

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of)
2010 Media Ownership Review) MB Docket No. 09-182

**Comments of
Future of Music Coalition**

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INTRODUCTION

Future of Music Coalition (FMC) respectfully submits these reply comments to the FCC's 2010 review of its media ownership rules. As a national research, education, and advocacy organization focusing on issues at the intersection of media, music, and technology, FMC has a long history of documenting trends in the music industry, including commercial broadcast radio. Through our work, FMC seeks to promote the interests of musicians, particularly independent artists who have faced tremendous barriers to airplay on commercial radio.

As our comments to the 2006 and 2010 media ownership proceedings demonstrate, FMC strongly supports the FCC's goals of competition, localism, and diversity in the American communications landscape. In particular, we believe that consolidation in commercial radio station ownership has undercut these core principles and diminished radio's ability to offer a truly local platform for information and entertainment. As a result of the widespread consolidation sparked by the 1996 Telecommunications Act, the commercial radio sector has become less local, less competitive and less diverse by a number of key metrics.

FMC reviewed the comments of a number of stakeholders who filed in the quadrennial rules review docket, including those of Clear Channel Communications, Inc. These reply comments aim to address some of the arguments made in that specific filing.

In its comments, Clear Channel challenges the FCC's local ownership rule by arguing that large group owners bring more diverse programming to local radio markets. However, Clear Channel's assertions that consolidation leads to greater diversity and more local programming are based on misleading historical data on formats. *False Premises, False Promises: A Quantitative History of Ownership Consolidation in the Radio Industry*, FMC's comprehensive analysis of radio ownership consolidation from 2006, reveals that smaller station groups provide most of the niche and local radio programming, while large station groups like those owned by Clear Channel are more likely to broadcast programming from just a few of the most popular formats with almost no independent, local or niche programming.¹

¹ DiCola, Peter, *False Premises, False Promises: A Quantitative History of Ownership Consolidation in the Radio Industry* (December 2006) <http://futureofmusic.org/sites/default/files/FMCradiostudy06.pdf>

FMC believes increased consolidation in the commercial radio sector runs counter to the FCC's goals of competition, localism, and diversity on the public airwaves. As the Commission undertakes a review of its current media ownership rules, we urge it to consider radio's monolithic transformation following the elimination of the national ownership rules and the relaxation of local ownership rules under the 1996 Telecommunications Act. We appreciate the Commission's attention to this important matter.

BACKGROUND

By far the largest single owner of broadcast radio stations in the United States, Clear Channel has an enormous stake in the media ownership debate. The corporation has gained unprecedented dominance in radio market share since the passage of the 1996 Act first relaxed the local and national ownership limits. In 1995, Clear Channel owned just 39 radio stations. By 2005, however, the figure had jumped astronomically to 1,184 radio stations.² In the current economic downturn, this number has fallen to 857, so it is no surprise the corporation is now seeking regulatory reforms that will allow it to regain some of its former holdings.³

Any additional relaxation of local ownership rules would permit Clear Channel to consolidate further, even though such measures have contributed to a severely impaired commercial radio marketplace. And, as referenced in our original comments in this docket, the promised benefits from increased economies of scale have never materialized. In the wake of the Telecom Act, Clear Channel initially acquired television stations, billboards, concert promotion, and concert venue properties in addition to radio stations. But by the spring of 2005, Clear Channel had divided its holdings into three separate entities — radio and television, concerts, and billboards — reflecting the corporation's inability to leverage its holdings across platforms. Other divestitures followed; in November 2006, a group of equity investors purchased Clear Channel's assets, and the corporation announced it would sell off 448 of its radio stations. Given this history, allowing the company to acquire more broadcast outlets is a recipe for further

² Media Access Pro (Radio Version), BIA Financial Networks, November 2005 data.

³ Comments of Clear Channel Communications, Inc. MB Docket No. 09-182, 6, (Jul 12, 2010).

marketplace failure, with added injury to competition, localism and diversity in an already impaired radio environment.

LOCAL RADIO OWNERSHIP CAPS AND PROGRAMMING DIVERSITY

Since the Telecom Act eliminated limits on national broadcast ownership, commercial radio has become less locally oriented, with homogenization reflected in playlists nationwide . One of the most important remaining regulations to protect localism and diversity in broadcast radio is the local radio ownership rule. Through this rule, the FCC promotes this crucial goal by enforcing limits on the number of stations each company, organization, or individual can own within each local market. Limits on local radio ownership engender diversity of ownership and encourage competition in local markets.

Clear Channel's contention that relaxing the limits would promote the FCC's policy goals is false. In support of its conclusion that "continued retention of broadcast radio ownership limits in any form plainly cannot be justified 'as necessary in the public interest,'"⁴ Clear Channel claims that consolidation in radio station ownership has led to an increase in diversity of programming and music formats. Further, it is asserted that consolidation has "substantially increased radio broadcasters' ability to serve the local needs and interests of their communities."⁵

Clear Channel makes the counterintuitive argument that increases in common ownership of radio stations in a single market leads to greater programming diversity. The theory is that group owners must appeal to many different segments of the population in order to capture as much of the local audience as possible. Clear Channel's argument relies heavily on Professor Hausman's 2006 analysis from 243 metropolitan markets which shows format diversity increased between 1993 and 2006 and that the average number of formats increased from 11.5 to 16.7 between 1993 and 2001.⁶ Further, Hausman found that increases in common ownership were responsible for 25 percent of the increase in format diversity between 1993 and 2001.⁷

⁴ Id.

⁵ Id.

⁶ Comments of Clear Channel Communications, Inc., MB Docket No. 02-277, Ex. 2 at 5, (Jan. 2, 2003).

⁷ Id. at 4.

Upon closer inspection, however, we discover Hausman's econometric model relies on the number of formats available in the local market as its measure for diversity. Although Hausman made efforts to isolate the change in the number of formats in markets that have consolidated and compare it to the change in the markets that have not and to accommodate different classification schemes used by two different data sources, this methodology does not address the problems with using the format counts as a measure of diversity.

“Number of programming formats” is a poor measure of diversity

As our 2006 study revealed, counting formats does not provide a complete or accurate picture of diversity in the market.⁸ We found that for the format data from BIA Financial Networks (BIA) — one of two sources used in Hausman’s analysis — stations report primary, secondary and tertiary formats.⁹ However, the data collected by BIA has become more detailed over time. For example, most stations in 1996 had only listed a primary format, but by 2005 many stations also listed secondary and tertiary formats. This is reflected in the total number of primary-secondary-tertiary format combinations by year: 282 in 1996 compared to 763 in 2005.¹⁰ By counting format combinations, the industry suggests it has created nearly five hundred new formats in a ten year period, an unlikely result. We believe a measure of diversity that relies solely on format combinations is extremely misleading. The change in data reporting practices over time could yield the false conclusion that programming has become more diverse, even as the market has becomes more consolidated.

More troubling is the radio industry practice of counting recombinations of format names as indicative of format diversity. For example, the industry counts the format combinations “Rock/Classical/Jazz” and "Rock/Jazz/Classical" as two different formats. Therefore, if Clear Channel adds a Rock/Jazz/Classical station to a market that already has a Rock/Classical/Jazz station, it has increased diversity in the market by its own measure, even though it is unlikely to

⁸ DiCola, Peter. *False Premises, False Promises: A Quantitative History of Ownership Consolidation in the Radio Industry*, [hereinafter *False Premises*] December (2006) p. 50 at <http://www.futureofmusic.org/article/research/false-premises-false-promises>

⁹ See any recent edition of Media Access Pro (Radio Version), BIA Financial Networks.

¹⁰ Media Access Pro (Radio Version), BIA Financial Networks, November 2005 data.

have resulted in much programming variety. Commonly owned stations offering the same programming format have music playlists that overlap up to 97 percent.¹¹

There are numerous additional problems with using format names to measure diversity. For example, we have found that even radio formats with different names can have music playlists that overlap up to 80 percent.¹² And despite gains in the total number of formats, just fifteen formats made up 76 percent of commercial programming as of Spring 2005.¹³

Large station groups provide less diverse programming

We urge the FCC to consider other factors beyond the raw number of programming formats in measuring diversity. These factors include the differences in programming between large and small station groups. Clear Channel argues that large group owners differentiate their programming in order to capture more of the audience in a local market. However, our data show the opposite effect; stations controlled by large group owners tend to offer highly homogenized programming.

In our 2006 study, we found that large group owners — those owners who exactly meet or exceed by legacy the local ownership cap in a market — offer limited variety, with the majority of programming comprising just eight formats.¹⁴ Although large station groups might be expected to diversify their programming, that has not happened in practice. Niche music formats such as classical, jazz, bluegrass, and folk are provided almost exclusively by small station groups. For example, our study found there were 177.04 station-equivalents in the classical music format among small station groups, and only six station-equivalents in the corresponding large station groups.¹⁵ Furthermore, public interest programming, such as children's and religious content, are also provided primarily by smaller station groups.¹⁶ In other words, it is the small station groups that are more likely to serve the goal of diversity in broadcast radio.

¹¹ *False Premises* at 103.

¹² *Id.* at 101, Table 3-5.

¹³ *Id.* at 87, Figure 3-1.

¹⁴ *Id.* at 95, Figure 3-5.

¹⁵ *Id.* at 97, Table 3-4.

¹⁶ *Id.*

Relaxing the local ownership rules would likely aggravate the problem, through increased programming in the few most popular formats.

CONCLUSION

The FCC has the responsibility to ensure that its media ownership rules reflect its stated goals of competition, localism and diversity on the public airwaves. As the Commission conducts this review and assesses radio's important role in America's communications portfolio, we hope these comments will prove useful. FMC believes very strongly that the local radio ownership limits are necessary to further these goals in light of changes in the radio marketplace over the past decade. FMC appreciates the opportunity to offer our perspective to the Commission as it undertakes this important proceeding.

Respectfully Submitted,

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