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Future of Music Coalition

Statement of Jenny Toomey
Executive Director, Future of Music Coalition
FCC Field Hearing on Media Ownership
Richmond, Virginia

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Federal Communications Commission
Office of the Secretary

Good morning. On behalf of the Future of Music Coalition I want to thank you for the honor of testifying today. This hearing is much needed, and we applaud you for holding it.

My name is Jenny Toomey. I am a rocker, a businesswoman and an activist. I speak to you today as a working artist and as Executive Director of the Future of Music Coalition, a non-profit think tank that pursues initiatives that can benefit citizens and musicians. Most working musicians aren't superstars – rather, they are independent and local. For the past three years the FMC has worked with musicians and citizens groups on issues from webcasting to health care. But one issue unites our entire constituency: lack of access to commercial radio.

Last February we began an eight-month research project that examined the impact of radio consolidation on musicians and citizens. In the study, we asked the basic questions: how has ownership of commercial radio changed? And how do these changes impact the essential regulatory priorities of localism, competition and diversity?

Our study concludes the following: there is scant evidence that the basic regulatory principles of competition, diversity and localism have been improved in any way, shape or form by the radical restructuring of the industry that has taken place over the past six years. Rather, we are very concerned that this restructuring has created significant harm to this critical public resource. We see a dramatic loss of localism. We see an industry that has lost one-third of its owners over the past six years. We see virtually every local market under the control of four companies or fewer. We question whether independent operators who are less concerned with reaching the most attractive demographics can compete against these broadcasting conglomerates. And we have yet to find a compelling argument that radio listeners, professional broadcasters, local governments, social service agencies or musicians benefit from these changes.

Make no mistake; radio serves a critical role for the music community. Even more important, radio plays a vital part in American culture and political discourse. So, when the basic regulatory structures that have governed radio so well for decades are

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overturned, at the very least the public deserves both a full accounting of the impact of these changes and a true seat at the table as further changes are debated.

Now, the radio industry defends its consolidated state by pointing at other entertainment industries and saying, "we're not **as** bad as those guys." But, they aren't "those guys". Radio is not private property, but a public resource regulated by the government on behalf of citizens. The question is not the gross number of owners. The question is how many owners exert control in a specific local market. When measured according to market concentration of listenership and advertising dollars, radio demonstrates the basic principles of ologopolistic control. In New York City, 79 percent of revenue is controlled by four companies. In Washington, DC it's 79 percent. In New Orleans, 90 percent. In Austin, 92 percent. In virtually every local market of the county, four companies or fewer control over 70 percent of the market. And in many cases, these owners are not locally based.

The broadcast industry claims that this reduction in local ownership is not a problem. In fact, they say, fewer owners in a market leads to ***more*** diversity. They say radio companies will avoid competing against themselves in a single format.

There are two problems with this rationale. First, formats are a poor measure of diversity. Measuring music diversity by counting the number of radio formats offered in a specific market is like measuring the variety of food in your pantry by counting the number of cans on your shelves without looking at what is inside them.

In our radio study, we found substantial overlap between supposedly distinct formats. In the most extreme case, for the week of August 2,2002, the national charts for two distinct formats -- Urban and CHR Rhythmic – overlapped at a 76 percent level. In other words, **38** of the top 50 songs were the same.

The second problem with this "we wouldn't compete against ourselves" argument is that it misses the fundamental logic of the value of a station group. The primary goals of a radio station group are to: **1)** attract the largest possible number of listeners in the most attractive demographics and **2)** maximize the possibility that when the listener changes the station, they change to another station owned by the parent company.

At the same time that the station group attempts to build the largest, most demographically attractive audience, they work to cut costs on the expense side. They streamline management and sales staffs. They increase the amount of nationally syndicated programming – preferably featuring programming owned by the parent company. They implement voice tracking technology that tricks listeners into thinking that disc jockeys are in fact "live and local" when they are pre-taped from **a** remote location.

So these companies are very focused on their end goals: make as much money as possible while spending as little money as possible.

Future of Music Coalition

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Radio Deregulation: Has It Served Citizens and Musicians?

EXECUTIVE SUMMARY

This report is an historical, structural, statistical, and public survey analysis of the effects of the 1996 Telecommunications Act on musicians and citizens.

Each week, radio reaches nearly 95 percent of the U.S. population over the age of 12 (see Chapter 5, p. 69). But more importantly, radio uses a frequency spectrum owned, ultimately, by the American public. Because the federal government manages this spectrum on citizens' behalf, the Federal Communications Commission (FCC) has a clear mandate to enact policies that balance the rights of citizens with the legitimate interests of broadcasters.

Radio has changed drastically since the 1996 Telecommunications Act eliminated a cap on nationwide station ownership and increased the number of stations one entity could own in a single market. This legislation sparked an unprecedented period of ownership consolidation in the industry with significant and adverse effects on musicians and citizens.

What Did the Telecommunications Act of 1996 Aim to Accomplish?

The FCC is mandated by Congress to pursue the "core public interest concerns of promoting diversity and competition."[1] According to a 1996 speech by Reed Hundt, the FCC Chair who led the Commission during the Act's passage, the public had much to gain from the legislation:

> "We are fostering **innovation** and **competition** in radio. ...The Commission's goal in this proceeding is to further competition, just as we seek to promote competition in other communications industries we regulate. But in our broadcast ownership rules we also seek to promote **diversity in programming** and **diversity in the viewpoints** expressed on this powerful medium that so shapes our culture."[2]
> [emphasis added]

1 FCC Notice of Proposed Rulemaking, November 8th, 2001.

2 "The Hard Road Ahead," Speech delivered by FCCChairman Reed Hundt, December 26, 1996. Appendix I of Patricia Aufderheide's, *Communications Policy and the Public Interest*, Guilford Press, 1999, p. 289.

requirement by reasonable rules and regulations, which fall short of abridgement of freedom of speech and press and of censorship proscribed by statute.

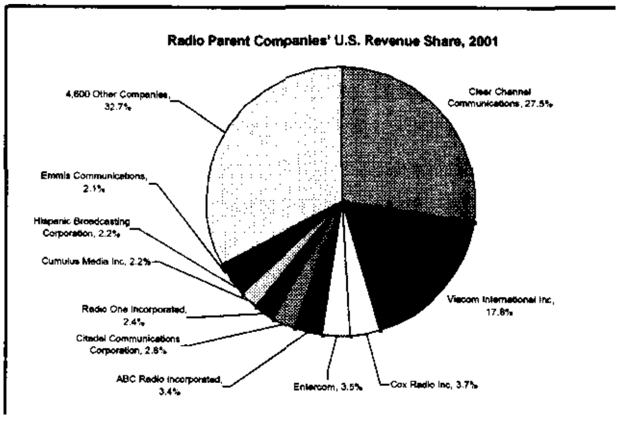
I urge you today to see radio as a cautionary tale when you consider adjusting the current media ownership rules. Facilitating continued consolidation would speed the unfolding tragedy of our rapidly closing airwaves. We sincerely believe that further deregulation should not receive endorsement from the FCC.

I want to thank Chairman Powell and the commissioners. The receipt of 13,000 public comments is not an indication that the public has been sufficiently heard on this issue. Rather, this new level of citizen participation reflects two things: **1)** a growing awareness among the public of the consequences of unchecked media deregulation, and 2) an increased understanding among citizens about how they can articulate their concerns. Most importantly, many citizens with valuable perspectives and personal experience on these issues have not commented publicly for fear that their criticisms of the industry will be met with severe retaliation. This is why Commissioner Copps' recent call for anonymous testimony has so energized the music community. I am confident that you will see indications of the music community's commitment to these issues at upcoming hearings and discussions in Seattle, Austin, and Durham.

Thank you again for inviting me to testify today. I look forward to answering your questions.

Major **Findings**

EVIDENCE OF **CONSOLIDATION**



1. **Ten parent companies dominate the radio spectrum, radio listenership and radio revenues.** Deregulation has allowed a few large radio companies to swallow many of the small ones. Together these ten parent companies control two-thirds of both listeners and revenue nationwide. Two parent companies in particular, Clear Channel and Viacom, control 42 percent of listeners and 45 percent of industry revenues (see Chapter 3, pp. 24-25).

2. **Consolidation is particularly extreme in the case of Clear Channel.** Since passage of the 1996 Telecommunications Act, Clear Channel has grown from 40 stations to **1,240** stations -- 30 times more than congressional regulation previously allowed. No potential competitor owns even one-quarter the number of Clear Channel stations. With over 100 million listeners, Clear Channel reaches over one-third of the U.S. population (see Chapter 3, p. **24).**

3. **Oligopolies control almost every geographic market.** Virtually every geographic market is dominated by four firms controlling 70 percent of market share or greater. In smaller markets, consolidation is more extreme. The largest four firms in most small markets control 90 percent of market share or more. These companies are sometimes regional or national station groups and not locally owned (see Chapter 3, pp. 31-35).

4. **Virtually every music format is controlled by an oligopoly.** In 28 of the 30 major music formats, nationwide, four companies or fewer control over 50 percent of listeners (see Chapter 3, pp. 36-39).

EFFECTS OF **CONSOLIDATION**

5. **A small number of companies control the news Americans hear on the radio.** Four parent companies control two-thirds of the nation's News format listeners. Two such firms, Viacom and Disney's ABC Radio, also control major television networks (see Chapter 3, p. 38).

6. **Format consolidation leads to fewer gatekeepers. A** small number of companies control what music is played on specific formats. Coupled with a broad trend toward shorter playlists, this creates few opportunities for musicians to get on the radio. Further, overwhelming consolidation of these formats deprives citizens the opportunity to hear a wide range of music (See Chapter 4, pp. 61-63).

populations are not provided the service to which they are entitled. The public is not satisfied and possible economic efficiencies of industry consolidation are not being passed on to the public in the form of improved local service.

In September 2002, the FCC announced a period of open review of the current ownership rules, suggesting it may consider further deregulation of the radio industry. FCC Chairman Michael Powell described this as "the most comprehensive undertaking in the area of media ownership in the commission's history." We welcome this review period and offer these findings to the debate as cautionary data. "Open review" should not imply open season for increased corporate media control. Facilitating continued consolidation will speed the unfolding tragedy of our rapidly closing public airwaves. The FMC sincerely believes that deregulation should not receive a further endorsement from Congress or the FCC.

About the Future of Music Coalition

The Future of Music Coalition is a Washington, DC-based not-for-profit collaboration between members of the music, technology, public policy and intellectual property law communities. The FMC seeks to educate media organizations, policymakers and the public about music/technology issues while bringing together diverse voices to develop creative solutions to challenges in this space. The FMC also aims to identify and promote innovative business models that will help musicians and citizens benefit from new technologies.

About the Primary Authors

Kristin Thomson is a community organizer, social policy researcher, entrepreneur and musician. After graduating with a BA in Sociology from Colorado College in 1989, Kristin moved to Washington, DC where she worked for two years as a national action organizer for the National Organization for Women. She left NOW in 1992 to make a full-time commitment to Simple Machines, an independent record label she co-ran with Jenny Toomey. In 2001, Kristin graduated with a Masters in Urban Affairs and Public Policy from the University of Delaware. Currently, she manages research projects for the FMC and works for the DC-based public relations firm Bracy Tucker Brown.

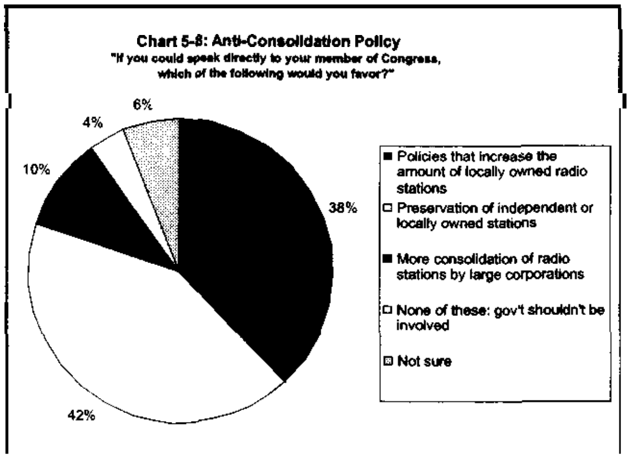
Peter DiCola is a graduate student pursuing a law degree and a PhD in economics at the University of Michigan in Ann Arbor. His research interests include labor economics, public finance, industrial organization, and intellectual property law. Peter's interest in the radio and music industries began at college, where he spent a year booking independent rock, jazz and electronic music at the Terrace Club in Princeton, NJ. He also worked as a DJ at WPRB-Princeton for three years. Before entering graduate school, Peter was a consultant with Mercer Management Consulting in Chicago. His projects there involved organizational design and statistical survey research. Peter joined the FMC in 2000 to study the effects of technological change on the musicians' labor market. He currently serves as Director of Economic Analysis for the FMC in addition to his graduate studies.

a step further, supporting congressional action that encourages more local ownership of radio stations (see Chapter *5*, p. 81-82).

11. **Radio listeners want less advertising.** Industry wide, the amount of advertising per hour has grown significantly over the last several years. A 2000 study found that advertising "clutter" had increased six percent nationwide in 1999, though by 2000 the amount of ads had leveled off. [4] When asked about the quantity of ads, 60 percent of survey respondents said that radio has too much advertising (see Chapter 5, p. *85).*

12. **Radio listeners want to hear a wider range of music that includes local musicians.** Twenty-five percent of survey respondents said they hear too little of the music they **like;** 38 percent said that local artists are underexposed on the radio (See Chapter 5, p. 85).

13. **Radio listeners want longer playlists with more variety.** Seventy-eight percent of those surveyed would rather hear programming from a longer playlist – one with more songs – than from a shorter one. Fifty-two percent of those surveyed said that less repetition, more new music, or more local acts would most make radio more appealing (See Chapter *5*, pp. 76-77).



14. **Citizens support action to stop "indie" promotion.** Sixty-eight percent **of** those surveyed support congressional involvement to curb the use of payola-like systems that use third parties to let record companies pay radio stations for airplay (see Chapter *5*, pp. 80-81).

15. **Citizens support efforts to grow low power FM radio.** Seventy-five percent of survey respondents said they would welcome low power radio stations into their communities (see Chapter 5, p. 82-84).

Conclusions

The radical deregulation of the radio industry allowed by the Telecommunications Act of 1996 has not benefited the public or musicians. Instead, it has led to less competition, fewer viewpoints, and less diversity in programming. Deregulation has damaged radio as a public resource.

This research makes an overwhelming case that market consolidation intended by the act does not serve the diverse needs of Americans citizens. Substantial ethnic, regional and economic

4 "Study Finds Fewer Ads on Radio:' Billboard Magazine, May 5, 2001 and Kathryn Kranhold, "Advertising on Radio Increases 6%; San Francisco area sees 20% Rise", Asian Wall Street Journal, April 13, 2000.

5 Comments at the Conference of the National Association of Broadcasters, September 13th, 2002.