

STATEMENT OF
FCC CHAIRMAN KEVIN MARTIN
PUBLIC HEARING ON LOCALISM
WASHINGTON, DC
OCTOBER 31, 2007
As Prepared for Delivery

Many thanks to all of you for participating in the Commission's sixth hearing on localism. Your thoughts about this issue are very important to us.

Establishing and maintaining a system of local broadcasting that is responsive to the unique interests and needs of individual communities is an extremely important policy goal for the Commission. Indeed, along with competition and diversity, localism is one of the three goals underlying all of our media ownership rules. The Commission is currently engaged in a review of those rules and the testimony we will hear today along with that from previous localism hearings will inform the Commission's decision-making in the media ownership proceeding.

I would like to take a moment to review with you the work the Commission has done to date on these related proceedings of media ownership and localism. In 2003 when we last conducted a review of the media ownership rules many expressed concern about the process. Specifically, people complained that there were not enough hearings, not enough studies and not enough opportunity for comments and public input.

When we began, eighteen months ago, the Commission committed to conducting this proceeding in a manner that is open and transparent and allows for ample public participation.

I believe that is what the Commission has done. As part of the current review of the media ownership rules, we have held five hearings across the country at a cost of more than \$150,000. We have listened to and recorded thousands of oral comments. We spent almost \$700,000 on ten independent studies. We have put those studies out for comment and made all the underlying data available to the public. We have allowed for extensions of time to file written comments on several occasions. To date, we've received 162,501 written comments in this proceeding.

Similarly I committed to completing a full inquiry on localism, something that was initiated but stopped under the previous Chairman. Today we are holding the sixth planned hearing on the topic. All told, the Commission devoted more than \$160,000 to hear from expert witnesses and members of the public on broadcasters' service to their local communities. And in this proceeding we also spent approximately \$350,000 to gather data on localism much of which was used in the studies conducted on media ownership. In addition the Commission paid Professor Simon Anderson of the University of Virginia to produce an academic paper on "Localism and Welfare", which was made available on our website last December.

I know that localism is important to broadcasters who recognize that their own success depends on responding to the needs and interests of their local communities. Most broadcasters do a good job, both by airing programming of unique interest to their local communities and more generally by contributing to the sense of community in their local towns. It has become apparent, however, that some broadcasters may not be doing all they can or should to serve their local communities.

I believe the Commission needs to make a number of policy and rule changes to ensure that all broadcasters better serve their local communities.

These actions are designed to enhance the ability of local citizens, regardless of gender or race, to access the broadcast medium to reach their communities, to improve the communication between broadcast licensees and their local communities in identifying local programming, and to ensure that vitally important local information and viewpoints are provided to the community.

In order to ensure that the American people have the benefit of a competitive and diverse media marketplace that serves their local communities, we need to create more opportunities for different, new and independent voices to be heard. We need to address the concern that consolidation has limited the number of local outlets available to minorities and new entrants.

The limited number of channels available in the broadcast television and radio spectrum bands and the high start-up cost of building a station are significant barriers to entry into broadcasting. It can be very difficult for anyone – nonetheless a new voice – to find an available channel and gather enough capital to build a new broadcast station.

That is why I proposed to the other Commissioners, which they adopted earlier this year, the recommendation to Congress that it create a new tax incentive program designed to encourage small firms, including those owned by minorities and women, to acquire communications businesses, including broadcast stations.

We know that providing tax advantages has worked in the past to encourage greater diversity of ownership and to open the doors for entry by small businesses, including disadvantaged firms and entities owned by women and minorities. As detailed in our Recent Section 257 Triennial Report to Congress, I support establishment of a new program that could permit deferral of the taxes on any capital gain involved in such a transaction, as long as the gain is reinvested in a qualifying communications business. The new program also could provide tax credits to sellers who offer financing to small firms. Other measures might include restrictions on the size of the purchaser, a minimum holding period for the purchased licenses, and a cap on the total value of eligible transactions.

But we cannot rely on Congress alone to act. I have proposed that the Commission itself take a number of steps to help small and independently-owned businesses overcome these obstacles.

First, the Commission should allow Qualified Designated Entities—small and independently owned businesses—to lease some of an existing television station’s excess digital broadcast spectrum to distribute their own programming. This new station would be able to air its own programs and obtain all the accompanying rights and obligations of other broadcast stations, such as public interest obligations and carriage rights on cable and satellite systems.

There is already a real world example of a similar type of arrangement. Post-Newsweek provides for carriage of Latino Alternative TV (LATV) programming on its multicast channels in Miami, Orlando, Houston, and San Antonio. I circulated a proposal to permit this practice last March, and continue to encourage my colleagues to adopt it. While we also should continue to look for ways to facilitate minorities’ ability to purchase full-power broadcast stations, this ability to lease broadcast channels could quickly open up channels in local communities all across the country, considerably enhancing the ability of small and independently owned businesses and other qualified designated entities to reach their entire community with a free programming stream.

The Commission already has in place similar policies to create additional opportunities in radio and cable through the leased access rules and the low-power FM service. However, I believe even these rules need to be changed to be more useful.

In response to concerns expressed by my colleagues, I plan to propose soon that the Commission amend its leased access rules, as well as the program carriage rules, to be more effective. Neither of these regulatory regimes have successfully achieved their intended goal of facilitating the ability of diverse and local viewpoints to reach their local audience. Critics have argued that the leased access regime has been dramatically under-utilized because of an artificially high rate.

And I have heard from many potential and current programmers that the program carriage rules are ineffective because of a distorted complaint process.

The LPFM rules, too, should be improved, as Prometheus and Media Access Project have noted so well. We could amend our rules to better promote entry and ensure local responsiveness.

As a result, in January of this year, I proposed that the Commission amend its LPFM rules to:

- Eliminate the rule prohibiting LPFM transfers and assignments and allow the sale of LPFM licenses, subject to certain limitations (such as a three year holding period).
- Reinstate the original LPFM rule that all authorization holders be local to the community and limit ownership to one station per permittee.

- Clarify that repetitious, automated programming does not meet the local origination requirement.
- Prohibit programs from being broadcast more than twice to meet the local origination requirement.
- Expand the definition of local for rural communities
- Permit AM broadcast station to operate on FM translator stations.
- Permit sudden changes of more than 50 percent of the membership governing board.
- Impose a cap on the number of applications accepted from the 2003 translator filing window, thereby protecting LPFM service.

I also have heard recommendations from Minority Media and Telecommunications Council and the Commission's Diversity FACA, among others, that we take additional steps to facilitate the ability of qualified designated entities to more easily get into broadcasting. In response, last March I proposed that the Commissioners make several other policy and rule changes.

For instance, I proposed that we allow these small businesses to purchase expired construction permits and be allotted additional time to construct the broadcast facilities. I also proposed that we amend or waive the equity/debt plus (EDP) attribution rule where doing so would assist these small businesses in acquiring a broadcast station, retaining an existing station, or building out a construction permit. All of these proposals were suggested by outside advocacy groups and have been pending for more than six months.

I also have heard from a coalition of public interest groups that broadcasters should air a certain amount of different types of content to ensure local responsiveness.

While I have concerns with mandatory minimums, such as free air time for politicians, I did propose last March that the Commission make comprehensive changes to the information broadcasters must report about what they air, and the manner in which they do it. If broadcasters mean it when they tell us how much local programming and news they are airing, then they shouldn't object to telling the Commission in detail what they are doing. Specifically, I proposed that broadcasters complete every quarter an enhanced, standardized form on which they describe the local civic affairs programming, local electoral affairs programming, public service announcements (whether sponsored or aired for free) and independently produced programming that the station airs to meet the needs and interests of its local audience.

Broadcasters would need to post the enhanced disclosure forms on their websites, if they have them, or on their state broadcasters association's website if they do not.

I have circulated a number of other proposals to my fellow commissioners aimed at enhancing citizens' access to, and broadcasters' carriage of, local programming.

Last year, I circulated proposals to amend our must-carry rules to facilitate the ability of consumers to access their local broadcast channels. I proposed that cable systems carry all local programming offered by local TV broadcast stations, not just the stations' primary feeds.

I also proposed that cable subscribers should have access not just to an out-of-state broadcast station that might be in their DMA, but also to the broadcast station that is in their state and therefore more likely to address their issues of local concern. Finally, I proposed we amend our satellite carriage rules so that additional subscribers can access their in-state stations to better advance the goals of localism and parity between satellite and cable carriage.

In March of this year, I circulated a proposal to clarify that a local broadcaster can refuse to air network programming in order to air programming of greater local concern.

Also in March of this year, I recommended and the Commission adopted a Notice to consider requiring a physical presence at a radio broadcasting facility during all hours of operation. Requiring that all radio stations be attended would only increase the ability of the station to provide information of a local nature to the community of license. Particularly in the event of severe weather or a local emergency, the requirement that all operations be attended will increase the likelihood that each broadcaster will be capable of relaying critical life-saving information to the public.

The FCC is committed to ensuring broadcasters adequately serve their local communities and to expanding opportunities for entry into media ownership and media programming. And to that end, I believe we can and should move forward on the proposals currently pending before the Commission.

The proposals I have made thus far, however, are not the end of the story. I appreciate that many have and will continue to put forward additional recommendations. Nevertheless, the fact that there is more to be done should not dissuade us from making progress on these issues now. Certainly, there is much yet to be done and I have high hopes for working with my colleagues and others as we move forward on these issues.

I look forward to hearing from our Media Bureau who will present to us a summary of the record the Commission has received on the topic of localism. In addition, the Commission has arranged for a well-respected and knowledgeable group of witnesses to participate in our hearing. I thank them for their participation and also thank the many members of the public who will also be sharing their thoughts and concerns about how broadcasters are serving the needs and interests of their communities.