

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

In the Matter of	)	
	)	
Promoting Diversification of	)	MB Docket No. 07-294
Ownership In the Broadcasting	)	
Services	)	
	)	
2006 Quadrennial Regulatory	)	MB Docket No. 06-121
Review - Review of the	)	
Commission's Broadcast	)	
Ownership Rules and Other Rules	)	
Adopted Pursuant to Section 202	)	
of the Telecommunications Act	)	
of 1996	)	
	)	
2002 Biennial Regulatory Review	)	MB Docket No. 02-277
- Review of the Commission's	)	
Broadcast Ownership Rules and	)	
Other Rules Adopted Pursuant to	)	
Section 202 of the	)	
Telecommunications Act of 1996	)	
	)	
Cross-Ownership of Broadcast	)	MM Docket No. 01-235
Stations and Newspapers	)	
	)	
Rules and Policies Concerning	)	MM Docket No. 01-317
Multiple Ownership of Radio	)	
Broadcast Stations in Local	)	
Markets	)	
	)	
Definition of Radio Markets	)	MM Docket No. 00-244
	)	
Ways to Further Section 257	)	MB Docket No. 04-228
Mandate and To Build on Earlier	)	
Studies	)	

TO: Honorable Marlene H. Dortch  
Secretary of the Commission

**COMMENTS OF ST. THOMAS MORE FOUNDATION, INC.**

St. Thomas More Foundation, Inc. ("STMFI"), the proposed assignee of AM Broadcast Station WHLY, South Bend, Indiana ("Station WHLY"), by its attorney, hereby respectfully submits its Comments in the above-captioned proceeding. In support whereof, the following is shown:

1. STMFI limits its comments to the issues relative to so-called "paired stations" related to expanded band AM stations, dealt with in the **Report and Order and Third Further Notice of Proposed Rulemaking**, FCC 07-217, released March 5, 2008 (the "NPRM"), at paragraphs 88-92.

2. STMFI and Times Communications, Inc. ("Times") have filed an FCC Form 314 application seeking Commission consent for the assignment by Times to STMFI of Station WHLY, File No. BAL-20061019ADO. Station WHLY, which operates on 1580 kHz and provides full-time broadcast service to South Bend, Mishawaka and the world famous Roman Catholic academic community including the University of Notre Dame, Saint Mary's College and Holy Cross College, is "paired" with expanded band AM Broadcast Station WPNT, 1620 kHz, South Bend, Indiana, which is licensed to Artistic Media Partners, Inc., an entity unrelated to either STMFI or Times.

3. STMFI has brokered the time on Station WHLY from Times, and provides a non-commercial 24 hour per day Roman

Catholic educational and devotional format. St. Joseph County, Indiana, where WHLY is located, has more than 25 Catholic churches<sup>1</sup>, not including all the dormitory chapels located at Notre Dame, St. Mary's and Holy Cross. The county had a 2000 Census population of 265,559.

4. Should the Commission deny our application to purchase and permanently operate Station WHLY, the local community will lose a local broadcast outlet which serves an otherwise unmet need. This will leave St. Joseph County, of which the county seat is South Bend, with just three AM stations, all of which are licensed to South Bend (WSBT 960, WNDV 1490 and WPNT 1620).

5. We analyzed non-suburban counties around the country with populations between roughly 235,000 and 295,000 (in other words, within 30,000 people of St. Joseph County, up or down), to determine the number of AM stations licensed to communities in those counties. The results are on Exhibit A attached hereto. As can be seen, St. Joseph County is underserved with AM broadcasting compared to these other similar sized places; its complement of AM stations must not be reduced from 4 to 3. The forced cancellation of the WHLY license and deletion of its facilities would be in violation of Section 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §307, in that the Congressional

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<sup>1</sup><http://www.diocesefwsb.org/MAP/stjoe.htm>

mandate of fair, efficient and equitable distribution of broadcast facilities would be defied by such a result.

6. STMFI supports the proposals of ¶88-92 of the NPRM. STMFI would also request the Commission to make it clear that, in addition to "small business entities", parties eligible to acquire "paired" stations in the existing AM band include non-profit organizations with 26 U.S.C. §501(c)(3) type purposes (scientific, literary, educational and/or charitable purposes). The Commission needs to do this to prevent a future interpretation of the regulations that a "non-profit organization" is not a "small business entity" and therefore would not be an "eligible entity". In the case of STMFI, it has no other broadcast interests, so, by allowing STMFI to purchase and permanently operate Station WHLY, the Commission would achieve diversification of control of the mass media. Since the officers and directors of STMFI live within 25 miles of the Station WHLY transmitter site, the Commission will also be promoting local ownership of local broadcast outlets.

7. As noted in the NPRM, there are only about 30 instances in the nation where both the existing band AM station and the expanded band AM station are both in operation. So, ¶¶88-92 of the NPRM address a very limited set of broadcast stations. In the case of Station WHLY, for almost two years the station has been put to a very

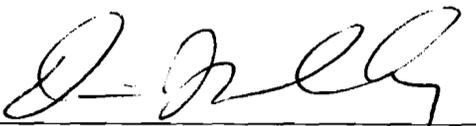
meritorious use, broadcasting 100% clean, wholesome and heartwarming educational and inspirational programming. We have a situation here where, should the Commission not adopt the new rules and then deny the pending WHLY assignment of license application, the FCC will be on record tolerating the nasty broadcasting of Howard Stern, Opie and Anthony and Mancow Mueller through "wrist-slap" fines, while slamming the door in the face of Mother Angelica (replays of her famous broadcasts can be heard on Station WHLY).

**WHEREFORE**, St. Thomas More Foundation, Inc. urges that:

- (1) the Commission **ADOPT THE RULES** contemplated by ¶¶88-92 of the NPRM, with a clarification that the term "small business entities" shall include non-profit organizations;
- and (2) the Commission grant the pending assignment of license application for Station WHLY, South Bend, Indiana, File No. BAL-20061019ADO, and confirm that Station WHLY can continue to broadcast separate and apart from "paired" station WPNT through the end of its current license term (August 1, 2012), and that it is eligible to seek a new eight year license term thereafter.

Respectfully submitted,

**ST. THOMAS MORE FOUNDATION, INC.**

By 

Dennis J. Kelly  
Its Attorney

LAW OFFICE OF DENNIS J. KELLY  
Post Office Box 41177  
Washington, DC 20018  
Telephone: 888-322-5291

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**EXHIBIT A**

AM STATION ALLOCATIONS TO NON-SUBURBAN COUNTIES  
OF SIMILAR SIZE TO ST. JOSEPH COUNTY, INDIANA

- Madison County, Alabama (County Seat: Huntsville), 2000 Census population 276,700; WBHP 1230; WDJL 1000; WEUP 1700; WLOR 1550; WTKI 1450; WUMP 730 (total: 6)
- Larimer County, Colorado (County Seat: Fort Collins), 2000 Census population 251,494; KCOL 600; KIIX 1410; KEPL 1470; KSXT 1570 (total: 4)
- New London County, Connecticut (County Seat: New London), 2000 Census population 259,088; WSUB 980; WICH 1310 (total: 2)
- Escambia County, Florida (County Seat: Pensacola), 2000 Census population 294,410; WBSR 1450; WCOA 1370; WDWR 1230; WNVY 1090; WPNN 790; WVTJ 610 (total: 6)
- Marion County, Florida (County Seat: Ocala), 2000 Census population 258,916; WCFI 1290; WMOP 900; WOCA 1370 (total: 3)
- Winnebago County, Illinois (County Seat: Rockford), 2000 Census population 278,418; WLUV 1520; WNTA 1330; WROK 1440; WTJK 1380 (total: 4).
- Fayette County, Kentucky (County Seat: Lexington), 2000 Census population 260,512; WLXG 1300; WLAP 630; WVLK 590 (total: 3).
- Cumberland County, Maine (County Seat: Portland), 2000 Census population 265,612; WBAE 1490; WGAN 560; WLOB 1310; WZAN 970; WJAE 1440 (total: 5)
- Caddo Parish, Louisiana (Parish Seat: Shreveport), 2000 Census population 252,161; KEEL 710; KIOU 1480; KOKA 980; KRMD 1340; KSYB 1300; KWKH 1130; KNCB 1320 (total: 7)
- Kalamazoo County, Michigan (County Seat: Kalamazoo), 2000 Census population 238,603; WKZO 590; WKMI 1360; WKPR 1420; WQLR 1660; WNWN 1560 (total: 5)

- Greene County, Missouri (County Seat: Springfield), 2000 Census population 240,391; KADI 1340; KBFL 1060; KGMV 1400; KLFJ 1550; KSGF 1260; KWTO 560 (total: 6)
- Atlantic County, New Jersey (County Seat: Mays Landing), 2000 Census population 252,552; WENJ 1450; WMID 1340; WOND 1400; WTAA 1490; WGYM 1580; WIBG 1020 (total: 6)
- Lancaster County, Nebraska (County Seat: Lincoln), 2000 Census population 250,291; KLIN 1400; KLMS 1480; KFOR 1240 (total: 3)
- Albany County, New York (County Seat: Albany), 2000 Census population 294,565; WDCD 1540; WAMC 1400; WDDY 1460; WROW 590 (total: 4)
- Oneida County, New York (County Seat: Utica), 2000 Census population 235,469; WRNY 1350; WYFY 1450; WIBX 950; WRUN 1150; WTLB 1310; WUTQ 1550; (total: 6)
- Marion County, Oregon (County Seat: Salem), 2000 Census population 284,834; KYKN 1430; KBZY 1490; KKSX 1390; KWBY 940 (total: 4)
- Dauphin County, Pennsylvania (County Seat: Harrisburg); 2000 Census population 251,798; WHP 580; WKBO 1230; WTCY 1400; WTKT 1460; (total: 4)
- Erie County, Pennsylvania (County Seat: Erie); 2000 Census Population 282,843; WFNN 1330; WJET 1400; WPSE 1450; WRIE 1260; WYNE 1530 (total: 5)
- Spartanburg County, South Carolina (County Seat: Spartanburg), 2000 Census population 253,791: WASC 1530; WOLI 910; WORD 950; WSPG 1400 (total: 4)
- Lubbock County, Texas (County Seat: Lubbock), 2000 Census population 242,628; KBZO 1460; KDAV 1590; KFYO 790; KJDL 1420; KKAM 1340; KRFE 580; KJTV 950 (total: 7)