



Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW | Washington, DC 20037-1122 | tel 202.663.8000 | fax 202.663.8007

Scott R. Flick
tel 202.663.8167
scott.flick@pillsburylaw.com

November 13, 2009

By Electronic Filing (ECFS)

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW, TW-A325
Washington, DC 20554

**Re: Texas Association of Broadcasters
Ex Parte Letter
MB Docket No. 04-233
GN Docket No. 09-47
GN Docket No. 09-51
GN Docket No. 09-137**

Dear Ms. Dortch:

On behalf of the Texas Association of Broadcasters ("TAB"), and pursuant to Section 1.1206 of the Commission's Rules¹, the undersigned provides notice that on November 12, 2009, members of the Texas Association of Broadcasters² met with the following:

- Commissioner McDowell and Rosemary Harold, Legal Advisor, Media, to Commissioner McDowell
- Rick Kaplan, Legal Advisor, Media, and Chief of External Affairs to Commissioner Clyburn

¹ 47 C.F.R. § 1.1206

² The TAB members attending yesterday's meeting were: Manuel Abud, KXTX-TV, Dallas, Texas; Meredith Beal, KCLW(AM), Hamilton, Texas; Ben Downs, Bryan Broadcasting Corporation; Ann Arnold, President of TAB; and Oscar Rodriguez, Vice President of TAB.

ATTACHMENT A

- A) Localism Proceeding - The attendees presented an overview of the myriad ways local radio and television broadcasters serve their local communities. They discussed how they engage audiences in public affairs, news events and community-building endeavors according to the characteristics of each station's unique audience.

The attendees also expressed concern that the proposed localism rulemaking presents a one-size-fits-all formula for stations to ostensibly advance localism that would restrict stations' ability to achieve this goal in ways that are most likely to engage their audiences and accomplish the desired effect.

The attendees noted that the localism proposal is unlikely to accommodate the recording of significant, effective community-building endeavors stations undertake on a routine or emergency basis, and that the proposed reporting requirements appear so onerous that many broadcasters anticipate they would have to divert scarce staff resources to regulatory reporting requirements from the very efforts the proceeding seeks to advance, thereby diminishing the ability of stations to meet the needs of the local population.

The attendees identified two proposals in particular that would prevent individual and group licensees from best serving their audience:

- 1) The proposed 24/7 staffing requirement would force some small 24-hour AM radio stations to sign off at night, eliminating highly valued programming and local emergency information updates to listeners because of increased costs. In such cases, stations are currently able to provide automated programming and insert live, local information or updates of significant community interest as local needs dictate.
- 2) The proposed requirement that each station have a studio within the community of license would require a group of licensees that serve multiple communities to incur significant additional costs at the risk of diverting money from local programming or forcing some stations to go "dark." In many instances, licensees to multiple small, contiguous communities have concentrated administrative and studio operations in one location, achieving significant fiscal efficiencies that allow members of all the communities to benefit from a robust station operation. Such efficiencies would be lost under this proposal and reduce highly valued service to some of those communities.

The attendees noted that rather than targeting the relative handful of stations that generated complaints in the FCC's localism hearings, the proposed rules overreach by placing extraordinary regulatory burdens on all stations, the vast majority of which clearly and continuously serve the public interest of local communities.

- B) National Broadband Policy - The broadcasters expressed support for achieving universal broadband access, noting that such service is beneficial to communities and to stations with significant and growing presence online. Regarding recent proposals reportedly advanced by offices within the FCC to reclaim broadcast TV spectrum for redeployment for mobile

broadband uses, the broadcasters indicated that TV broadcasters - after making significant investments in the government-mandated DTV transition completed just five months ago - are now poised for the next generation of technological and programming innovation benefiting not only local viewers, but also the electronics industry and local retailers. Removing spectrum from that effort would both undercut local broadcast service and the development of new and free services for the public.