

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

In the Matter of )  
 )  
Broadcast Localism ) MB Docket No. 04-233  
 )

**COMMENTS OF THE MT. HOOD CABLE REGULATORY COMMISSION  
IN RESPONSE TO THE NOTICE OF PROPOSED RULEMAKING  
Representing Multnomah County and the  
Cities of Gresham, Fairview, Portland, Troutdale and Wood Village, Oregon**

**I. INTRODUCTION**

The Mt. Hood Cable Regulatory Commission (“MHCRC”) submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”), released January 24, 2008, in the above-captioned proceeding.

These Comments are filed by the Mt. Hood Cable Regulatory Commission (“MHCRC”). The MHCRC was created in 1992 when the City of Portland, Oregon agreed to consolidate its cable regulatory program and staffing with the already-existent (since 1982) joint cable regulatory program of Multnomah County and the cities of Gresham, Troutdale, Fairview, and Wood Village, Oregon. (collectively, with Portland, the “MHCRC Jurisdictions”). The MHCRC advocates for and protects the public interest in the regulation and development of cable communications systems, resolves cable subscribers' concerns, and facilitates the planning and implementation of community uses of cable communications technologies that make use of the public rights-of-way. The six jurisdictions which form the Commission comprise the majority of the Portland media

market. The MHCRC joins in and supports comments filed in this proceeding by the National Association of Telecommunications Officers and Advisors (NATOA).

The NPRM seeks comment on a number of very important issues affecting localism, including “communication between licensees and their stations’ communities;” “nature and amount of community-responsive programming;” “underserved audiences;” “disaster warnings;” and “license renewal procedures.”<sup>1</sup>

The MHCRC is concerned that the record in this proceeding “indicates that many stations do not engage in the necessary public dialogue as to community needs and interests and that members of the public are not fully aware of the local issue-responsive programming that their stations have aired.”<sup>2</sup> This situation is disconcerting considering that, as the Commission points out, the “concept of localism has been a cornerstone of broadcast regulation for decades.”<sup>3</sup> Indeed, “as temporary trustees of the public’s airwaves, broadcasters are obligated to operate stations to serve the public interest” and that “respond to the unique concerns and interests of the audiences within the stations’ respective service areas.”<sup>4</sup> It is against this backdrop of public interest and local concerns that the “Commission proposes certain changes to its rules and policies that will promote both localism and diversity.”<sup>5</sup>

The Commission says that it supports localism yet it’s words belie its recent actions taken in the video franchising proceeding with its complete lack of appreciation of the role that local governments must play in assuring that cable systems are responsive to local community needs and concerns. Any steps the Commission takes in this

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<sup>1</sup> *In the Matter of Broadcast Localism* (“NPRM”), MB Docket No. 04-233, ¶10 (rel. January 24, 2008).

<sup>2</sup> *Id.* at ¶ 1.

<sup>3</sup> *Id.* at ¶ 5.

<sup>4</sup> *Id.* at ¶ 6.

<sup>5</sup> *Id.* at ¶ 1.

proceeding should: (1) be based on the record; (2) not harm local efforts that seek to ensure that local broadcasting reflects community needs and interests; and (3) be within the Commission's authority to adopt. It is with these principles in mind that we submit the following comments.

The Commission correctly recognizes that there is a “need to improve the communication between broadcast licensees and their local communities”<sup>6</sup> and seeks comment on a number of proposals to improve those lines of communication.

1. Community Advisory Boards

The Commission has tentatively concluded that “each licensee should convene a permanent advisory board made up of officials and other leaders from the service area of its broadcast station. We believe these boards will promote both localism and diversity and, as such, should be an integral component of the Commission's localism efforts.”<sup>7</sup>

The MHCRC encourages any initiative that seeks to improve communication between licensees and the communities they serve. However, we think that there should be guidelines for these Community Advisory Boards as opposed to a uniform, “one-size fits all” approach. The framework should allow flexibility to allow the Advisory Boards to reflect the needs and interests of the communities they serve. At a minimum, these boards should include representatives from local government, consumer groups, business associations, education (including students), seniors, the disabled, non-English speakers, and so on. Furthermore, such boards should meet at least quarterly, in a noticed public forum, with ample opportunity for public comment.

2. Remote Station Operation

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<sup>6</sup> *In the Matter of Broadcast Localism* (“NPRM”), MB Docket No. 04-233, ¶10 (rel. January 24, 2008)

<sup>7</sup> *Id.* at ¶ 16.

The MHCRC and others are concerned that there is an increased risk to public safety during emergencies because of automated broadcast operations. Staffed broadcast stations will more likely result in accurate public safety information being relayed to affected populations. There is no question that, in times of emergencies, most Americans turn to television to provide them with the most up-to-date information. As a result, public safety demands that all broadcast stations be staffed.

The National Association of Broadcasters (NAB) ignores the fact that state and local officials may override programming during times of emergencies, “but only if they have the prior consent of broadcasters, which are not legally obligated to cede control of their content, and only if they have installed E.A.S.-compatible equipment, which is voluntary, too. The loose local standards leave some officials confused about how to issue an alert and some broadcasters ill equipped to help.”<sup>8</sup>

B. Nature and Amount of Community-Responsive Programming

1. Local Programming Renewal Application Processing Guidelines

Finding that the “record reveals that notable disparities exist among licensees with respect to the nature and amount of community-responsive programming that they air,”<sup>9</sup> the Commission tentatively concludes that “we should reintroduce renewal application processing guidelines that will ensure that all broadcasters . . . provide some locally-oriented programming.”<sup>10</sup> The MHCRC supports this proposal. Not only will such guidelines help to ensure that broadcasters provide locally-oriented programming, they will also act to ensure that all broadcasters are held to the same standards. However, as

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<sup>8</sup> Eric Klinenberg, Air Support, nytimes.com, January 28, 2007, available at: [http://www.nytimes.com/2007/01/28/magazine/28WWLN\\_IdeaLab.t.html?\\_r=1&ref=magazine&oref=slogin](http://www.nytimes.com/2007/01/28/magazine/28WWLN_IdeaLab.t.html?_r=1&ref=magazine&oref=slogin)

<sup>9</sup> NPRM at ¶ 31.

<sup>10</sup> *Id.* at ¶ 40.

discussed below, we believe that any guidelines imposed should include a “quality” component to help ensure that such local programming is indeed responsive to the unique needs and interests of the community.

## 2. Main Studio Rule

The MHCRC believes the Commission should return to its pre-1987 main studio rule, which required all broadcasters to maintain their main studios in their communities of license.<sup>11</sup> The MHCRC believes such a rule would encourage the production of locally-oriented programming and further the lines of communication between the broadcasters and its community of service.

### C. Political Programming

The Commission appears to take the position that the debate over political programming can be resolved through the use of the Commission’s new disclosure requirements. And to some extent, that may be true. Indeed, whenever the Commission takes it upon itself to institute better and more useful data collection procedures, it must be commended. However, as the Campaign Commenters point out, strengthening disclosure requirements is merely the “first step.”<sup>12</sup> The Commission must do more. Practices such as masquerading partisan political programming as “news reports” or “documentaries” need to be addressed.

Yet, as a government agency run by political appointees, it is unlikely that the Commission will take any action beyond that contemplated herein. Unfortunately, the Commission failed to take positive steps to improve the quality and quantity of local political programming when it adopted its two video franchising orders. Rather than

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<sup>11</sup> *Id.* at ¶ 41.

<sup>12</sup> *Id.* at ¶ 67.

treating PEG access channels as a true benefit to local communities, reflecting the unique needs and interests of the residents they serve, the Commission treated PEG requirements as unreasonable barriers to the video marketplace.

D. Underserved Audiences

The MHCRC is supportive of any initiative that could result in increased diverse and local programming. The Commission acknowledges that “some programming – particularly network programming – often is not sufficiently culturally diverse.”<sup>13</sup> While the Commission believes that digital television technology may provide more programming for “niche” audiences, it also believes that “more needs to be done.”<sup>14</sup> As a result, the Commission set forth a number of ways by which it believes more and better programming for underserved audiences may be achieved, including the use of community advisor boards, ownership diversity, enhanced disclosure requirements, and commercial leased access.

But once again, the Commission fails to acknowledge the fundamental role that PEG programming could play in providing “niche” programming in local communities across the nation. It has been estimated that PEG stations, on a nationwide basis, produce 20,000 hours of new, local programming every week, which is more than that produced by network broadcasters combined.<sup>15</sup> Perhaps it is time for the Commission to recognize the invaluable role that PEG channels play in providing local programming and take steps to preserve, rather than destroy, such invaluable sources of “niche” programming.

E. Disaster Warnings

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<sup>13</sup> *Id.* at ¶ 69.

<sup>14</sup> *Id.* at ¶ 72.

<sup>15</sup> See *Testimony of Sharon King before the Federal Communications Commission, Annual Assessment of the Status of Competition for the Delivery of Video Programming*, MB Docket No. 05-255, Keller, Texas (February 10, 2006), available at: <http://www.fcc.gov/realaudio/presentations/2006/021006/king.pdf>.

MHCRC is concerned about the issue of remote station operation. While the Commission is looking at the matter as it relates radio, we believe it incumbent for the Commission to address the matter as it relates to television. The simple fact that a majority of Americans get their information from television cannot be overlooked. And the fact that television is so ubiquitous necessarily requires that local stations be staffed at the local level to ensure that all residents receive vital public safety information at critical times.<sup>16</sup>

F. License Renewal Procedures

The MHCRC agrees that the license renewal process “involve more than a returned postcard.”<sup>17</sup> And while the Commission’s steps to require increased disclosure of local programming efforts by broadcasters are commendable, such efforts alone are not enough. We support those who suggest that “public hearings on service and community needs assessment [should] be conducted and published for comment, criticism and resolution.”<sup>18</sup>

Furthermore, we agree that the Commission “should reintroduce specific procedural guidelines for the processing of renewal applications for stations based on their localism programming performance.”<sup>19</sup> However, while procedural guidelines such as examining the number of hours of local programming aired may provide some objective evidence of the broadcaster’s commitment to serving the needs and interests of the community, there needs to be a subjective portion of the review process as well. The quantity of local programming provided should not necessary trump the quality of the

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<sup>16</sup> See, Randy Dottinga, *Crisis Alert in Critical State*, Wired (August 24, 2004), available at: <http://www.wired.com/politics/law/news/2004/08/64656>.

<sup>17</sup> NPRM at ¶ 115.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at ¶ 124.

programming provided. And while measuring the quality of the local programming will be a more difficult task, this is where the use of public hearings and community advisory boards will prove invaluable.

### **III. CONCLUSION**

The Commission's modest proposals would impose no substantial burden on broadcasters. In fact these proposals would serve to re-enforce existing public interest obligations and improve broadcasters' accountability to the local communities they serve.

Respectfully submitted,  
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