 07-205, ¶ 45 (rel. Jan. 24, 2008) ("*Enhanced Disclosure Order*").

<sup>34</sup> *Localism Report* ¶ 27. Belo notes that the *Enhanced Disclosure Order*'s requirements are currently the subject of a legal challenge. *Nat'l Ass'n of Broads. v. FCC*, No. 08-1135 (D.C. Cir. filed Mar. 27, 2008). Belo's comments in this proceeding should not be read to concede the legality or regulatory soundness of the requirements adopted in the *Enhanced Disclosure Order*. Rather, Belo merely acknowledges that the requirements, if adopted, would provide a more concrete information set regarding broadcasters' community outreach efforts than that currently available to the Commission.

<sup>35</sup> *Localism Report* ¶ 26.

would prove impossible to carry out. In any given market, there would be virtually endless permutations on the number and variety of distinct “segments.” Because the FCC proposal apparently would require that *all* segments be represented, properly identifying each one would be essential. Yet, broadcasters inevitably would confront the reality that communities do not divide themselves into neat categories—there necessarily would be considerable overlap and gray areas.

Second, even if a community could be apportioned neatly into discrete categories, the CAB proposal seems to assume that each segment would have a monolithic viewpoint that one individual properly could espouse on the board. For instance, if a particular ethnicity were deemed a cognizable segment of a community, one person presumably would be appointed to represent that *entire* community. Similarly, one union member might be asked to represent the views of all organized laborers. Further, each licensee within a market presumably would have to include the same identified segments on its CAB, creating a demand for multiple board members for each defined group. In the nation’s largest communities, where there are many stations, the number of required CABs easily would number in the dozens. For instance, in the country’s largest media market, New York, New York, there are more than 30 AM, FM, and television licensees in New York City alone—not to mention many more throughout the rest of the DMA. The largest media market in which Belo operates, Dallas, Texas, would require approximately 20 CABs just for the stations licensed to Dallas proper.<sup>36</sup> Even in a smaller market such as Boise, Idaho, where Belo’s KTVB is located, nine separate CABs

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<sup>36</sup> Additional CABs would be required throughout the Dallas media market. Neighboring city Fort Worth, which is also part of the market, would require 14 CABs in its own right, and additional CABs would need to be formed in the surrounding communities.

would be necessary for the principal city alone. Although it may be possible for the same individuals to participate in multiple CABs, this would pose the risk of homogenizing a market's content.

What is more, the CAB concept almost certainly would leave some groups and individuals dissatisfied with their lack of representation on a specific station's board. Many of these parties would bring their complaints to the broadcasters directly, which would consume stations' time and resources, diverting them from actually producing locally-oriented news or other programming. Other parties likely would bring grievances to the Commission or to the courts, triggering the type of "litigation over trivia" that the FCC sought to eliminate when it previously abandoned formalized ascertainment.<sup>37</sup>

Even if these difficulties did not exist, and a broadcaster was capable of establishing a representative CAB, Belo questions the ability of these bodies to "help inform [station] programming decisions" in any meaningful way.<sup>38</sup> If a CAB is composed of representatives from "all segments" of the community, then its members assuredly would have widely divergent viewpoints and mutually-exclusive ideas about what events and topics deserve media coverage. In many cases, the disjointed nature of the CAB would prevent the board from making collective recommendations. The likely inability of a board to act as a collective unit also could lead individual members to "end run" the CAB and attempt to influence programming decisions directly. It is not difficult to envision situations in which some of these individuals would have conflicts of interest as well, exerting pressure for coverage that suited their own agendas, or those of their

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<sup>37</sup> *TV Deregulation Order* at 1100 (¶ 52).

<sup>38</sup> *Localism Report* ¶ 25.

constituencies, or attempting to prevent or limit unfavorable coverage. Such situations obviously would be adverse to the public interest.

Belo's own past experiences with CABs illustrates that these concerns are more than theoretical. Belo stations that previously maintained CABs eventually dismantled them after discovering that some board members were demanding self-serving coverage. Such CABs also became a platform for certain individual board members to seek political influence within the community group that the member ostensibly represented. Not surprisingly, Belo found that forming, maintaining, monitoring, and responding to a CAB became a drain on television station personnel, time, and resources.

The *Localism Report* indicates that several licensees have found the use of CABs beneficial. Using these isolated reports as justification, the FCC tentatively concludes that a CAB requirement should be imposed nationwide on all broadcasters.<sup>39</sup> Belo believes that it would be a mistake to institute a universal CAB obligation based on the experiences of a few stations. In any case, the *Report* fails to provide an example in which a station used a CAB comparable to the one posited by the Commission, where "all segments of the community" are required to be represented.<sup>40</sup> Importantly, stations voluntarily using CABs presumably have maintained discretion as to how to form them, how often they would meet, whether to follow their recommendations, and whether or when to dissolve them. A mandatory CAB requirement would change that dynamic, create obstacles to effective decision-making, and limit stations' ability to respond to

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<sup>39</sup> *Localism Report* ¶ 26.

<sup>40</sup> *Id.* The *Localism Report* does cite an example of one broadcaster using "an organized minority board," but such a board would not appear to be acceptable under the Commission's tentative conclusion as currently formulated because it would be under-inclusive. *Id.* ¶ 13.

community concerns in the manner they determine to be most appropriate.

**D. Compelling Stations to Use Community Advisory Boards Potentially Would Conflict With Their First Amendment Rights.**

The *Localism Report* is troublingly silent with regard to the potential First Amendment implications of its proposed CAB requirement. According to the Commission, the purpose of the CAB would be to “help inform the stations’ programming decisions.”<sup>41</sup> The *Report* provides no further insight as to how this would be accomplished or what role the agency itself would have in facilitating this process. It is clear, however, that an FCC-mandated CAB could pose a real threat to broadcasters’ constitutionally protected editorial discretion.

The Supreme Court has established that “broadcasters are entitled under the First Amendment to exercise the widest journalistic freedom.”<sup>42</sup> A critical component of this freedom is the ability to decide *not* to broadcast a particular brand of content.<sup>43</sup> In recognition of this broad discretion, the FCC repeatedly has refused to interject itself into broadcasters’ programming decisions.<sup>44</sup> The agency has acknowledged expressly that if it were to intervene in this fashion, it “would assume a journalistic role totally inappropriate under the First Amendment, for which it lacks any expertise or authority.”<sup>45</sup>

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<sup>41</sup> *Id.* ¶ 25.

<sup>42</sup> *FCC v. League of Women Voters*, 468 U.S. 364, 378 (1984) (citing *Columbia Broad. Sys., Inc. v. DNC*, 412 U.S. 94, 110 (1973) (internal quotations omitted)).

<sup>43</sup> *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 641 (1994) (“*Turner I*”) (“Government action that . . . requires the utterance of a particular message favored by the Government, contravenes this essential right.”).

<sup>44</sup> See, e.g., *Stockholders of CBS, Inc.*, 11 FCC Rcd 3733, 3746 (¶ 26) (1995); *American Broadcasting Companies, Inc.*, 83 FCC 2d 302, 305 (1980); *National Citizens Committee for Broadcasting*, 32 FCC 2d 824 (1971).

<sup>45</sup> *Complaint of American Legal Foundation against CBS, Inc.*, FCC 85-556 (MMB rel. Oct. 18, 1985).

Under the Commission’s CAB proposal, the advisory boards and, perhaps ultimately, the FCC itself indirectly would be influencing station content. A CAB requirement could be upheld only if the agency was able to demonstrate that it is “narrowly tailored to further a substantial government interest.”<sup>46</sup> Because the *Localism Report* does not address the potential constitutional ramifications of mandatory CABs, the government interest that the Commission might advance to justify additional regulation remains unclear. Belo submits that it is highly doubtful that a purported government interest in “localism” or “diversity” would be sufficient to pass constitutional muster, as such interests likely would be viewed as “too abstract to be meaningful.”<sup>47</sup> In any event, narrow tailoring would be virtually impossible to demonstrate. Belo submits that whatever professed public interest objective the agency may put forward, the free marketplace already is effectively addressing it.

Further, the FCC could not, consistent with the First Amendment, fashion a CAB requirement that would obligate television broadcasters to follow the recommendations of a board or its members. Similarly, the agency could not legitimately launch enforcement actions in the event of a broadcaster’s decision to reject CAB recommendations. As the Commission has made clear, it will not question licensee judgments merely because an audience member expresses an opinion that the event should be covered or reported differently.<sup>48</sup>

Finally, the Commission’s CAB proposal raises potential constitutional problems

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<sup>46</sup> *League of Women Voters*, 468 U.S. at 380.

<sup>47</sup> *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 354 (D.C. Cir. 1998).

<sup>48</sup> See *KSD-TV, Inc.*, 61 FCC 2d 504, 510 (1976) (“[The FCC] will not question a licensee’s judgment merely because some party expresses the opinion that a particular event should have been covered or that the licensee’s news coverage should include more ‘favorable’ stories on [a section of the] community.”).

due to its lack of precision. A regulation of speech is unconstitutionally vague if it “fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits” or if it “authorizes or even encourages arbitrary or discriminatory enforcement.”<sup>49</sup> When a government regulation implicates First Amendment rights, the vagueness doctrine “demands a greater degree of specificity than in other contexts.”<sup>50</sup> Such precision is necessary to avoid the potential chilling of speech that could result from a vague regulation.<sup>51</sup> Therefore, if the FCC heads down this path, it must do so with exacting specificity, detailing precisely how the CAB-licensee relationship would function and precisely how the Commission would enforce such a requirement without impermissibly impinging on broadcasters’ First Amendment rights. Belo respectfully submits, however, that such micromanagement of CABs would prove extremely cumbersome for the agency and would leave room only for a tightly circumscribed role for CABs that would be far less useful than relying on the good faith discretion of individual licensees.

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<sup>49</sup> *Hill v. Colorado*, 530 U.S. 703, 732 (2000).

<sup>50</sup> *Smith v. Goguen*, 415 U.S. 566, 573 (1974).

<sup>51</sup> *See Baggett v. Bullitt*, 377 U.S. 360, 372 (1964) (“Those . . . sensitive to the perils posed by . . . indefinite language, avoid the risk . . . only by restricting their conduct to that which is unquestionably safe. Free speech may not be so inhibited.”).

### **III. REINSTATING QUANTITATIVE LOCAL PROGRAMMING GUIDELINES WOULD UNDERMINE THE FCC'S LOCALISM GOALS.**

The Commission tentatively concludes in the *Localism Report* that it should “reintroduce specific procedural guidelines for the processing of renewal applications for stations based on their localism programming performance.”<sup>52</sup> The agency suggests that such quantitative “guidelines” are necessary despite an evidentiary record that overwhelmingly demonstrates that Belo and many other broadcasters already are serving their communities with a wealth of locally-oriented programming. When the FCC eliminated similar requirements years ago, it realized that marketplace incentives and good journalism practices would ensure that broadcasters remain committed to providing local programming. Yet, in connection with its new quantitative guideline proposal, the Commission provides no evidence that its prior conclusions are no longer valid. Re-regulating broadcasters in this manner without a compelling demonstration of changed conditions would cut against well-established principles of administrative law. Additionally, Belo is troubled that this type of regulation seriously imperils broadcasters’ First Amendment rights.

Instead of unnecessarily constraining broadcasters’ programming decisions and resources in this manner, Belo encourages the Commission to explore the available options at its disposal to increase local programming, such as encouraging the extension of cable and satellite carriage rights to digital multicast channels. Many such channels already are exclusively dedicated to local programming, and guaranteed cable and satellite carriage surely would advance this trend. However, if the FCC proceeds with a

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<sup>52</sup> *Localism Report* ¶ 124.

processing guideline approach, Belo urges the Commission, at a minimum, to embrace a definition of “locally-oriented programming” that will permit broad deference to the good faith determinations of broadcasters regarding programming decisions and give stations the flexibility to meet community needs in a variety of ways.

**A. The Wealth of Local Programming Currently Available from Broadcasters Like Belo Attests to the Effectiveness of the Marketplace in Promoting Localism.**

Like most television broadcasters, Belo takes great pride in serving its local communities with high quality local journalism and community involvement. Localism is at the core of Belo’s business model. In a media marketplace with more options than ever before, broadcasters must distinguish themselves from their competition. Fortunately, broadcasters are often the best positioned among their many competitors to provide superior coverage of breaking stories, local issues, and community activities. Thus, Belo consistently has invested in the resources necessary to provide extensive local news, public affairs, and community-oriented coverage with the aim of developing its stations into durable news and information franchises.

A Detailed Non-Entertainment Programming Study undertaken in 2004 by Belo exemplifies the effectiveness of the marketplace in spurring broadcasters to produce programming that serves the public interest.<sup>53</sup> The study examined the quantity of non-entertainment programming (*i.e.*, newscasts, news/information programs, public affairs shows, instructional programs, children’s/educational programming, and religious programming) in 15 markets of various sizes in which Belo owns television stations. The results revealed that the Belo stations and other major network-affiliated stations in the

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<sup>53</sup> See Belo 2004 Localism Comments at 4-5.

markets devoted an average of 40 percent or more of their total broadcast hours to non-entertainment programming.

Since it conducted the study, Belo and other broadcasters have continued to augment their non-entertainment offerings—largely with additional local programming. While concerns have been raised in this proceeding that there is a dearth of local broadcast programming, the Project for Excellence in Journalism reports that, in fact, the production of local news was at an all time *high* in 2007.<sup>54</sup> Several Belo stations updated their figures from 2004 and confirmed that they continue to offer a very extensive schedule of news and other informational programming. For example, KTVB in Boise reports that almost half of its programming—47 percent—is of the non-entertainment variety, and KHOU in Houston reports that figure at 42 percent. In addition, KTVB dedicates a digital multicast channel exclusively to local news 24 hours a day, 7 days a week, while KHOU also airs additional local news and information on one of its multicast streams. Similarly, WVEC, Hampton, Virginia, reports that its non-entertainment programming figure remains high at 39 percent. It has devoted substantial resources to a 24/7 local news cable channel, LNC5. Among LNC5’s offering are live weekend newscasts and live coverage of major events in the local community.<sup>55</sup>

Overall, Belo’s stations have an exemplary record of both on and off-air service to

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<sup>54</sup> Project for Excellence in Journalism, *The State of the News Media 2007 – An Annual Report on American Journalism*, available at [http://www.stateofthenewsmedia.org/2007/narrative\\_localtv\\_newsinvestment.asp?cat=5&media=7](http://www.stateofthenewsmedia.org/2007/narrative_localtv_newsinvestment.asp?cat=5&media=7).

<sup>55</sup> Belo also operates Texas Cable News (“TXCN”), a 24-hour regional cable news network serving more than 1.8 million cable homes with around-the-clock news gathered from each of Belo’s Texas news outlets. Similarly, NorthWest Cable News (“NWCN”), another Belo-operated regional cable news network, reaches close to 2.5 million households in the Pacific Northwest. Belo stations in New Orleans and Phoenix also contribute significantly to all local news cable channels, NewsWatch in New Orleans and Arizona News Channel in Phoenix.

their local communities. While there are numerous examples of Belo's devotion to localism,<sup>56</sup> the following are particularly illustrative of the outstanding record compiled by the broadcast industry in this respect.

WWL, New Orleans, LA, Hurricane Katrina Coverage: Through advance planning for disaster coverage and cooperative efforts with other local broadcasters, Belo station WWL was able to overcome the tremendous physical and logistical challenges presented by Hurricane Katrina to remain on-the-air and on the Internet throughout the various stages of this devastating storm. The station broadcast continuously for days leading up to the hurricane, throughout its landfall, and during its aftermath. Continuous coverage of Katrina's approach began three days before the storm made landfall on August 29, 2005, making viewers aware of the threat and critical evacuation and safety plans. Through a partnership developed as part of its disaster coverage plan, WWL broadcast from makeshift studios at Louisiana State University, as well as from its own transmitter facility and later, the facilities of Louisiana Public Broadcasting.

In the immediate aftermath of the storm, WWL was the main source of information regarding what was happening, how those in need could get help, and what others could do to assist in the relief effort. WWL's signal was carried throughout all of Louisiana and Mississippi through a network of digital channels, public television stations, and cable channels, with several radio stations simulcasting the audio portion of WWL's feed and Echostar retransmitting its signal to communities in Texas that were assisting in the evacuation efforts. The station's Web site was used to stream the

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<sup>56</sup> Many Belo stations, like KGW, Portland, Oregon, consistently offer 30 hours or more a week of local news programming. For its part, KGW has been recognized as "Television Station of the Year" by the Oregon Association of Broadcasters for five consecutive years in recognition of the station's superb local coverage.

broadcasts live and experienced unprecedented levels of usage. Around-the-clock coverage continued for 15 straight days before WWL resumed airing CBS network programming between regularly-scheduled newscasts. In recognition of these extraordinary efforts, WWL became the first station ever to win the duPont-Columbia, Murrow, and Peabody Awards for coverage of the same event.

In the years since Hurricane Katrina, the station has maintained its commitment to covering the needs of viewers in Southeast Louisiana. Bannering its coverage with the title “Road to Recovery,” WWL has aired a series of news reports highlighting the tremendous needs of the area since Katrina with regard to housing, infrastructure, education, crime, business development, and health care. In particular, WWL’s “Action Report” segments have helped Katrina victims work through the government red tape associated with the recovery. The reporter who handles these calls to a station hotline has logged hundreds of complaints about problems with FEMA trailers, including stories of people sleeping in tents and their cars because they have no trailers or are unable to use them safely.<sup>57</sup>

*KHOU, Houston, Texas:* KHOU delivered its own exemplary disaster coverage when it aired 60 hours of continuous, commercial-free coverage as Hurricane Rita moved into the Gulf Coast in 2005. In addition, Houston area residents wake up everyday to

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<sup>57</sup> Outside of the Katrina context, WWL has been involved in numerous on-air public service initiatives. The “Eye on Crime Prevention” public service project includes news reports, televised forums with community leaders, PSAs, and interactive online discussions hosted on the station’s website. The station has devoted numerous resources to combating drunk driving, developing the “12 for the Road” drunk driving awareness campaign, which includes PSAs and news segments, and teaming with the Ad Council to produce a number of local PSAs in support of the anti-drunk driving campaign “Project Roadblock.” WWL also co-sponsors “The Spirit of Giving,” an on-air donation drive to raise money and awareness for combating homelessness and drug addiction. Additionally, the station has participated in on-air community service initiatives with organizations including Crimestoppers, Habitat for Humanity, the Young Leadership Council, the American Heart Association, and the New Orleans Museum of Art.

“Great Day Houston,” KHOU’s weekday local news/talk program, which provides extensive local coverage and often serves as an outlet for various local public service and non-profit groups. The station’s high journalistic standards and commitment to local service have garnered KHOU more awards for broadcasting and journalism than any other Texas news organization.<sup>58</sup>

*KTVB, Boise, Idaho:* In 2007, KTVB developed and executed an on-air public awareness campaign concerning the effects of methamphetamine abuse, a growing problem in the areas KTVB serves. During the month-long campaign, the station aired more than 1,300 PSAs, six town hall meetings, and an award-winning documentary, “Life or Meth.” The campaign was extraordinarily successful, prompting new support for building the Treasure Valley’s first detoxification center and launching a multi-million dollar state-sponsored media campaign, the Idaho Meth Project. This past March, the National Association of Broadcasters honored the station with a “Service to America” award for this outstanding public service campaign.

*Local Political Coverage:* Belo stations consistently devote extensive time and resources to political coverage. Although the FCC suggests in its *Localism Report* that this is an area in which broadcast coverage is lacking,<sup>59</sup> Belo’s outstanding record proves otherwise. For example:

- More than a decade ago, Belo developed “*It’s Your Time*,” a program that offers state and federal candidates free airtime on its stations during the

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<sup>58</sup> These awards include: 63 Emmy Awards (more than any other Houston station) and an Emmy for Overall Station Excellence; five Peabody Awards; three duPont-Columbia Awards; nine Edward R. Murrow Awards; eight National Headliners Awards; five Scripps Howard National Journalism Awards; 31 Texas Associated Press Awards; nine Katie Awards; and being named “Best TV News in Houston” by the Project for Excellence in Journalism.

<sup>59</sup> *Localism Report* ¶ 56.

election season. Belo stations in Austin (KVUE), Boise (KTVB), Charlotte (WCNC), New Orleans (WWL), Portland (KGW), Seattle (KING), and Spokane (KSKN) experienced 100 percent participation by local candidates in 2004. Since the start of the program, 700 candidates have participated. *It's Your Time* will continue in the upcoming 2008 general election cycle, with all qualified candidates for U.S. House, U.S. Senate, and state gubernatorial offices in Belo markets eligible to receive five minutes of free airtime.

- In each election cycle since 2000, Belo news-producing stations have committed to provide at least one hour of political coverage each week starting six weeks before the elections, including debates, issue and ad watch programming, and interviews with local, state, and federal candidates.
- Station KGW created “*Viewpoint*,” an interview program that offered in-depth political coverage during the 2004 and 2006 election cycles. It also hosted a televised town hall meeting in 2004 with both of Oregon’s U.S. Senators.
- KSKN, in an effort to better inform voters and encourage political participation, carried programming leading up to the 2007 elections that explained to viewers how the political process in the State of Washington operates.
- Belo television stations also have been active participants in many recent elections by sponsoring and airing primary and general election debates for both local and national races:
  - KHOU teamed with sister stations KVUE, WFAA, and KENS-TV, San Antonio, Texas, to air the 2006 Texas Gubernatorial debate in all of the state’s major urban areas.
  - Belo’s stations in Seattle, KING and KONG-TV, aired seven debates in 2004, including those among candidates for the U.S. House, U.S. Senate, governor, state attorney general, and superintendent for public instruction.
  - KGW sponsored a debate for the most recent Portland mayoral election and held debates in 2006 for both the primary and general election for Oregon governor.
  - Similarly, when the 2004 presidential debate was hosted at Arizona State University, Belo’s KTVK, Phoenix, Arizona, originated nine hours of live coverage from the site of the debate and anchored the station’s newscasts on-location.
  - WHAS, Louisville, Kentucky, sponsored the most recent gubernatorial debate, and WWL sponsored debates for both Louisiana governor and New Orleans mayor.

- Finally, all Belo stations supplement their on-air efforts with in-depth, round-the-clock political coverage on their Web sites.

Community Involvement: Broadcasters' local service does not always show up in the station logs. In addition to airing a vast array of local programming, Belo stations are also intimately involved with their communities through a plethora of public service initiatives. In 2007 alone, Belo stations helped local organizations raise more than \$25 million in cash donations for various charitable causes, collect 457,000 toys for needy children, and gather 3.5 million pounds of food. As explained above, these community-building experiences sometimes have had a direct effect on local programming.<sup>60</sup> Just a few of the stations' most recent efforts are highlighted here:

- WFAA has held the "Santa's Helpers" Toy Drive for 38 years, and this year it collected more than 75,000 toys for tens of thousands of needy children throughout the four-county Dallas/Fort Worth area.
- KGW also sponsors an annual toy drive, now in its 25th year, and raised \$2 million in funds for the "Race for the Cure" Oregon and Southwest Washington affiliate.
- KHOU holds the annual "Spirit of Texas Blood Drive," now in its 12th year, and broadcasts from the event to heighten awareness. The station also joined forces with the Texas General Land Office for the "Adopt a Beach" project to clean up Texas beaches and raise awareness of the harmful effects of coastal erosion. Approximately 16,000 people volunteered for the project over the past two years, and in 2007, over 30 tons of litter was removed from Texas beaches.
- KING and KONG hold the annual "Home Team Harvest" food drive and collected \$150,000 and almost 190,000 pounds of food this past year. The stations also held an on-air campaign, "Northwest Response," to assist victims of natural disasters in the Pacific Northwest, collecting over a half-million dollars.
- KMOV, St. Louis, Missouri, sponsors the "Green Day Giveaway" to promote the efforts of the St. Louis Air Quality Campaign. KMOV also sponsors the "Kids Caring 4 Kids Campaign," which just this past year netted more than

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<sup>60</sup> See Section II.A., *supra*.

60,000 toy donations and more than 210,000 food item donations for underprivileged children.

- WCNC sponsors the “Loaves & Fishes Food Drive,” which this past year collected 84 tons of food; the “WCNC Magical Toy Drive;” and the “WCNC Blood Drive,” which has collected more than 350 units of blood for the American Red Cross.
- WHAS focuses on Louisville’s children in need by annually organizing the “WHAS Crusade for Children,” which raised more than \$5 million last year for grants to agencies providing service to children with special needs.
- WVEC partners yearly with the Salvation Army to sponsor the “Angel Tree Project,” a clothing collection drive during the holiday season. The station also provides a heavy on-air promotional commitment to the drive with station personnel actively participating in the effort. This past year, more than 19,000 children in the Hampton, Virginia area received clothes as a result of the campaign. In addition, WVEC partners with the Salvation Army for the “Write Stuff” campaign that provided nearly 3,000 local students with proper school supplies this year.

Belo’s local service repeatedly has been recognized at the local, regional, and national levels with the most prestigious awards in broadcasting. Belo stations have won multiple Peabody Awards and Alfred I. duPont-Columbia University Awards for excellence in broadcast journalism, with Belo leading all other station groups in the receipt of these highly coveted honors. In addition, its stations have been awarded with multiple national and regional Radio-Television News Director Association Edward R. Murrow Awards; many USC-Annenberg Walter Cronkite Awards for Excellence in Television Political Journalism; national, regional, and local Emmy Awards; National Association of Broadcasters Education Foundation Service to America Awards (for ongoing commitment to local community public service); numerous Scripps Howard Foundation National Journalism Awards; Society of Professional Journalists Awards; and repeated journalistic honors from the Associated Press. Just this month, Belo station WFAA was awarded with the 2008 George Foster Peabody Award for several reports,

including its investigative report on fraudulent loans by the U.S. Export-Import bank, a report on faulty gas pipelines, a story raising questions about the relationship between TV producers and public officials on *NBC Dateline*'s "To Catch a Predator" series, and a report on a home security prison that detains families, including children.<sup>61</sup>

While Belo is proud of its stations' commitment to local service, the company realizes that many other broadcasters share a similar dedication to their local communities. In fact, the *Localism Report* cites numerous specific examples of broadcasters providing "substantial amounts of local news programming relevant to the issues that face their communities of license."<sup>62</sup> Local newscasts "include information concerning crime, investigative features, consumer advocacy issues and segments focused on politics, sports and community events." In nearly every market, several stations compete to offer "vital weather information, particularly in emergency situations."<sup>63</sup> The *Report* further documents extensive broadcaster coverage of "in-depth, locally-oriented investigative reports, health advice, crime reports, weather, sports, consumer advocacy, family issues, cultural events, business matters, and topics of importance to minorities."<sup>64</sup> In addition, the Commission notes that "some broadcasters air a substantial amount of other local public affairs programming, including material involving education, minority issues, health matters, violence, consumer topics, women's

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<sup>61</sup> Harry A. Jessell, Four Stations Among Peabody Winners, *tvnewsday* (April 2, 2008), *available at* <http://www.tvnewsday.com/articles/208/04/02/daily.4>.

<sup>62</sup> *Localism Report* ¶ 31.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* ¶ 32. The Commission singles out Belo station WWL's outstanding Hurricane Katrina coverage as an example. *Id.*

issues, and religion.”<sup>65</sup>

Proponents of more regulation, on the other hand, merely “contend,” “perceive,” “maintain,” or “claim” that local broadcasters are fixated on ratings and revenues at the expense of locally-oriented programming.”<sup>66</sup> These general accusations are not supported with any reliable evidence.<sup>67</sup> Rather, the *Localism Report* states that “others *feel* that broadcasters are not complying with their obligation, as public trustees, to air sufficient programming that is responsive to local needs and interests.”<sup>68</sup> Belo submits that, given the record in this proceeding, such perceptions are not accurate.<sup>69</sup>

In light of this record, re-imposition of quantitative programming guidelines on all broadcasters would be unnecessary and inappropriate. A “one-size-fits all” requirement plainly is not needed given the wealth of news and informational programming in the

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<sup>65</sup> *Id.* ¶ 33.

<sup>66</sup> *Id.* ¶ 37.

<sup>67</sup> Compare *id.* ¶¶ 31-33 with *id.* ¶¶ 34-37.

<sup>68</sup> *Id.* ¶ 34 (emphasis added).

<sup>69</sup> Indeed, the *Localism Report* cites only one piece of substantive evidence for the proposition that the marketplace is not effective in promoting local programming, a study by Michael Yan and Philip Napoli, submitted by the McGannon Center. *Id.* ¶ 38. The McGannon Center also submitted a second study by Napoli in the docket dealing with the relationship between ownership and the provision of local affairs programming, a topic that was more relevant to the ownership proceeding, where the study was also submitted. *Id.*; see also Comments of the Donald McGannon Communication Research Center, MB Docket No. 04-233, at 4-30 (filed Oct. 28, 2004). The Commission already has questioned the validity of this study in the ownership proceeding, and the study has come under severe criticism for its methodology. See *2006 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*, MB Docket No. 06-121, *et. al.*, FCC 07-216, ¶ 45 (rel. Feb. 4, 2008) (“2008 Ownership Order”); see also Daniel Shiman, *The Impact of Ownership Structure on Television Stations’ News and Public Affairs Programming*, FCC Media Study 4, at I-27 to I-28 (July 24, 2007) available at [http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/DA-07-3470A5.pdf](http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A5.pdf) (criticizing Yan’s small, limited data set); See Jeffrey Milyo, *Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News*, FCC Media Study 6, at 3-4 (Sept. 2007), available at [http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/DA-07-3470A7.pdf](http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-07-3470A7.pdf) (describing Yan’s methodology at various points as “dubious,” disconcerting,” “nonsensical,” and “odd.”). Given those shortcomings, the Yan study certainly cannot be used as the basis for imposition of burdensome new regulatory requirements.

marketplace. Moreover, such obligations would serve only to stifle creativity and divert resources to superfluous and duplicative offerings that may satisfy governmental “guidelines,” but would add little to meaningful dialogue with the audience.

**B. The FCC Correctly Determined 25 Years Ago—And It Remains the Case Today—That Local Programming Guidelines Are Not Needed and Counterproductive.**

In its 1984 decision to abandon its pre-existing quantitative programming guidelines for license renewal processing, the FCC firmly concluded that such “guidelines . . . are not necessary to the effective discharge of our licensing responsibilities.”<sup>70</sup> The rationales underlying this sound determination are equally—if not even more—compelling today. Nothing in the *Localism Report* raises any serious doubts about the FCC’s prior findings that marketplace incentives are more than sufficient to spur the provision of local content and that programming quotas are unnecessarily burdensome to broadcasters.

As in the ascertainment context, the effectiveness of the marketplace was central to the FCC’s 1984 decision to eliminate programming guidelines:

In summary, [there is] convincing evidence that existing marketplace forces, not [our] guidelines, are the primary determinants of the levels of informational, local and overall non-entertainment programming provided on commercial television. It appears, moreover, that these forces have consistently elicited a level of such programming well above the amounts arbitrarily set by our processing criteria.<sup>71</sup>

As discussed above, the proliferation of media sources and the advent of the Internet have made today’s media marketplace more competitive than at any other time in the history

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<sup>70</sup> *TV Deregulation Order* at 1079 (¶ 7).

<sup>71</sup> *Id.* at 1085 (¶ 19).

of broadcasting. Programming service addressing local needs is essential for broadcasters to survive in this environment. Indeed, the record in this proceeding confirms that the marketplace remains the most powerful driver of local programming.<sup>72</sup>

In this environment, it is entirely unnecessary to impose programming quotas that effectively would force broadcasters to attempt to be all things to all people, eliminating the flexibility they need to survive in today's fiercely competitive marketplace.<sup>73</sup> In particular, it is unrealistic for the Commission to believe that every television and radio licensee in today's financially challenging environment can devote the substantial resources required to support robust local news and public affairs operations. Nor is it necessary for every single station to do so. The marketplace already has ensured that multiple sources of local news and information are available on television and radio outlets in all communities.

Quantitative guidelines also would have the effect of weakening local service by substituting the FCC's perception of what qualifies as "local" programming for broadcasters' actual knowledge about what programming would best serve their communities. Stations should be given wide discretion to determine how to serve community needs. Many stations today are doing so by providing targeted niche programming—much of which is aimed at "underserved audiences." Indeed, since the abandonment of quantitative guidelines, niche programming has flourished. By forcing stations to divert resources to duplicative news, public affairs, or other specified types of programming, re-instituting processing guidelines would pose a risk to this valuable

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<sup>72</sup> See Section II.A., *supra*.

<sup>73</sup> *TV Deregulation Order* at 1092 (¶ 34).

programming as well as the stations that offer it.

In addition, the Commission in 1984 emphasized that its now-defunct programming guidelines placed a “significant” administrative cost on licensees, finding that “the costs incident to technical compliance and record keeping [were] inappropriate.”<sup>74</sup> These added expenses frustrated the operation of the marketplace by exacting the greatest record-keeping resources from those stations that aired the most local programming.<sup>75</sup> This would be no less true under the new regime that the agency proposes here: stations would be forced to keep detailed programming records to prove compliance with a quantitative programming guideline. The requirements of the Commission’s recent *Enhanced Disclosure Order* likewise would require stations to keep track of all locally-oriented programming on the new Form 355,<sup>76</sup> and the imposition of further programming regulations only would add to this significant record-keeping burden. Once again, those stations that air the most locally-oriented programming would incur the largest recordkeeping costs. Thus, a local programming guideline actually may serve as a *negative* incentive to broadcasters to air local programming beyond the guidelines.

Yet another concern of the 1984 Commission was the emphasis that programming guidelines placed on quantity rather than quality:

[T]he Courts have recognized that quantity, in and of itself, is not necessarily an accurate measure of the overall responsiveness of a licensee’s programming. Instead, a licensee’s programming obligation has always been described in terms of providing

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<sup>74</sup> *Id.* at 1089 (¶ 26).

<sup>75</sup> *See id.*

<sup>76</sup> *Enhanced Disclosure Order* ¶ 41.

programming that responds to the needs of the community.<sup>77</sup>

The quantitative guideline approach would establish programming checklists in lieu of the more holistic approach the agency currently uses, which focuses on coverage of issues of interest to the community. Returning to 1970s-style quantitative guidelines would “significantly misrepresent[] the nature of a broadcaster’s underlying programming obligation.”<sup>78</sup>

The FCC aptly recognized in 1984 that it lacked authority to maintain regulations that were adopted to correct a once-perceived problem that no longer existed.<sup>79</sup> While the marketplace considerations underlying this conclusion only have become more pronounced in the intervening decades, the basic principles of administrative law constraining the agency’s behavior have not changed. Accordingly, the Commission should not now attempt to re-establish similar regulations to address a regulatory problem that has not been shown to exist.<sup>80</sup>

**C. Imposing Local Programming Minimums Would Be Inconsistent With the First Amendment and the FCC’s Longstanding Policy of Deferring to the Good Faith Discretion of Broadcasters in Making Programming Choices.**

The First Amendment implications of programming guidelines were not lost on the 1984 Commission. The FCC concluded that its pre-existing regulatory regime “raise[d] potential First Amendment concerns” because “Congress intended private broadcasting to develop with the widest journalistic freedom consistent with its public

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<sup>77</sup> *TV Deregulation Order* at 1090 (¶ 29) (citing *Office of Communications of the United Church of Christ v. FCC*, 707 F.2d 1413, 1437 (D.C. Cir. 1983)).

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 1088 (¶ 25) (citing *HBO*, 567 F.2d at 48).

<sup>80</sup> *See HBO*, 567 F.2d at 48.

interest obligation.”<sup>81</sup> These First Amendment concerns were “exacerbated,” the agency further noted, “by the lack of a direct nexus between a quantitative approach and licensee performance.”<sup>82</sup>

Indeed, the Commission has a longstanding practice of deferring to a licensee’s discretion to choose its own program content.<sup>83</sup> The agency has stated expressly that it “does not attempt to direct licensees in the selection or presentation of specific material.”<sup>84</sup> If the FCC were to do so, it “would contravene the First Amendment—it would inhibit rather than encourage the ‘uninhibited, robust, wide-open debate’ which the Amendment seeks to promote.”<sup>85</sup>

“Guidelines” directed at local programming would be particularly troublesome under the First Amendment because they would regulate based on the content of speech.<sup>86</sup> Even though the *Localism Report* labels the potential regulations as “renewal application processing guidelines” and not mandatory minimums,<sup>87</sup> for all practical purposes they would create local programming *quotas*.

Indeed, the Commission itself plainly anticipates that such guidelines effectively

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<sup>81</sup> *TV Deregulation Order* at 1089 (¶ 27) (internal citations omitted).

<sup>82</sup> *Id.*

<sup>83</sup> *American Broadcasting Companies, Inc.*, 83 FCC 2d at 305; *see also KSD-TV, Inc.* 61 FCC 2d at 510 (“[A] licensee must use its own best judgment as to the relative importance of a news event and select those which it believes are worthy of coverage.”).

<sup>84</sup> *Stockholders of CBS, Inc.*, 11 FCC Rcd at 3746 (¶ 28).

<sup>85</sup> *National Citizens Committee for Broadcasting*, 32 FCC 2d 824 (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)).

<sup>86</sup> *Turner I*, 512 U.S. at 643 (“[L]aws that distinguish favored speech from disfavored speech on the basis of the ideas or views expressed are content-based.”).

<sup>87</sup> *Localism Report* ¶ 40.

would require broadcasters to air certain amounts of content, stating that the new rules would “ensure that all broadcasters . . . provide some locally-oriented programming.”<sup>88</sup> As the D.C. Circuit has recognized in an analogous context, this type of regulation, where licensees have a “strong incentive to meet the numerical goals,” creates a “*de facto* . . . quota.”<sup>89</sup>

Thus, imposing quantitative guidelines in any form would amount to a government preference for specified types of local content. Content-based restrictions on speech are viewed with the utmost skepticism and are “presumptively invalid.”<sup>90</sup> Outside the broadcast area, such regulations are subject to the strictest scrutiny, and it is a rare event that a rule “restricting speech because of its content will ever be permissible.”<sup>91</sup>

But the *Localism Report*’s tentative conclusion could not pass muster even under the lower standard of scrutiny used to evaluate content-based regulation of broadcasters. As discussed above, such regulations must, at a minimum, be “narrowly tailored to further a substantial government interest.”<sup>92</sup> Such an interest does not exist here. As the Supreme Court has made clear, “the FCC’s oversight responsibilities do not grant it the power to ordain any particular type of programming that must be offered by broadcast stations.”<sup>93</sup> Thus, a broad hope of enhancing localism or diversity would not suffice to

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<sup>88</sup> *Id.*

<sup>89</sup> *Lutheran Church-Missouri Synod*, 141 F.3d at 353.

<sup>90</sup> *R.A.V. v. City of St. Paul*, 505 U.S. 377, 386; see also *Ashcroft v. ACLU*, 542 U.S. 656, 660 (2004) (“[T]he Constitution demands that content-based restrictions on speech be presumed invalid. . . .”).

<sup>91</sup> *United States v. Playboy Entm’t Group, Inc.*, 529 U.S. 803, 818 (2000).

<sup>92</sup> *League of Women Voters*, 468 U.S. at 380.

<sup>93</sup> *Turner I*, 512 U.S. at 650.

justify the proposed quantitative guidelines.

The tailoring of such a regulation would be equally problematic. As the 1984 Commission expressly acknowledged, there is no direct connection between quantitative mandates and licensee performance.<sup>94</sup> This void, coupled with the demonstrated effectiveness of the current marketplace in promoting local programming, would render any quantitative guidelines constitutionally deficient.<sup>95</sup>

Finally, as discussed above, regulations that affect First Amendment freedoms “demand[] a greater degree of specificity than in other contexts” to avoid impermissible vagueness.<sup>96</sup> The *Localism Report* contains no proposed definition of “localism programming” for purposes of fulfilling the guidelines. Belo is skeptical that a definition could be crafted with the type of exacting specificity necessary for the current proposal to pass constitutional muster.

**D. The FCC Can Promote the Production of Local Programming by Supporting Expanded Cable and Satellite Carriage Rights for Digital Multicast Channels.**

Multicast channels offer broadcasters the opportunity to proliferate local programming on a large scale. As noted above, several Belo stations already are using digital channels to provide additional local news and weather coverage.<sup>97</sup> These channels

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<sup>94</sup> *TV Deregulation Order* at 1089 (¶ 27) (internal citations omitted).

<sup>95</sup> Even if the FCC were able to demonstrate that quantitative programming guidelines were not content-based, the proposal still would be constitutionally problematic. The agency must be able to show that such a rule is a “reasonable means of promoting the public interest.” *See FCC v. Nat’l Citizens Comm. for Broad.*, 436 U.S. 775, 802 (1978). Quantitative programming guidelines could not meet this hurdle, given that the free market is demonstrably providing the types of incentives necessary to ensure that an ample supply of local programming is broadcast.

<sup>96</sup> *Goguen*, 415 U.S. at 57.

<sup>97</sup> *See* Section III.A., *supra*.

provide in-depth community-oriented programming, including coverage of the state legislatures, court cases of local interest, in-depth investigative stories, and local high school sports. When the FCC came to San Antonio in 2004 for a Localism Task Force Public Hearing, the entire four-hour proceeding was broadcast live on the multicast channel of Belo station KENS in San Antonio, Texas. During Hurricane Katrina, several Belo stations and 20 other stations in the region used their digital channels to provide expanded coverage of the disaster. These channels also enable broadcasters to significantly expand political coverage. In 2004, for example, KVUE, WFAA, WHAS, and WVEC all used their digital channels to provide live gavel-to-gavel coverage of the Democratic and Republican National Conventions.

While Belo and other broadcasters are using their digital channels to provide expanded local coverage, a large portion of the audience is unable to see what is being offered. Because most viewers receive over-the-air stations via cable or satellite providers, they are unable to access the expanded local content on multicast channels if MVPDs decline to carry these channels. In the event that these operators do carry multicast streams, they often are located on expanded digital tiers that are available only to customers willing to pay a premium. Lack of certainty of cable and satellite carriage stifles local programming development, as stations are reluctant to devote resources to programming available to such a small proportion of viewers.

The Commission can foster the availability of locally-oriented programming by refusing to allow cable operators to strip out digital multicast channels from their carriage of broadcast signals. Ensuring carriage rights would provide access to the local offerings that already are being provided by broadcasters on their digital channels. Moreover,

guaranteed carriage would give broadcasters significant incentives to develop additional local programming—programming that will serve to distinguish local broadcasters in the marketplace.

**IV. REINSTATING THE FORMER MAIN STUDIO RULE WOULD NOT BENEFIT LOCAL COMMUNITIES AND WOULD NEEDLESSLY DRAIN STATION RESOURCES.**

The *Localism Report* also seeks comment on whether the Commission should revert to its pre-1987 main studio rule, which required stations to locate their main studios within the borders of their communities of license.<sup>98</sup> Belo strongly opposes a return to this restrictive and unnecessary regulation. At best, this rule change would be irrelevant to the caliber of locally-oriented broadcast programming. At worst, it actually would hinder local programming efforts by requiring stations to divert resources from localism efforts to constructing and maintaining new facilities. Further, the FCC’s justifications for relaxing the main studio obligation in the first place have stood the test of time, and nothing in the record supports re-regulation in this area now.

The Commission’s ostensible purpose in reinstating the pre-1987 rule would be to “encourage broadcasters to produce locally-originated programming.”<sup>99</sup> Belo submits that bringing back this regulation would have virtually no effect on this objective. Belo does not believe that the few miles that separate many broadcasters from the boundaries of their licensed communities has any demonstrable effect on local news coverage or other locally-originated programming.<sup>100</sup> There is no evidence in the record that even

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<sup>98</sup> *Localism Report* ¶ 41.

<sup>99</sup> *Id.*

<sup>100</sup> Indeed, in relaxing the rule in the 1980s, the Commission recognized that locally-oriented programming did not necessarily have to be locally produced, and that even when the programming was locally produced, technology had made it possible for stations to reach out beyond their main studios. *Amendment*

suggests otherwise.<sup>101</sup>

Furthermore, reinstating the former main studio rule would not make broadcasters any more accessible to the vast majority of citizens. Even in 1987, the FCC acknowledged that improvements in transportation and mass transit made studios outside the community of license easy to reach.<sup>102</sup> The agency further noted that communication with the station was as easy as sending a letter or making a telephone call.<sup>103</sup> Of course, these observations are equally apt today. Moreover, the advent of the Internet and e-mail has made stations more accessible than at any other time in the history of broadcasting. In any event, the Commission's recent decision in the *Enhanced Disclosure* proceeding to require stations to place their public files on their Web sites will eliminate one of the primary reasons citizens have had for visiting broadcast studios.<sup>104</sup>

At the same time, requiring broadcasters to relocate their main studios would be highly burdensome and, in some cases, could prove to be a deterrent to the production of high-quality local programming. Many stations large and small have expended

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*of Sections 73.1125 and 73.1130 of the Commission's Rules, the Main Studio and Program Origination Rule for Radio and Television Broadcast Stations*, 2 FCC Rcd 3215, 3218 (¶¶ 30-31) (1987) ("Main Studio Order"). By 1998, the Commission found the location of the main studio to be of such little consequence to local service that it further relaxed the rule. See *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691 (1998).

<sup>101</sup> As far as Belo can discern, the only thing in the record supporting a return to the pre-1987 rule is the testimony of *one* individual. See *Localism Report* ¶ 39 n 99 (citing the testimony of Blanca Zarazua, Chair, Hispanic Chamber of Commerce of Monterey, California from the Monterey localism hearing). Notwithstanding Ms. Zarazua's feelings, there is unequivocal evidence that stations across the country are doing exemplary jobs at serving their communities of license, whether their studios are located in those communities or a short distance outside of them.

<sup>102</sup> *Main Studio Order* at 3218 (¶ 32).

<sup>103</sup> *Id.*

<sup>104</sup> *Enhanced Disclosure Order* ¶¶ 17-18. One of the Commission's purposes in adopting this requirement was to eliminate the need for individuals to travel to the studio, regardless of its location. See *id.* ¶ 12.

substantial resources building main studios outside of their licensed communities in reliance on the rules now in existence. The proposed change could cause broadcasters to forfeit millions of dollars in recent investments. The effect would be especially acute for small broadcasters and those who have, pursuant to FCC mandate, spent considerable capital on the construction of digital facilities.

Re-adopting the previous main studio rule would have a particularly adverse effect on many duopoly stations. As the FCC has acknowledged, allowing broadcasters to save on facilities and operational expenses through the creation of duopolies can enhance localism.<sup>105</sup> The consolidation of main studios has been one such efficiency that has freed substantial resources for the production of more local programming and community oriented service.

This has been the case for several Belo duopolies. For instance, Belo has consolidated the main studio of WUPL-TV, Slidell, Louisiana with that of sister station WWL, New Orleans, as well as the studios of KONG, Everett, Washington, and KING in Seattle. The resulting cost savings and efficiencies have enabled Belo to expand and diversify its local offerings to the residents in both markets. For example, WWL now airs two extra hours of local news in the mornings, while WUPL has added an original local newscast at 9 p.m. Similarly, since becoming part of a duopoly, KONG has added an extra hour of original local news at 10 p.m. and airs KING newscasts during several dayparts when they are not offered on the sister station. Thus, far from harming localism, a flexible main studio rule has enabled Belo stations to provide their communities with expanded service. Forcing these stations to establish and maintain separate main studios

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<sup>105</sup> See 2008 Ownership Order ¶ 98.

needlessly would undermine these public interest benefits.

Finally, practical considerations counsel against re-adoption of the pre-1987 rule. Many communities may lack the space to allow a station to move its studio inside city limits. Restrictive zoning ordinances or protests by local residents could prevent stations from moving studios and their attendant equipment, such as news trucks and satellite dishes, back into a community. These difficulties almost certainly would lead to an array of new waiver requests pouring into the Commission, increasing the administrative burden that the agency sought to decrease when it first relaxed the rule.

## V. CONCLUSION

For the reasons provided herein, Belo respectfully submits that the Commission should move cautiously in this proceeding and refrain from adopting additional regulations that unnecessarily limit broadcasters' flexibility in identifying and responding to the concerns of their local audiences. In particular, the proposals to (1) require the establishment of community advisory boards; (2) establish content-based programming guidelines in connection with broadcaster license renewal applications; and (3) reinstate the rule obligating stations to operate main studios within the boundaries of their licensed communities, should be rejected by the agency. These requirements are plainly unnecessary, as the marketplace already is responding to the localism objectives that ostensibly would be served by these regulations, and would be highly burdensome to the broadcast industry.

Respectfully submitted,

BELO Corp.

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