

United States Senate

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July 26, 2011

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The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th St, SW
Washington, D.C. 20515

Dear Chairman Genachowski:

The Commission has before it a proceeding reviewing the comprehensive media ownership rules. As you are aware, Section 202(h) of the Telecommunications Act of 1996 requires the Commission to determine periodically whether any of its media ownership rules "are necessary in the public interest as a result of competition". My particular interest is within the Commission's review of the radio rules under this standard.

While a strong argument can be made that the balance of competition within the audio marketplace has shifted more than enough to compel the Commission to aggressively modernize the local radio ownership rule, this letter serves to focus upon a glaring inconsistency within the current rule – the AM/FM subcap. At a minimum, the subcap no longer reflects the realities of today's radio marketplace, in terms of either technology or competitiveness. As a matter of public policy, the subcap runs counter to one of the very goals the Commission seeks to promote through its media ownership policies – diversity of ownership. And as a matter of consistency, the AM / FM subcap flies in the face of other Commission media ownership rules.

From a technical standpoint, there should no longer be a distinction between the AM and FM services. Digital technology has revolutionized the programming capacity of AM stations. In-Band On-Channel (IBOC) technology allows AM stations to broadcast the same programming at the same quality as analog FM stations. Today, there are 455 AM stations licensed using IBOC technology. Further, the Commission recently permitted AM stations to employ FM translators to fill in any signal deficiencies. In addition to these technological improvements in AM station over-the-air signals, almost 2,000 AM stations now simulcast their signals over the Internet.

The current ownership rules also grossly undervalue the competitiveness of AM stations. In terms of market share, AM stations are strong competitors to their FM counterparts. A recent study found that out of 300 radio markets, 187 AM stations achieved a top-5 ranking in terms of market share. To provide but a few examples, in the large market of San Francisco, 4 of the top 5 ranked stations were found on the AM band. In New York City, AM stations account for over 30% of market revenues. Similarly, in smaller markets like Medford, OR, Fargo, ND, and others, AM stations garnered the top market share ranking.

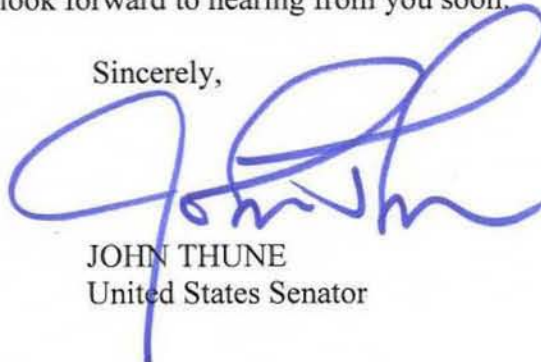
While the Commission strives to promote diversity in broadcast ownership, the AM / FM subcap actually produces a chilling effect on ownership opportunities. Traditionally, AM stations are far more affordable than their FM counterparts. Therefore, AM stations present a much easier path to broadcast ownership for small business, especially those owned by women and minorities. Should the AM / FM subcap be repealed, many current broadcast owners are likely to restructure their radio holdings, freeing up a number of incumbent AM stations for purchase. The result would be greater opportunities for those who are essentially locked out of the market by the current rules.

Beyond the technical and competitive realities of AM stations in today's market and the subcap's suppression of ownership diversity, the Commission should repeal the AM / FM subcap as a matter of consistency. The Commission only acknowledges the distinction between AM and FM services in the context of the Local Radio Ownership Rule. However, in the *Television / Radio Cross-Ownership Rule* and in the *Newspaper / Broadcast Cross-Ownership Rule*, no distinctions are made between the AM and FM services. Since the Commission treats both AM and FM stations as equals under other ownership rules, there is no reason AM and FM stations should be treated differently under the local radio ownership rule.

If the Commission does nothing else to modernize the local radio ownership rules during its current ownership proceeding, I strongly suggest that, at a minimum, the outdated AM / FM subcap be repealed.

I appreciate your consideration, and look forward to hearing from you soon.

Sincerely,



JOHN THUNE
United States Senator