

Given at a Full Committee Hearing:
Media Ownership (Radio Consolidation)
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The Testimony of
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My name is Alex Kolobielski, and I am the president and CEO of First Media Radio, LLC (“First Media”), a privately held radio broadcasting company headquartered on Maryland’s Eastern Shore. I have worked in broadcast programming, news, production, sales, and station management in small market radio all my professional life.

Since January of 2000, First Media Radio has acquired 13 FM and AM small market radio stations in Maryland, Pennsylvania, West Virginia, and North Carolina. In addition, we have radio station acquisitions pending in North Carolina and Virginia. With the exception of three of our stations, all First Media’s radio stations are located in unranked, non-Arbitron markets. (A listing of all of First Media Radio, LLC’s radio stations is attached.) Given my small market radio background, I never in a million years would have dreamed that I would be called upon to appear before Congress to discuss the Federal Communications Commission’s (“FCC’s”) regulation of radio ownership. But I feel so strongly that the FCC’s recent decision to alter the definition of radio markets and possibly extend those changes to very small radio markets will have such disastrous effects on small market radio operators like First Media that I jumped at this opportunity.

Small market radio, which is generally the province of smaller companies and ignored by the large radio consolidators, is unique. The biggest problems faced by small market operators are attracting good staff to operate profitably and adequate capital to grow. Experienced radio employees usually shy away from small markets, seeking more lucrative opportunities in larger cities. We generally have to recruit our staff from other fields and then train them extensively in the details of radio sales and operations. Once our “stars” develop, we are constantly at risk of having them recruited by stations in larger markets. Small market operators also find it difficult to attract capital since the volume of sales and the ultimate pay-offs for investors are usually more modest than those available from stations in large chains or larger markets. At the same time, small market radio plays a very important role in our society. Small stations in small markets are truly the voices of our local communities. First Media, like many of our counterparts, is dedicated to serving local needs. On average, 75% of the programming we present every day on our stations is locally originated. Over 90% of our advertising is drawn from businesses in the communities we serve. All of our stations have an “open mike” policy, and we encourage and air

viewpoints from our listeners.

Providing such quality, locally originated radio programming is expensive. We must employ on-air talent for all our locally originated shifts. On the sales side, we have between four and six local sales reps per market cluster. The advertising rates our markets will bear are a fraction of those in nearby large markets even though our fixed costs for electricity, equipment, and software are the same as those faced by stations in the larger markets. For instance, the stations in our closest cluster to the Nation's Capitol, Easton, Maryland, find that for a :60 spot they can charge no more than 5% of the rate charged by the Top 20 stations located in Washington, D.C. As you know, since 1992, the FCC has been defining radio markets by reference to radio station contours. This definition was introduced at the time the FCC liberalized its local radio ownership rules to allow one entity to own more than one AM and one FM station per market. When Congress expanded the local radio caps in 1996, the FCC retained this contour-based approach to define which stations constitute a market for purposes of applying the new caps.

A contour-based approach to defining markets is fair for all stations, no matter what the market size. It consistently measures the strength and reach of a particular station's signal and the confines of its advertising market. Moreover, contours may only be changed after an extensive FCC process involving the submission, review, and then grant of construction permit applications. This process usually takes at least six months before a radio owner receives FCC permission to modify its facilities. The physical construction usually takes many more months. Thus, with a contour-based approach, other competitors in a market usually have ample warning before changes occur, and they can also rest assured that changes will only take place as part of an FCC supervised and regulated process.

The FCC has now decided to define radio markets in Arbitron ranked markets based on Arbitron's market definitions. This approach will make the legality of existing station clusters vulnerable to changes in Arbitron methodology, which unlike the FCC's construction permit process, do not take place in an open public forum. Moreover, stations subscribing to Arbitron may designate whether they are to be listed in one Arbitron market or another. While the FCC's new proposal says a group owner must wait two years before it can rely on the benefit of any such change to expand the number of stations it may own, the FCC proposal does not consider the detrimental and unintended consequences such changes may have on other station clusters in the market. Those stations may easily find the number of stations in their market reduced and themselves thrown into noncompliance through no fault of their own. For smaller communities in non-Arbitron markets, the FCC has also proposed to abandon the contour-based approach. Instead, the FCC has launched a rulemaking to substitute definitions based on political boundaries, or even cellular market boundaries, neither of which bear any relationship to radio broadcast signal strength or the advertising

markets stations' serve. Such a system would put small market radio operators at risk for unintended consequences over which they have no control. On an interim basis, in these smaller markets, the FCC has said it will continue to utilize contours to define markets but has put in place several protections to avoid the anomalies that occurred in some of the political "hot potato" situations, like Minot and Pine Bluff that have been discussed extensively in the trade press.

The FCC's new market definition and its proposed change for non-Arbitron markets will drastically disrupt the radio industry, particularly since the changes are being put in place at a time when, unlike 1992, the FCC is not liberalizing the local radio caps. The industry has adapted to the current radio market definition, and entities such as First Media, that entered the market since 1996, have based their competitive strategies on the existing approach. These new entrants and other growing companies must have the opportunity to develop efficient clusters of stations under the same rules that have been used to build the existing mega-companies. Small market and small company players, in particular, will be disproportionately harmed by any change in market definition. Large, mega-owners can spread the risk of a major change across one or more of their markets. Small owners seeking to compete with them cannot. The loss of a single station or a small company's inability to transfer intact even a single cluster could have devastating effects. So, if Congress were to send any kind of signal to the FCC or adopt legislation in this area, what is it that small market players, like First Media, would want?

Ø First, at least in small markets outside of ranked Arbitron markets, allow radio operators to continue to define markets based on contour overlaps just as we do today. (While I am testifying principally about small market concerns, as a matter of policy, we think the FCC should have kept the contour-based approach in all markets.) Ø If Congress disagrees and believes some changes to the contour-based approach are necessary, we think it should make permanent the interim policy the FCC has proposed for small, unranked markets. That approach involves continued use of contours but with adjustments that address what have been seen as some of the more troublesome aspects of the contour-based system. Under these adjustments, the FCC, to address the Pine Bluff problem, will exclude certain stations a buyer proposes to buy from the total number of stations that it counts in defining a market. In addition, to address the large signal anomaly, the Minot problem, the FCC will exclude from the count of stations in a market any station that has a transmitter site more than 92 kilometers or 58 miles from the area of common ownership of the stations being acquired, an approach that accurately depicts stations' true markets. Ø Second, do not apply any new modified market definition approach to pending applications that were filed before June 2, 2003. Those deals were structured and negotiated based on the rules that applied before June 2nd. To apply the new standards, as the FCC has decided to do, to pending deals would be unfair to all parties. Such retroactive application of new rules is particularly tough on small companies that cannot spread the disadvantages that may result over numerous properties. Ø Finally,

grandfather all non-conforming clusters. At least for smaller companies, there should be unlimited opportunities for them to bring in new investors, grow, or go public and at the same time be able to transfer their station clusters intact. Any other approach would create uncertainty and instability and lower station values. I appreciate the opportunity to appear before you today, and I am available to answer any questions you may have about small market radio. * * * * * First Media Radio, LLC's Radio Stations

WEMD(AM), Easton, Maryland WCEI-FM, Easton, Maryland

WZWW(FM), Bellefonte, Pennsylvania (#246 State College, PA) WLAK(FM), Huntingdon, Pennsylvania WIEZ(AM), Lewistown, Pennsylvania WMRF-FM, Lewistown, Pennsylvania WOWQ(FM), DuBois, Pennsylvania

WJLS(AM), Beckley, West Virginia (#282 Beckley, WV) WJLS-FM, Beckley, West Virginia (#282 Beckley, WV) WRMT(AM), Rocky Mount, North Carolina WSAY-FM, Rocky Mount, North Carolina WDLZ(FM), Murfreesboro, North Carolina WWDR(AM), Murfreesboro, North Carolina

First Media Radio, LLC's Proposed Acquisitions

WLGQ(FM), Emporia, Virginia WSMY-FM, Alberta, Virginia WPTM(FM), Roanoke Rapids, North Carolina WCBT(AM), Roanoke Rapids, North Carolina WSMY(AM), Weldon, North Carolina WZAX(FM), Nashville, North Carolina WYTT(FM), Gaston, North Carolina WKTC(FM), Pinetops, North Carolina
