Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Promoting Diversification of Ownership In the Broadcasting Services	)	**MB Docket No. 07-294**
	)	
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**
	)	**MB Docket No. 02-277**
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	)	
	)	**MM Docket No. 01-235**
Cross-Ownership of Broadcast Stations and Newspapers	)	
	)	**MM Docket No. 01-317**
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	**MM Docket No. 00-244**
	)	
Definition of Radio Markets	)	**MB Docket No. 04-228**

To: The Commission

EX PARTE COMMENTS OF RAAD BROADCASTING CORPORATION

RAAD Broadcasting Corporation (RAAD), by counsel, hereby respectfully submits its comments in the above-captioned proceedings, relative to the single issue of the radio market definition properly applicable to the Commonwealth of Puerto Rico. Specifically, RAAD wishes to address the pending Petition for Reconsideration of Arso

Radio Corporation (Arso) relative to the Commission's *2002 Biennial Review Order*[1] as it pertains to radio market definition in Puerto Rico and as well to those comments filed by Arso in response to the *Further Notice of Proposed Rule Making* [2] in the above docket proceedings. The Further Notice asked that the record be refreshed with respect to, *inter alia*, the issue of market definitions. RAAD states as follows:

1. RAAD is the licensee of FM Broadcast Station WXYX, Bayamon, Puerto Rico, and is the parent corporation for the licensees of FM Station WXLX, Lajas, Puerto Rico and WKSA-FM, Isabela, Puerto Rico. RAAD's interest in this proceeding is from the perspective of a radio broadcast licensee in Puerto Rico attempting to compete for audience share and advertising revenues with, in essence, three owners of multiple stations **with dominant and optimum island coverage**. The Commission is being led down a very damaging path by one of those three dominant multiple station owners in this proceeding. The effort of that licensee is to further increase its already considerable market dominance in Puerto Rico and to stifle competition for advertising revenues. Unless this effort is recognized for what it is and brought to a halt, any rule change with respect to market definition in Puerto Rico will lead inevitably to continued and expanded market dominance by a very few licensees, and the stifling of competition in the market from smaller broadcast entities such as RAAD.

[1] *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules, Report and Order and Notice of Proposed Rulemaking*, 18 FCC Rcd 13620, 13724-37 (2003) ("*2002 Biennial Review Order* "), aff'd in part and remanded in part, *Prometheus Radio Project v. FCC,* 373 F3d 372 (3d Cir 2004) ("Prometheus Remand Order"), cert. denied, 545 US 1123 (2005). See also *Prometheus Radio Project, et al. v. FCC*, No. 03-3388 (3d Cir Sept. 3, 2004) (lifting stay with respect to new local radio ownership rule)., 18 FCC Rcd at 13712, 13733-34, ¶¶ 239, 294 (2002).
[2] *See,* FCC 06-93, released July 24, 2006 (the "Further Notice") at Paragraph 36.

2. In its *2002 Biennial Review Order,* [3] the Commission retained the local radio numerical limits and the AM/FM service caps that Congress adopted in the 1996 Telecommunications Act. The Commission determined, however, that its contour-overlap methodology for defining radio markets and for counting stations in the market was flawed as a means to *protect competition* in local radio markets.[4] The Commission therefore modified the definition of a local radio market by replacing the contour-overlap approach with an Arbitron Metro market definition where Arbitron markets exist.[5] The Commission has since denied petitions for reconsideration of its decision to use Arbitron Metro markets to define local radio markets. The Third Circuit, in *Prometheus Radio Project v. FCC*, 373 F. 3d 372 (3[d] Cir. 2004) found that the decision to adopt the Arbitron Metro market definition was in the public interest and was supported by reasoned analysis. When the Commission adopted its bright-line, geography-based radio rule for Arbitron- rated markets, it concluded that "[b]y applying the numerical limits of the local radio ownership rule to a more rational market definition, we believe that, in *virtually all cases*, the rule will protect against excessive concentration levels in local radio markets that might otherwise threaten the public interest."[6]

3. In adopting the Arbitron market definition, the Commission's Report and Order reasoned [8] that "[w]here a *commercially accepted* and recognized definition of a radio market exists, it seems sensible to us to rely on that market definition…" (emphasis added). That is quite clearly an appropriate recognition of market realities. Recognizing

[3] *See* Footnote #1.
[4] *Id. 18 FCC Rcd. at* 13712, 13717-24, ¶¶ 239, 250-72.
[5] *Id. at* 13712, 13724-28, ¶¶ 239, 273-81.
[6] *Id.*, at 13813.*(emphasis in original)*
[8] *Id,* at 13724.

that there could be some existing combinations of broadcast stations that would exceed the revised ownership limits after the adoption of the Arbitron market definitions, the Commission grandfathered existing combinations of radio stations and of radio and television stations. Arso, and its associated, co-owned broadcasting companies (all owned and controlled by the Soto family of Puerto Rico) had, at the time the Arbitron market definition was adopted, thirteen radio stations throughout Puerto Rico, **five more** than the **eight** that would have been permitted by strict application of the multiple ownership limits. The Soto family now has control of a total of 14 radio stations in Puerto Rico, through several companies. [9] It has now pending an application to acquire by assignment a fifteenth station, which would require another multiple ownership waiver.

4. As stated above, the Commission has upheld its Order adopting the Arbitron market definition by denying several petitions for reconsideration of its decision to use Arbitron Metro markets to define local radio markets. The Third Circuit United States Court of Appeals has found that the Commission's unqualified decision to adopt the Arbitron Metro market definition where such markets exist was in the public interest and was supported by reasoned analysis.[10] The Commission subsequently held that it had been successfully applying the new definition for over three years and saw no need to revisit its use, and so denied the petitions for reconsideration, save for that of Arso, which

[9] Arso is currently the licensee of eight stations in its own name: WPRM-FM, San Juan; WIVA-FM, Aguadilla/Mayaguez; WRIO-FM, Ponce; WORA-AM, Mayaguez; WPRP-AM, Ponce; WFDT-FM, Aguada; WUNO-AM, San Juan, and most recently, WMIO in Cabo Rojo. The WMIO acquisition was made pursuant to a duopoly waiver granted by the Commission, discussed hereinbelow. Arso principals Jesus Soto and Luis A. Soto are also principals of: (1) Madifide, Inc., the licensee of WFID-FM, Rio Piedras; (2) Uno Radio of Ponce, Inc., the licensee of WLEO-AM and WZAR-FM, both Ponce; and (3) Turabo Radio Corporation, licensee of WNEL-AM, Caguas. In addition, Caribbean Broadcasting Corporation, the licensee of WCMN AM/FM, Arecibo, is a wholly-owned subsidiary of Uno Radio of Ponce, Inc. The Sotos also have an application pending to acquire WIAC-FM, San Juan, Puerto Rico from the current licensee, MDG Radio, Inc. through a subsidiary known as WIAC-FM, Inc.

[10] See *Prometheus*, 373 F.3d at 425

sought to carve out a unique exception for the Commonwealth of Puerto Rico with a different radio market definition than that of Arbitron; a different market definition, which would allow the three largest broadcast licensees in Puerto Rico to acquire even more licenses **with optimum island coverage**, and thus substantially decrease competition and further reduce the number of independently owned radio stations in the market. [11]

5. After repeated, consistent and well-reasoned holdings of the Commission that the Arbitron market definition worked well, and fairly across the board, and after having that decision validated by the United States Court of Appeals for the Third Circuit, the Commission granted the largest single broadcasting entity in Puerto Rico a waiver, so that it could acquire a fourteenth radio station in Puerto Rico, despite the fact that it already owned five more stations than the multiple ownership rules permitted. We respectfully submit that the Commission acted arbitrarily and without a substantive factual predicate, although the waiver request was uncontested at the time. *See, WMIO(FM), Cabo Rojo, PR*, 22 FCC Rcd. 2549, 40 CR 512 (2007). In support of its waiver request, and to enable Arso to acquire more than thirteen radio stations in Puerto Rico (of the then 99 stations on the Island) Arso argued in essence that because, according to the U.S. Census Bureau, Puerto Rico has eight Metropolitan Statistical Areas (MSAs) and because Arbitron defines markets based on Metropolitan Areas (MAs), Puerto Rico, with its eight MSAs and three Combined Statistical Areas (combinations of Metropolitan Statistical Areas) should be considered to be three

[11] The Commission's justification for adopting the Abitron market definition generally applies poignantly to Puerto Rico. The Commission stated: "Although we primarily rely on competition to justify the rule, we recognize that localism and diversity are fostered when there are multiple, independently owned radio stations competing in the same market; our competition-based rule, therefore, will also promote those public interest objectives."

markets, not one.[12] In response, the Audio Division, Media Bureau, on delegated authority, granted the waiver to Arso, stating as follows:

> First, the Commission has long recognized both the unusual economic circumstances present in Puerto Rico, and the unique and extreme topography of that island as considerations in determining the relevant market for purposes of applying our multiple ownership rules. For instance, based upon these factors, the Commission has, on numerous occasions, authorized exceptions to the TV duopoly rule where satellite stations were at issue. In so acting, the Commission found that it was the combination of the island's topography and its geographic isolation that places Puerto Rico in a highly unusual position. The island is approximately 125 miles long (east to west) and 35 miles wide (north to south), which is about three times the size of Rhode Island. The island is bisected east to west by a central mountain range which effectively blocks signals originating in the eastern portion of Puerto Rico from reaching the western portion of the island, and vice versa. As we have recognized previously, the island's topography significantly obstructs local broadcast signals, and accordingly limits the ability of stations to provide service to other areas of the island.
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> Further, the Commission has previously used the U.S. Census Bureau's designation of MSAs to help define the applicable market for determining compliance with cross-ownership limits in Puerto Rico. As indicated by Arso, Puerto Rico consists of eight MSAs, five Micro Statistical Areas, and three Combined Statistical Areas. An MSA has at least one urbanized area of 50,000 or more population, as well as adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties. MSAs generally approximate the boundaries around centers of economic activity. Puerto Rico's eight MSAs suggest that the island may have more centers of economic activity than the Arbitron Metro implies in this instance. Further, there are 99 commercial stations in Puerto Rico and three noncommercial stations, as well as 53 separate owners of radio stations. While there are other Arbitron markets that

[12] Over the past few decades, Puerto Rico's small, fragile, local or regional economies have given way to national economic interests. Local businesses could not compete with the big national chains, and these in turn have been supplanted by the "mega store" phenomenon. Strip malls were substituted with large shopping centers and these by regional shopping centers and shopping districts with national character. Examples of commerce and industry consolidation abound and are well documented. Radio is no exception. To argue in favor of more than one market in Puerto Rico, let alone three or four, presupposes the existence of separate, local markets. Arso is asking the Commission to loosen the interpretation of the market concept in Puerto Rico so as to allow its owners, the Soto family, to arrogate to themselves even more of the national radio budget than what they already have. Greed and not the public interest is the driving force behind the Arso Petition for Reconsideration.

> comprise more than one MSA, Puerto Rico is the only such market that has the additional factors of geographic size, topography, and sheer numbers of radio stations and station owners.
>
> Arbitron itself, in "Puerto Rico Radio Today (2006 Edition)," states that Puerto Rico "can be compared to Connecticut. It is a little smaller, but with almost half a million more people." However, in addition to the inclusion of southern Connecticut in the New York radio market, Connecticut has several Arbitron-rated radio markets: (a) Hartford-New Britain-Middletown (the 50th largest market); (b) New Haven (the 109th largest market); (c) Bridgeport (the 121st largest market); (d) Stamford-Norwalk (the 145th-largest market); (e) New London (the 173rd largest market); and (f) Danbury (the 196th largest market). Moreover, Arbitron states: "When analyzing [Puerto Rico], there are several regions – San Juan, West, South, East, North and Northeast – that have important population centers with their own characteristics, such as Mayagüez, Ponce, Humacao, Fajardo, San Juan." In fact, Arbitron provides ratings data for Puerto Rico broken down by those regions.

The above, however, is difficult to fathom. Based on the eight MSAs in Puerto Rico, both Arso and the Audio Division seem to be asserting that Puerto Rico should be considered to be eight markets for multiple ownership purposes. That, given the geographic proximity of MSAs on an island 100 miles by 35 miles long, would afford a single Puerto Rico broadcaster the opportunity to own an absurdly large number of stations and to virtually eliminate all competition on the Island. Arso's urging that the Commission use "Combined Statistical Areas" to justify the creation of three markets in Puerto Rico is a unique construct that Arso has come up with in an effort to offset the absurd result of its argument that MSAs should be the metric for determining radio markets. If MSAs are used instead of the Arbitron market definition, Puerto Rico would be considered to comprise eight markets instead of one, because it has eight MSAs. [13]

[13] It is important to realize that in Puerto Rico, due to its small size, the MSAs that exist on the Island are extremely close together geographically and are not distinct from a social or economic perspective.

6. The waiver granted to Arso to acquire WMIO was carefully conditioned on the outcome of the instant rulemaking proceedings, and was granted in part because WMIO was located in the far southwestern corner of Puerto Rico, far from the "major economic area of San Juan, which is situated some 120 kilometers away." It is respectfully submitted that the conclusions of the Audio Division, Media Bureau are not supported by reality. First, the topography of Puerto Rico might be effective in blocking signals from one end of the island to the other where the signals come from stations located in opposing coastal regions or pockets along the foot of the mountain range. However, the opposite is true of stations on top of the mountain range which enjoy dominant or optimum signal coverage. These are the stations owned or controlled for the most part by Arso and the other two dominant owners and they compete both at the national and regional level. Second, Puerto Rico is in fact viewed as a single market by national media buyers and the like. The wave of consolidation in radio station ownership several years ago resulted in a market that is only three players deep in terms of national advertising buys. Though there is a respectable number of stations not under the control of the Soto family in Puerto Rico (in 2007, the number of full power radio broadcast stations licensed to Puerto Rico was 99), the fact is that the three largest broadcast licensees own in the aggregate a ***dominant number of the stations with optimum island coverage*** and power so that radio stations with a more localized or regional signal cannot compete with them. The raw number of stations and station owners on the Island is

[16] Puerto Rico is approximately 125 miles by 35 miles in size and it is rightly considered as one market. The idea proposed by Arso, that it can or should be divided into three or more different markets because of its geography is preposterous. The argument ignores demographic and economic data and assumes a static and immobile society within an almost allegoric representation of the market. Puerto Ricans travel from San Juan by car to Mayaguez (west) in an hour and a half, or from San Juan to Ponce (south) in one hour. Geography does not affect mobility. Radio is mostly a national medium with national budgets and national clients, which, in Puerto Rico are already under the control of the top three groups.

therefore misleading and the Census Bureau's MSA analysis for Puerto Rico does not justify in any sense at all the abandonment of the Arbitron market definition. Third, it is an absurdity to compare Puerto Rico as a broadcast market with the State of Connecticut. Puerto Rico is a small island hundreds of miles from the United States mainland. It is self-contained with the nearest U.S. territory being the U.S. Virgin Islands, separated by about 80 miles of open ocean. Puerto Rico is therefore an insular and self-contained Commonwealth wholly unlike Connecticut in its economy and its proximity to other radio markets located in Massachusetts, New York and Rhode Island.

6. Today, close to **60% of all radio revenues in Puerto Rico** are controlled by the three largest broadcasting companies, each of which has multiple stations. These are the Soto family's Uno Radio Group in the *number one* position; SBS Spanish Broadcasting Systems, the largest publicly traded Hispanic media company in the United States; and Univision Radio which owns and operates 70 stations in 16 of the top 25 U.S. Hispanic markets. The Soto family, which owns Arso, already owns the top grossing firm in terms of radio revenues on the Island of Puerto Rico. Since the advertising agencies view Puerto Rico as one market, most of the purchases are of a national character. Stations with localized signals do not compete for national campaigns but the dominant stations owned by the three largest groups do compete at the regional level. In effect, the three dominant groups sell, at the regional level, for effective rates below the cost of production making it impossible for the regional station to compete. This price discrimination is further achieved by grouping various stations together and offering them as a package at the regional level. Arso is interested in a market definition that will allow them to purchase the few remaining dominant signals using the sheer number of

stations with limited signals as evidence of the existence of more than one market. At the same time, Arso has argued that Puerto Rico is in effect regionalized, and that many stations in Puerto Rico serve only specific regions and not the entire Island. However. in adopting the Arbitron Metro as the geographic market for multiple ownership purposes, the Commission recognized that not every station in the market will fully cover the market's geographic area: "We understand that geographic areas are less accurate than contours in measuring the signal reach of individual stations." That fact, however, was not deemed a valid reason for using some other metric for market definition. In adopting the Arbitron market definition, the Commission stated in relevant part as follows:

> We understand that geographic areas are less accurate than contours in measuring the signal reach of individual stations…. The fact that radio signals are not congruent with geographic boundaries does not undermine the logic of relying on geographic areas to define radio markets. As explained below, we will rely on the Arbitron Metro Survey Area (Arbitron Metro) as the presumptive market. …Where a commercially accepted and recognized definition of a radio market exists, it seems sensible to us to rely on that market definition for purposes of applying the local radio ownership rule. Arbitron, as the principal radio rating service in the country, has defined radio markets for most of the more populated urban areas of the country. These radio markets –Arbitron Metros – are Arbitron's primary survey area, which in turn are based on Metropolitan Areas (MAs) established by the Office of Management and Budget (OMB)…The record shows that Arbitron's market definitions are an industry standard and represent a reasonable geographic market delineation within which radio stations compete. Indeed, the DOJ consistently has treated Arbitron Metros as the relevant geographic market for antitrust purposes. Although NAB opposes reliance on Arbitron markets, its own study states that Arbitron's service "is the primary currency through which buyers and sellers of radio airtime negotiate prices for radio advertising in most local markets." As that study states, "all aspects of the information that Arbitron includes in these reports," including "the ways in which the markets are defined," are "driven by [the] single goal" of enabling "commercial radio stations and advertisers [to] determine the relative value of radio station airtime." As NABOB succinctly states, "Radio stations compete in Arbitron markets." Given the long-standing industry recognition of the value of Arbitron's service, we

> believe there is strong reason to adopt a local radio market definition that is based on this established industry standard.
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> Several commenters have argued that Arbitron market definitions are not reliable enough for us to use as a radio market definition. Although Arbitron Metro boundaries do occasionally change, we are not convinced that such changes occur with such frequency, or that they are so drastic, that we must reject reliance on those boundaries in defining the relevant radio markets. Indeed, as Bear Stearns states, the "self-correcting" nature of Arbitron Metros can be a useful tool for keeping up with "the reality of the marketplace."

2002 Biennial Review Order, 18 FCC Rcd. 13620, at 13724, ¶ 273-277.

Each and all of these points applies directly and aptly to the Commonwealth of Puerto Rico.

7. Adjusted for time sales (mostly applicable to AM radio) and regional spot sales, the dominance in Puerto Rico of the top three multiple station owners in terms of national sales via advertising agencies and sales representatives is almost complete, since the top three already share anywhere from <u>82% to 90% of the market</u>. It is estimated that the Soto's market share is currently near 22 percent, and it could, if a pending duopoly waiver request is granted to permit acquisition of a fifteenth station in San Juan, climb to 26 percent of all radio revenues in Puerto Rico, and over 30 percent of the national advertising campaigns. It is estimated that the top three groups will in turn control from 62% to 70% of all radio revenues and over 90% of all national campaigns. Eventually, if the Arbitron market definition is changed in Puerto Rico, market dominance by the top three firms will be complete, and the smaller broadcast licensees will be unable to compete at all. The top two AM news networks in terms of audience are owned by the Sotos (Noti-Uno) and Univision (Radio-Reloj) while nine of the top ten FM radio stations are controlled by either the Sotos, SBS or Univision. It is apparent why Arso and its

principals are so intent upon changing the market definition in Puerto Rico. If they are successful, they will squelch all competition in radio broadcasting on the Island in terms of advertising revenues. There is now competition, albeit limited. The Commission has so far insured that a bad situation won't get any worse, by using the Arbitron market definition. Abandoning that market definition will allow Pandora to re-escape the box.

8. At the same time, the remaining share of the market not controlled by the top three groups is already too small to sustain a healthy competitive environment. Nor is it large enough to provide sustainability of the other broadcasters.

9. Arbitron did not arbitrarily declare the entire island of Puerto Rico to be one radio market. That Arbitron intended and committed, for good and sufficient reason, to measure the Puerto Rico market as one market is reflected in a process that took into account both the broadcasters and the advertising agencies. On April 8, 1999, Arbitron released the following analysis of the Puerto Rico Market:

> Our software system for analysis, MediaPro/Maximiser makes all data available to clients so that you can take advantage of custom capabilities. However, that is not to say that every individual town on the island will have sufficient sample on its own to be looked at on a discreet demo or a qualitative target basis, and this situation is no different that what we encounter in the United States. <u>In fact, with 78 municipios in Puerto Rico only 16 actually have a theoretical sample target greater than 30.</u>.. <u>This is the minimum we recommend for analysis on our software ……</u>
>
> <u>In reality, the best research analytical judgment should be applied in defining your custom criteria</u>. <u>The way to do this is to prioritize the research criteria that are most important to you from a client/marketing standpoint</u>.
>
> ….once we have continuous measurement for the island <u>you will have the ability to double base the sample by merging two or three surveys</u>. <u>This will enable more discreet analysis, for example of a specific demo within a smaller geography.</u>

"The challenge in managing sample in such small sampling units as we have in Puerto Rico is that one or two diaries will make percentages swing dramatically"

That Arbitron intended and committed, for good and sufficient reason, (and not arbitrarily) to measure the Puerto Rico market as one market is reflected in its sample target expressed to Andres Claudio, media director general manager and ex-President, Sales and Marketing Executive Association. Only by merging various surveys did the data on specific demos become reliable for smaller geographic areas.

Arbitron Radio Market Rankings

Ranking	Market Name	Population	# Target Diaries	% Pop Diff	% Diff Diary
#13	Seattle – Tacoma	3,353,200	3,690	3 .2+	53.75+
#14	Puerto Rico	3,249,200	2,400		
#15	Minneapolis-St. Paul	2,697,500	3,440	17 -	43.33+
#17	San Diego	2,536,000	3,270	22 -	36.25+
#18	Tampa-St. Petersburg-Clearwater	2,387,300	3,080	26.5-	28.33+
#19	Nassau-Suffolk (Long Island)	2,325,200			
#20	St. Louis	2,299,000	3,340	29 -	39.16+

This comparison of target diaries per population confirms and reinforces Arbitron's intent to measure Puerto Rico as one market and the need for increased sampling for smaller geographical data, in order for that data to be useful. According to Mr. Harry Clark of Arbitron, the development of the Metro definition occurred as follows:

> "Arbitron established the Metro definition for Puerto Rico after assessing the marketing needs that were expressed by radio broadcasters and advertising agencies". Therefore, the one market definition was supported by broadcasters and advertising agencies. Furthermore, Uno Radio fully participated from the beginning in welcoming Arbitron to Puerto Rico and boasted about Puerto Rico becoming the 14th market and its effect on license values.

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> "By developing a sampling plan…..Arbitron determined that it would be able to place sufficient sample to allow a meaningful and workable breakouts of the various individual marketing areas that comprise the island: Northeast, San Juan, North, South, East and West".

9. The fact that advertising agencies view Puerto Rico as one market is reflected in their media purchases as well as in their choice of business venue. As can be seen from the following table of Puerto Rico's top 55 advertising agencies, an overwhelming 94.5 percent are in the San Juan metro area. It is quite obvious that San Juan is the dominant area, and that the rest of the Island is not significant in terms of defining the radio market. It would make no sense at all to consider the rest of the Island separate radio markets.[16] The Commission itself refers to San Juan as the center of economic activity in Puerto Rico.

Puerto Rico's Leading Advertising Agencies

Ranked by Caribbean Business - Top 55 Agencies by Region

Region	# of Agencies	Percentage
San Juan Metro Region	52	94.5%
East Region	1	1.8%
South Region	0	0.0%
West Region	2	3.6%
North Region	0	0.0%

10. The Commission's Duopoly Rules are premised on economic issues relating to market dominance. They are not directly related at all to the number of stations whose principal community contours happen to overlap. As the Commission has stated with respect to Arbitron definitions, the contour overlap method of market definition was "flawed as a means to protect competition in local radio markets." Neither does it make any sense to utilize MSAs as the market definition. Instead, inasmuch as Arbitron has

carefully evaluated the market and found that the one-market definition is accurate and reasonable, the Commission should not make an exception in Puerto Rico where geographical isolation and varied topography have become catalysts for monopolistic practices. The Commission's clear intent is to promote a variety of competitive voices and information within a technical framework. This intention should not be allowed to be circumvented by irrelevancies and claimed geographic isolation. [17] In this case, ownership regulation of a small island market cannot be subject to arbitrary or biased regional dissection. The creation of three, five or eight markets, as Arso urges, belies the nature of the Island and the realities of the economic structure of the Island and its broadcasting industry. The present Arbitron market definition in Puerto Rico is now working and is the sole protection against anticompetitive practices by a few dominant broadcast entities. Unless corrupted, the market definition helps to safeguard diversity and, just barely, promotes competition.

Therefore, the foregoing considered, RAAD Broadcasting Corporation respectfully requests that the Commission retain the Arbitron market definition of Puerto Rico as a single market in accordance with its previous decisions and the justifications recited herein. When the Commission adopted its bright-line, geography-based radio rule for Arbitron-rated markets, it concluded that "[b]y applying the numerical limits of the local radio ownership rule to a more rational market definition, we believe that, in *virtually all cases*, the rule will protect against excessive concentration levels in local radio markets that might otherwise threaten the public interest." That decision was right then, and it is right now.

Respectfully submitted,

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