

Testimony of James F. Goodmon
before the
U.S. Senate Committee on Commerce, Science and Transportation
on
Localism, Diversity and Media Ownership
November 8, 2007

My name is Jim Goodmon. I am President & CEO of Capitol Broadcasting Company, Inc., and I am proud to say that I am the third generation in my family to serve as President. Capitol operates radio and television stations in North Carolina.

Personally, I have never been more excited about broadcasting. As many of you may remember, I am the self-appointed nation's most enthusiastic digital television cheerleader. WRAL-DT signed on July 23, 1996 becoming the nation's first commercial high-definition ("HD") television station. In 2001, WRAL-DT began multicasting allowing our viewers to watch CBS network and local programming in HD on one channel and 24-hour local news, sports and weather in standard definition on another channel. When needed, WRAL-DT can become four or more stations giving our viewers additional local and/or diverse programming.

Three and a half years ago I testified before this Committee on the same issues being addressed at today's hearing. Much of my testimony remains the same, but there are two striking differences. First, by 11:59:59 pm on February 17, 2009, television broadcasters must turn-off their analog channels signaling the end of one era and the beginning of another. Second, digital radio is now a reality with over 1500 radio stations broadcasting in HD. As broadcasters move from analog to digital, now is not the time to revise the media ownership rules.¹

¹ The one exception to this is the so-called UHF discount rule. Pursuant to the UHF discount rule, UHF television stations continue to be attributed with only 50% of the television households in their Designated Market Areas ("DMAs") for purposes of calculating the 39% national television ownership cap. Many VHF analog stations are (or will become) UHF digital stations, so it is very important that the UHF discount issue be resolved prior to February 17, 2009 for calculation purposes.

That is my first point today – I repeat, with the transition to digital, now is not the time to revise the media ownership rules. As previously noted, WRAL-DT is actually two channels and can be three, four or more, and many HD radio stations are already offering two or more channels, including WRAL-FM. In effect, Capitol's two digital television stations in Raleigh-Durham can be eight television channels, and its two radio stations can be six or more radio channels. I urge Congress and the FCC to wait and carefully evaluate the impact of the digital transition on localism, diversity and competition before changing the current media ownership rules.

My second point is that the media ownership rules remanded by the Third Circuit must be resolved by the Commission in a comprehensive fashion, taking into consideration the interrelationship between the various rules on a national, state and local level. In 2003, although the Commission reviewed its new media ownership rules individually, with guidance from the now infamous Diversity Index, there is no indication that the Commission analyzed the collective impact of the new rules on the public interest and the Commission's core values of localism, diversity, and competition. Applying the Commission's new 2003 rules, in Raleigh-Durham, Capitol could own two television stations; five or more radio stations; and the Raleigh and Durham daily newspapers, *The News & Observer* and the *Durham Morning Herald* respectively. In North Carolina, Capitol could own 11 television stations; more than 30 radio stations; and the daily newspapers in Raleigh, Durham, Charlotte, Asheville, Greensboro, High Point and Winston-Salem. Without antitrust intervention, Capitol could also own Time-Warner Cable and an unlimited number of cable channels, Internet websites and magazines.

By ignoring the interplay of its new rules, the Commission violated its own stated policy of concentrating too much *potential* power in the hands of a single media outlet and created the

absurd results noted above. The Commission's 2003 Media Ownership Order² notes the following at ¶¶ 28, 29 and 38:

Further, owners of media outlets clearly have the ability to affect public discourse, including political and governmental affairs, through their coverage of news and public affairs. Even if our inquiry were to find that media outlets exhibited no apparent "slant" or viewpoint in their news coverage, media outlets possess significant *potential* power in our system of government. We believe that sound public policy requires us to assume that power is being, or could be, exercised.

The record contains evidence that reporters and other employees of broadcasting companies alter their news coverage to suit their companies' interests. This suggests that whatever financial interest that media companies may have in presenting unbiased news coverage, those incentives are not the only factors that explain news coverage decisions.

As we have explained, "the greater the diversity of ownership in a particular area, the less chance there is that a single person or group can have an inordinate effect, in a political, editorial, or similar programming sense, on public opinion at the regional level."

In 2007, let's not repeat the mistakes of 2003. Because of the overlap among various media ownership rules, a holistic, harmonized approach is required to comply with the Third Circuit's remand.

My third point is minimum public interest standards and reporting requirements are needed for digital broadcasters. The Commission's digital public interest notice of inquiry was adopted in 1998, a standardized disclosure rulemaking was adopted in 2000, and the localism notice of inquiry was announced in 2003 and adopted in 2004. I urge the Commission to complete these three rulemakings before moving forward with any changes to the media

² 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, 18 FCC Rcd 13620 (2003) ("2003 Media Ownership Order"), *aff'd in part and remanded in part, Prometheus Radio Project, et al. v. F.C.C.*, 373 F.3d 372 (2004), *stay modified on rehearing*, No. 03-3388 (3d Cir. Sept. 3, 2004), *cert. denied*, 73 U.S.L.W. 3466 (U.S. June 13, 2005) (Nos. 04-1020, 04-1033, 04-1036, 04-1045, 04-1168, and 04-1177).

ownership rules. As I noted earlier, WRAL-DT has been on the air for more than a decade without digital public interest rules.

Every broadcaster I know, myself included, believes they are following the Commission's rules and doing a good job of serving their local communities, but there is always room for improvement. The problem is as I see it that we are an industry with few standards . . . either mandatory or voluntary . . . and with only a few exceptions, we don't really know what is expected of us. The Commission's present reporting system does not provide much information, so we really don't know how well we are doing.

Minimum public interest standards will make clear to all stakeholders of the public airwaves what is expected. Will broadcasters do more than the minimum? Yes, I think we will. Over the course of the last few years, the public – our viewers – have become increasingly aware that the airwaves belong to them and that we, as broadcasters, are accountable. Standardized reporting and defined minimum standards will at least give them and us a way to begin measuring how well we are doing.

In addition, stations should be required to develop methods for determining or ascertaining the primary issues, needs and interests in the community. Public input should be invited on a regular basis to serve as a guideline for stations to address those community interests through news, public service announcements, and public affairs programming. And then, on a quarterly basis, station licensees should report to the FCC and the public on how ascertained needs are being served through local programming.

To summarize, I respectfully submit that the Commission should complete its public interest and localism proceedings before the Commission addresses media ownership changes; the Commission should understand the impact of the digital transition on localism, diversity and

competition before changing its media ownership rules; and the Commission should do a comprehensive review of the media ownership rules to understand the interplay of the rules to avoid the results created in the 2003 proceeding.

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