

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

In the Matter of)	
)	
2010 Quadrennial Regulatory Review – Review)	MB Docket No. 09-182
of the Commission’s Broadcast Ownership)	
Rules and Other Rules Adopted Pursuant to)	
Section 202 of the Communications Act of)	
1996)	

REPLY COMMENTS OF CLEAR CHANNEL COMMUNICATIONS, INC.

Clear Channel Communications, Inc. (“Clear Channel”) hereby submits its reply comments in this proceeding.¹ Clear Channel’s opening comments and the comments of other parties demonstrate that the Commission’s existing local radio ownership rules cannot be sustained in today’s media environment. The current numerical limits on radio ownership are completely unnecessary and are therefore ripe for full repeal. In the alternative, the state of media competition demands that the Commission increase the numerical ownership limits in the largest radio markets and repeal the AM/FM subcaps. The Commission should also consider adopting measures to promote increased participation in the broadcast industry by new entrants, including women and minorities.

I. OPPONENTS OF ELIMINATING OR RELAXING THE LOCAL RADIO OWNERSHIP LIMITS OFFER SCANT EVIDENCE TO SUPPORT MAINTAINING THE *STATUS QUO*.

As Clear Channel demonstrated in its opening comments, higher levels of common ownership have delivered important benefits to U.S. radio audiences in the form of format

¹ 2010 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, Notice of Inquiry, MB Docket No. 09-182,

diversity and improved local service.² The strong record evidence of these benefits stands in stark contrast to the conclusory opinions of those parties who oppose the elimination or relaxation of the Commission’s local radio ownership rules. Indeed, the approaches of some commenters seem almost languid. For example, the comments of the Communications Workers of America (“CWA”) and of the United Church of Christ (“UCC”) each devote a single, short paragraph to the local radio ownership rules. In their respective paragraphs, CWA and UCC only make broad statements about vague benefits of retaining the rule.³ Neither examines the potential pitfalls of maintaining the *status quo*.⁴

The National Association of Black Owned Broadcasters (“NABOB”) takes a different approach. After quoting extensively from the *2010 NOI*, NABOB recites a litany of statistics about the poor financial health of the broadcast industry and concludes that “this is definitely not the time to make changes in the ownership rules affecting this industry.”⁵ After painting this dire picture, NABOB urges the Commission to keep the existing local ownership rules in place, supposedly because the loss of minority ownership “since the passage of the Telecommunications Act of 1996 is directly related to the consolidation of the industry permitted by that Act.”⁶ NABOB cites nothing to support this claim. In addition, NABOB also attempts to

(Continued . . .)

FCC 10-92 (May 25, 2010) (“*2010 NOI*”).

² See Comments of Clear Channel Communications, Inc., MB Docket No. 09-182, at 21-32 (July 12, 2010) (“*Clear Channel 2010 Comments*”).

³ Comments of Communications Workers of America, *et al.*, MB Docket No. 09-182, at 35 (July 12, 2010) (“*CWA Comments*”); Comments of Office of Communications of United Church of Christ, Inc., *et al.*, MB Docket No. 09-182, at 9 (July 12, 2010) (“*UCC Comments*”).

⁴ *Id.* Similarly, Free Press argued generally for the tightening of the Commission’s media ownership rules but provided no new evidence to support its contention. Instead, Free Press submitted *all* of its filings from the 2006 quadrennial review.

⁵ Comments of National Association of Black Owned Broadcasters, Inc., MB Docket No. 09-182, at 5 (July 12, 2010) (“*NABOB Comments*”).

⁶ *Id.*

resurrect the prior resource-intensive policy of “flagging” transactions that pose a risk of creating excessive concentration in a market.⁷ Noting that the flagging policy was no longer required in light of its new approach to defining radio markets and counting market participants, the Commission wisely abandoned its flagging policy in 2003.⁸ There is no compelling reason to revisit the policy.

A significant portion of the Future of Media Coalition’s (“FMC”) comments is devoted to opposing further consolidation in the radio industry.⁹ Yet, as with the other commenters promoting the *status quo*, FMC’s efforts fall short. FMC relies heavily on its submissions in the 2002 and 2006 regulatory reviews.¹⁰ While there is nothing inherently wrong with relying on prior *analysis* (such as econometric models of the effects of consolidation on format diversity),¹¹ FMC appears to base its conclusions on outdated *data*. For example, FMC points to the combined 2002 market shares of Clear Channel and Viacom as evidence favoring retaining the current local radio ownership rules, yet Viacom no longer owns broadcast stations,¹² and since 2006 Clear Channel has divested itself of more than 300 radio stations. The simple recitation of old data—especially data that refer to companies that have exited radio broadcasting—does not impart relevance in the current proceeding.

⁷ *Id.*, at 6.

⁸ See 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 Rule Making, 18 FCC Rcd 13620, 13813 (¶¶ 496-97) (2003).

⁹ See generally Comments of Future of Media Coalition, MB Docket No. 09-182 (July 12, 2010) (“*FMC Comments*”).

¹⁰ See *FMC Comments*, at 9, 12.

¹¹ See *Clear Channel 2010 Comments*, at 14-17.

¹² See Separation from CBS, <http://phx.corporate-ir.net/phoenix.zhtml?c=85242&p=irol-stockPurchase> (last visited July 22, 2010).

II. AFTER CRITICIZING THE “ECHO CHAMBER” OF NEW MEDIA PLATFORMS, THE AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS BLINDLY REPEATS OTHERS’ FALSE STATEMENTS ABOUT CLEAR CHANNEL.

In discussing the effects of media ownership on viewpoint diversity, the American Federation of Television and Radio Artists (“AFTRA”) urges the Commission to discount the impact of new media on diversity. According to AFTRA, “new media sources act as an ‘echo chamber’ whereby the visibility of otherwise unimportant or inaccurate stories is over-amplified.”¹³

Ironically, AFTRA’s own comments demonstrate that the “echo chamber” effect is not confined to new media and is therefore an insufficient basis to discount new media’s impact on the broadcast industry. Specifically, AFTRA cites text published in a 560 year-old medium—a printed book—when it “over-amplif[ies]” an inaccurate and frequently repeated allegation that Clear Channel failed to serve the public interest following a 2002 chemical explosion in Minot, South Dakota.¹⁴ To once again correct the record, Clear Channel has included as Appendix A a copy of its submission in the Future of Media proceeding on this same topic.

III. THE COMMISSION SHOULD REPEAL THE AM/FM SUBCAPS.

The record in this proceeding demonstrates that the Commission cannot rationally retain the AM/FM subcaps. As Clear Channel has shown, the subcaps are based on technical and

¹³ See Comments of American Federation of Television and Radio Artists, MB Docket No. 09-182, at 12 (July 12, 2010). AFTRA, however, did not stop with repeating false information about the incident in Minot. *Id.* at 15-16. Instead, AFTRA went on to cite the same academic to support its allegation that Clear Channel’s stations in Syracuse, New York, did not provide sufficient coverage of the massive blackout of 2003 and “instead aired a content feed from CNN.com.” This is not true. In addition to providing listeners with the audio of a press conference with New York’s Mayor Bloomberg (which was streamed on CNN.com), Clear Channel’s stations dispatched reporters to Syracuse’s City Hall to interview local officials and power company representatives; the stations sent reporters to the local airport to speak with stranded travelers; and one of Clear Channel’s local talk show hosts used his live program to relay listener questions to local officials.

¹⁴ *Id.* at 15.

economic assumptions that are not true for today’s AM broadcasters.¹⁵ Clear Channel also notes that in the opening comments to this proceeding only one commenter—Mt. Wilson FM Broadcasters, Inc.—urged the Commission to retain the subcaps.¹⁶ Yet this commenter was unable to point to any evidence that the subcaps served any salutary purpose. In contrast, at least four broadcasters—Arso Radio Corporation, Clear Channel, M. Kent Frandsen, and Monterey Licenses—have already called for the subcaps’ repeal in this proceeding, and both CBS and Multicultural Radio Broadcasting called for the subcaps’ repeal in the 2006 quadrennial review.¹⁷

IV. THE COMMISSION SHOULD ESTABLISH AN “INCUBATOR” PROGRAM TO PROMOTE NEW ENTRY INTO RADIO BROADCASTING.

In its opening comments, Clear Channel urged the Commission to establish an “incubator” program to foster opportunities for radio station ownership by socially and economically disadvantaged businesses (“SDBs”), including businesses owned by women and minorities.¹⁸ Clear Channel is deeply committed to fostering radio station ownership by women and minorities. Indeed, Clear Channel is donating six radio stations and related equipment to the Minority Media and Telecommunications Council (“MMTC”) as part of the ongoing MMTC-Clear Channel Ownership Diversity Initiative.¹⁹ MMTC, in turn, will use the stations to incubate

¹⁵ See *Clear Channel 2010 Comments*, at 37-45.

¹⁶ See Comments of Mt. Wilson FM Broadcasters, Inc., MB Docket No. 09-182, at 2 (July 12, 2010).

¹⁷ See *Clear Channel 2010 Comments*, at 37-45; Comments of M. Kent Frandsen, MB Docket No. 09-182, at 2, 5-6 (July 12, 2010); Comments of Monterey Licenses, LLC, MB Docket No. 09-182, at 2, 5-6 (July 12, 2010); Comments of Arso Radio Corporation, at 5 (June 21, 2010); Reply Comments of CBS Corporation, MB Docket No. 06-121, at 13-15 (Jan. 16, 2007); Comments of Multicultural Radio Broadcasting, Inc., MB Docket No. 06-121 (Dec. 10, 2007).

¹⁸ See *Clear Channel 2010 Comments*, at 47-49.

¹⁹ See Press Release, Clear Channel, *Clear Channel Radio Donates Two New Stations to Minority Media and Telecommunications Council* (July 20, 2010), <http://www.clearchannel.com/Radio/PressRelease.aspx?PressReleaseID=2737>; Press Release, Clear Channel, *Clear Channel Radio Donates Stations, Equipment to Minority Media and Telecommunications Council* (July 21, 2009), <http://www.clearchannel.com/Radio/PressRelease.aspx?PressReleaseID=2464>.

and train new minority and female entrants to the terrestrial broadcast industry.

Clear Channel is not alone in calling for the Commission to establish an incubator program. As the ten Diversity and Competition Supporters (“DCS”) noted in their opening comments, an incubator program was first proposed in 1990. Since then, various commenters in six consecutive ownership dockets have urged the Commission to establish such a program that would provide a strong incentive for large broadcasters to support SDBs’ efforts to acquire and operate radio stations.²⁰

As noted above, commenters allege that increased concentration in the terrestrial radio industry has caused a decrease in radio station ownership by women and minorities.²¹ The same commenters note that, in the current recession, now “is definitely not the time” to change media ownership rules in a way that would harm the broadcast industry as a whole.²² The record also demonstrates that in challenging economic times, eliminating or relaxing the local radio ownership rules is good medicine for an ailing industry.²³ Opponents of relaxing or eliminating the local radio ownership limits would seem to present the Commission with a binary choice: to promote increased female and minority investment, the Commission could keep or restrict local radio ownership limits (but this might undermine the financial health of the entire industry); alternatively, the Commission could buttress the industry by relaxing or eliminating local ownership limits (but this could ignore calls for increased female and minority investment).

Reality, however, rarely produces such starkly binary choices. Such is the case here, and the Commission need not choose between relaxing the local ownership rule and promoting new

²⁰ See Comments of The Diversity and Competition Supporters, MB Docket No. 09-182, at 22-23 (July 12, 2010) (“DCS Comments”).

²¹ See, e.g., NABOB Comments, at 5.

²² *Id.*

²³ See generally *Clear Channel 2010 Comments*.

investment by women and minorities. An incubator program creates a viable means to resolve the dilemma posed by NABOB and others by enabling the Commission to promote increased female and minority investment at the same time that it takes other much-needed, concrete measures—such as creating additional ownership tiers for the largest radio markets and repealing the AM/FM subcaps—to fortify the health of the industry.

If the Commission elects to establish an incubator program, as recently proposed by DCS and Clear Channel, it is imperative that the Commission remain cognizant of marketplace realities in setting eligibility criteria for program beneficiaries. History has shown that setting unrealistic criteria—such as in the current rules governing the sale of grandfathered radio clusters—causes a promising program to falter.²⁴ Accordingly, the Commission should refrain from incorporating its current revenue-capped “small business” definition into an incubator program’s eligibility criteria; doing so would make chimeric the program’s promise of increasing female and minority ownership.

V. CONCLUSION

The comments of Clear Channel and others establish the clear and pressing need to eliminate the local radio ownership rule or relax it substantially through the creation of additional ownership tiers and the elimination of the AM/FM subcaps. Certain parties oppose any relaxation of the local radio ownership limits, but these commenters have not established a record that would allow the Commission to determine that maintaining its existing ownership rules is necessary in the public interest.

Clear Channel also urges the Commission to heed the growing call for the creation of an incubator program to promote female and minority investment in the terrestrial radio industry.

²⁴ See *Clear Channel 2010 Comments*, at 50; *DCS Comments*, at 23, n. 89.

Respectfully submitted,

A handwritten signature in black ink that reads "Jessica Marventano". The signature is written in a cursive style with a large initial "J".

Jessica Marventano,
Senior Vice President, Government Affairs
Clear Channel Communications, Inc.
200 East Basse Road
San Antonio, Texas 75201
210.822.2828

Dated: July 26, 2010