

Before the
Federal Communications Commission
Washington D.C. 20554

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

Comments Of
Thomas C. Smith

Opening Comments

In November of 2004, I commented on the subject of localism in broadcasting. At that time I noted that there have been many changes in the thirty-five years that I had been involved in broadcasting as a technician. I noted that there had been both positive and negative changes, many brought on by both consolidation in the industry and the growth of ownership of stations by large corporations instead of small companies, many which were family owned. I also mentioned that there were a number of rule changes from as the industry was deregulated over the years that produced unintended results. The rules that created the most unintended results include changes in the main studio rules, changes in signal contours in determining ownership limits, and FM translator rules for non-commercial stations in the reserved FM band.

The Commission is now proposing the return to rules before deregulation of the industry began. Many of the proposed rule changes in this docket are in many cases heavy handed and return the FCC to an era that the Commission has been trying to move away from in many of its other actions in other service in the last few years. In many of the new services, the Commission has simplified licensing, allowed the licensee to operate a multitude of services within the same band and created a number of bands with no license evened required.

Between the time that I filed comments when the last Localism notice was issued and this notice was issued I followed the hearings around the country on localism and broadcast ownership. I watch a number of hearings replayed on C-Span and read accounts in the local news papers in the city the hearings were held and in the industry trade papers and papers such as the New York Times and Washington Post. From what I could gather from what I saw and read, it seem that most people seemed to express the concerns noted in this notice on localism, but most placed the blame on the changes in the

ownership rules that allowed for the consolidation of the industry in many places under a few large corporations. I have to believe that the Commission is proposing these rule changes as a way protect themselves from further criticism on the deregulation of the ownership rules. By reinstating rules from before deregulation begin, the Commission can tell the public that it has returned the airwaves back to local control. While some of the rule changes can stand some revision, there are many of the rules that should never return, particularly the way they were written in the past.

In the current Localism docket, I was quoted a number of times and I wish to clarify or expand on those comments. I will note those comments when I discuss those issues.

Response to the Community

In 2004, I stated that the Commission has never had a regulatory method that would translate into an effective gauge that broadcasters could use to determine the true needs of the listener or viewer. The Commission has proposed that broadcasters return to ascertaining community needs by interviewing the leaders of the community, business and various civic organizations or by having them sit on an advisory board. I said in 2004 and I repeat that these are the wrong people to ask. This is because many of them have their own agendas and may try to influence the station to produce programming to reflect those agendas. If the station were also to be identified with them too closely, it may also cause concern about conflicts of interest in any of stations news coverage. Most stations in the larger markets already do marketing surveys that reach much broader segments of the community than formal ascertainment could. Owners and managers in smaller markets should be getting feedback in their normal interactions with others in the communities. People are quite willing to tell someone about their likes and dislikes about what you are doing. I get comments all the time when people find out that that I work in broadcasting and what station I work for.

I would prefer to see stations conduct a marketing survey of their audiences on an annual basis and place a summary of the results in their public file. If the Commission would accept marketing surveys as a method of determining audience needs and concerns, the only requirement they should place on them is that they include information on news, public affairs programming and other types of local programming. The Commission should also exempt stations in very small markets, those that gross less than a certain amount or with very small staffs much as small stations that are exempted from filing EEO plans.

The Commission is also asking that stations air notices on how to contact the station and to place such information on their website. Most stations that have a website promote it continuously and I have seldom see any website that does not have a link to a contact us page. By requiring stations to air specific announcements on how to contact them, the Commission would be requiring stations to air information redundant to what they already do and just add to more clutter in station breaks.

Public File

In the report and order, the Commission quoted me saying that “public file and renewal standards can be confusing”. (Page 55-120) I do not see how any of the proposed rules will make the public file any less confusing. The most confusing part of the rules concerning the public file is the program list. The new form for TV makes it a little clearer, but requesting information on ascertaining the needs of the public when producing these programs only further complicates the issue. The Commission could at least place a sample in the broadcasters checklists or in Public and Broadcasting manual. The quarterly program list seems to be the biggest issue in articles about maintaining the public file in trade magazines and the biggest reason for fines concerning the public file.

The Commission would like stations to place the contents of their public file on their website. For some stations, particularly small radio stations, their websites may only be a couple of WebPages and are mainly an electronic flyer for their stations. These sites most likely reside on a server for their Internet provider and would be shut down if the Commission would require them to place the public file on the web. Also, because of the amount of effort it would take to maintain the public file on the website, particularly if e-mails were required to be posted many larger stations may decide to shut down their websites. Between the AM/FM/TV query site and the CDBS Public Access site in the Media section of the FCC websites, I can find nearly everything in the public file, but the program reports, contracts that are required to be placed in the public file and the letters from the public. The sites have links to a stations authorization, applications, ownership reports EEO filings, contour maps for TV and FM and antenna patterns for AM, links to station information such as correspondence and legal action from the FCC, and auxiliary licenses. Since most other filings such as the Children’s TV report and the new TV program report are filed electronically maybe FCC could create a search engine based on a station call letters that would combine the links on both the CDBS and query sites into the one page for each station. The Commission was going to exempt paper letters anyway and I am not sure if contracts should be posted on a website anyway. Most of the information

that one needs about a station would be there and all stations would be included including those without a website.

License Renewal

In the 2004 comments I stated that I thought the current license renewal system was realistic. (Page 55-120) I believe that stations should expect renewal unless they do not meet a minimum standard of conduct. The FCC should state that minimum standard of conduct taking into account the different types of stations and sizes of markets. Not every TV station in a large multi-station market needs to be airing news, but there are other public service activities they can provide. The same goes for radio.

Unmanned Operation, Voice Tracking and Emergency Broadcasting

In 2004, I stated that voice tracking was another evolution in automation of radio that goes back nearly 50 years. Because of the long history of automation, I do not feel that the Commission has any cause to ban or restrict it. As far as using out of market announcers, with local news available on the Internet, there is no reason someone hundreds of miles away could not be as prepared as a local announcer when preparing a show.

I do not believe that the Commission should require a person to be present when a station is on the air. Today's technology allows for reliable unattended operation so it is hard to justify requiring an operator to be present. Because of the economics of station operation today, I believe that many small stations would die or at least quit serving the public at all during the late and overnight time period. As I said in 2004, I think it is not good for a large multi-station operation with up to eight stations under one roof to operate without anyone in the building at night, but this is a decision for the management of those stations to make.

If a station is run unattended, that makes EAS all the more important. I expressed my concerns about stations having their EAS decoders set to air all important warnings and watches and about the lack of ability to repeat messages. (Page 40-84) I believe that with the new CAP system and the National Weather service All-Hazard system it will become easier for stations to provide emergency warnings when unattended. I believe the biggest problem with EAS is the broadcast daisy chain. I would like to have each state have a central entry point to the EAS system that an emergency responder group could contact and they would relay it through Cap or the National Weather Service to the right area for stations to re-air. I would also like some frequencies in the now 700 MHz public safety band set aside for EAS relay to broadcasters and others who need local and regional emergency information. And I would like the broadcast daisy chain to go away. I would

also like to see the manufacturers of EAS decoders add the ability to repeat warnings if the expiration time happens to be of a long length of time from the original warning or watch. The station could determine the repeat time of any message when they program the decoder.

Main Studio Location

I do not believe that the Commission can go back to the pre-1987 rules. This was one rule change with unintended results. I believe that this rule was abused particularly in the FM band. A large number of stations moved their studios to larger cities, sometime by 40 to 50 miles. They moved their transmitters to a point between their city of license and the city they wanted to serve. Both cities ended up just within their city grade contour making the new studio location legal. The stations made a de facto city of license move without having to get FCC permission. This was not a problem in the AM band because few AM stations could move and in the TV band it's really not a problem as TV stations tend to serve their whole market and not just their city of license. Stations should be allowed to move their studio within a metropolitan area, particularly when you cannot tell you are going from one city to the next except for the sign denoting the city limits. Stations tend to serve the whole metropolitan area whether they are in the central city or in the nearby suburbs. I also believe that in order to survive, small rural stations that are nearby to each other and under common ownership should be able to co-locate. In most cases the twenty-five mile limit in the current rules or remaining in the same county would allow for most stations to move to either consolidate operations or move around a metropolitan area. The Commission should look at FM stations that made the 40 and 50 mile moves and see if they should make any restrictions in any further like moves.

Summary

I stated in my summary of my comments in 2004 that the FCC needs to recognize those who provide good service to their communities and provide incentives to those that are doing the minimum. I said that strong-arm regulatory tactics will not work and I feel that many of the proposals in this notice are strong-arm tactics. I also believe that because of the business culture today where Wall Street seems to dictate to all businesses that are publicly financed, that all sectors of the business must meet certain levels of profitability or be cut, which makes it difficult to justify some of the public service and local broadcasting that we wish would occur. Regulations are not going to change that culture. Maybe some of the interest groups that have asked for more regulations should instead work to bring some new broadcasters with new ideas into the industry. They may not be in major markets, but there are some stations available that have potential for the right person.

Broadcasters also have to compete to numerous channels on cable and satellite along with the Internet and recorded music and video, which have no public service requirements. And broadcasters are a business and have to meet payrolls and bills like any other business and still make a profit for their owners and stockholders. And many of the proposals from the Commission are going to cost both money and staff time. Considering that many if not most stations seldom have anybody even look at their public file or challenge their renewals, maybe that money and time be better spent producing more local programming instead of pushing paper.

Finally I have seen a number of articles, particularly in *Radio World*, on localism. Maybe the regulations are not as important as the discussion is on localism. Most of us in broadcasting know that localism is what sets us apart from the rest of media, but like I said earlier the culture of business in this country gets in the way. Whatever action the Commission takes please keep it simple and make the rules clear.

Respectfully submitted

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