

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554**

In the Matter of)
)
Examination of the Future of Media and) GN Docket No. 10-25
Information Needs of Communities in a Digital)
Age)

To: The Commission

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

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TABLE OF CONTENTS

SUMMARY iii

I. BROADCASTING PLAYS A UNIQUE, CRITICAL, AND OFTEN LIFE-SAVING ROLE IN PROVIDING AMERICANS WITH NEWS AND INFORMATION...... 2

A. Broadcast Television And Radio Remain The Only Free, Trusted Sources Of Information And News Available To All Americans...... 2

B. Broadcasting Is Designed, And Continues To Operate, To Collectively Serve The Interests Of Communities Across The Country, Reflecting Local Values And Interests...... 8

C. Broadcasting Is The Most Important Source For Critical, Life-Saving Emergency Journalism...... 14

D. Broadcast Stations Are Embracing Digital Technologies To Better Adapt To Changes In Consumer Behavior And To Enhance Local News. 17

II. AS AN ADVERTISING-SUPPORTED MEDIUM, BROADCASTING FACES INCREASING COMPETITION FROM A VARIETY OF SOURCES, INCLUDING CABLE, SATELLITE, THE INTERNET, AND MOBILE DEVICES. 28

A. Broadcasters Are Adapting To The Digital Age, Finding New Revenue Models Over-The-Air, On The Web And On The Go...... 29

B. Quality Broadcaster-Produced Local Journalism Requires Substantial Investment...... 33

C. The Traditional Financial Bases Of Local Broadcasting And Local Journalism Are Under Threat...... 34

III. ENSURING A QUALITY LOCAL BROADCAST SYSTEM IN THE FUTURE REQUIRES THAT THE COMMISSION APPLY A LIGHT REGULATORY TOUCH AND NOT IMPOSE ASYMMETRIC REGULATIONS THAT DISFAVOR LOCALLY-ORIENTED RADIO AND TELEVISION STATIONS. 40

A. The Commission Should Reform Ownership Rules So That They Reflect Current Competitive Realities In A Multichannel, Multiplatform Media Marketplace...... 40

B. Unnecessary And Burdensome Regulations On Broadcast Stations Impair Their Ability To Serve The Public Interest...... 44

**C. The Government Should Not Interfere With The Retransmission
Consent Process..... 47**

**D. The Commission Should Recognize That Broadcasting Is A Key Part
Of The Communications Landscape..... 49**

SUMMARY

The more than 16,000 local television and radio stations in the United States are a key part of the media landscape. Our nation's broadcasters provide free, universal, over-the-air service. Local broadcasting is a trusted – and vital – source of local journalism, unique among other media in its commitment to local reporting, its ubiquity, and its credibility. Broadcasters also provide the public with timely and often life-saving emergency information as well as other valuable programming, from sports and weather to network and syndicated programming.

Local service to the information needs of communities is a longstanding touchstone of broadcasting. In a new study about the economics of television news, surveyed stations reported that they produce, on average, 26.6 hours of local news programming per week, and an average of 27.2 hours per year of special news and emergency journalism. *See* “The Economic Realities of Local Television News – 2010” (attached). And broadcasters are not content to simply maintain their traditional roles in their communities. They are embracing new digital technologies to provide innovative new services, from digital multicasting and mobile DTV to interactive web platforms and digital, multimedia journalism.

This is an exciting and yet challenging time for broadcasting. The digital age enables broadcasters to serve more viewers and listeners, and to serve them better. Expanded and improved service has helped local broadcasters to find new revenue models. At the same time, however, broadcasters are facing increasing competition for advertising dollars from cable, satellite, and Internet sources and new technologies. Broadcasters can and must adapt to these challenges in order to continue making substantial investments in local service.

As broadcasting continues to innovate and evolve, the Commission can help to ensure that broadcasting remains a healthy industry in its own right, a vital information source for local communities, and a viable competitor to other media. These comments describe several common sense actions the Commission can take to ensure this future for the communities served by broadcasting, including: updating the multiple ownership rules to reflect current competitive realities; avoiding the imposition of unnecessary, burdensome, and asymmetric regulations on broadcast stations; maintaining the retransmission consent marketplace established by Congress; and taking into account broadcasters' unique and irreplaceable role as the Commission moves forward with the National Broadband Plan.

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**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The local and national television and radio broadcasters represented by the National Association of Broadcasters (“NAB”)¹ provide a vital service to communities, viewers and listeners across the United States. Broadcasting is a source of universal, free, and important programming, from news and emergency information to sports, weather, and entertainment. Broadcasters have served the American people for close to a century, and they will continue to play a key role in serving the information needs of local communities as the media landscape evolves in the digital age.²

These comments first identify the key role that local broadcasting plays in our communities. The comments next describe some of the new challenges that broadcasters are facing, and how broadcasters are adapting to these challenges to meet consumers’ media needs in the digital age. Finally, the comments identify actions the Commission can take now to help

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² See Public Notice, “FCC Launches Examination of the Future of Media and Information Needs of Communities in a Digital Age,” GN Docket No. 10-25 (rel. Jan. 21, 2010) (“Public Notice”).

preserve and expand broadcasters' ability to meet the needs of the communities they are licensed to serve.

I. BROADCASTING PLAYS A UNIQUE, CRITICAL, AND OFTEN LIFE-SAVING ROLE IN PROVIDING AMERICANS WITH NEWS AND INFORMATION.

First and foremost, the more than 16,000 local television and radio stations across the country serve the public by playing a unique role for their viewers and listeners: they are the only source of universally available, free programming, including local and national news and information, emergency information and alerts, and entertainment programming. Broadcasters are licensed to serve local communities, and they reflect community interests and values. Broadcasting is the most important source of information during times of emergencies. And, broadcasters are extending their important role by leveraging new digital technologies.

A. Broadcast Television And Radio Remain The Only Free, Trusted Sources Of Information And News Available To All Americans.

Television and radio stations provide a unique service to their communities and audiences – they provide valued services over-the-air, for free, to virtually every household in the nation. Broadcasters participate in their communities every day – by giving voice to local groups and concerns, by providing airtime and raising funds for local organizations and causes, and by investing in newsrooms to report on events and issues that matter to local viewers and listeners.

Local television historically has been the most trusted source of news, and its role continues to be critical and irreplaceable despite the emergence of new media such as the

Internet. As Chairman Genachowski has advised Congress, “[b]roadcast television remains an essential medium, uniquely accessible to all Americans.”³

A recent survey by the Pew Research Center found that “television remains the dominant source of news for the public,” with 64 percent of respondents reporting that they receive most of their local news from television, and 71 percent of respondents reporting that they receive most of their national and international news from television.⁴ The Pew study observed that 44 percent of respondents believe that local television stations “do the most to uncover local news stories,” significantly more than other media outlets such as news websites and newspapers.⁵ Favorability ratings of local television news (73 percent) remain at the top of all media.⁶ Local television news is not seen as partisan, with 79 percent of Republicans and 77 percent of Democrats viewing local television news favorably.⁷

The trust that Americans place in local broadcasting has been earned over decades of news coverage. Local reporters serve the needs of their communities not only by covering the kinds of high-profile stories that may get attention elsewhere, but also by covering the day-to-day, low profile but essential stories coming out of city hall, zoning meetings, the school board, and local commercial and community activities. Stations often invest significant resources in the

³ *Rethinking the Children’s Television Act for a Digital Media Age: Hearing Before the United States S. Comm. on Commerce, Sci. and Transp*, 111th Cong. (July 22, 2009) (Statement of Julius Genachowski, Chairman, FCC).

⁴ Pew Research Center for the People & the Press, “Public Evaluations of the News Media: 1985-2009, Press Accuracy Rating Hits Two Decade Low,” at 4 (Sept. 12, 2009). *See also id.* at 14 (noting that the vast majority of Americans (82 percent) “say that if all local television news programs went off the air—and shut down their web sites—it would be an important loss”).

⁵ *Id.* at 4.

⁶ *See id.* at 11.

⁷ *See id.* at 12 (also noting that “[v]iews of local TV news continue to be less partisan than opinions of other leading news sources”).

kind of enterprise journalism that simply is not provided by cable, DBS, or Internet sources. In fact, Americans who get their news on the Internet reportedly express the view that there is not enough coverage of their neighborhoods and local communities.⁸ A number of concrete examples of television and radio stations' news and other locally oriented informational programming, as well as local political and public affairs programming, are provided in NAB's Reply Comments in the localism proceeding.⁹

Local stations have demonstrated their commitment to serve their communities by *increasing* local news and other programming services while enduring economic hardships and job losses. In 2009, a Radio TV Digital News Association ("RTDNA")/Hofstra University study found that 2008 was the "poster child for doing more with less in TV news," with local news increasing to a record 4.6 hours per weekday, despite significant job losses in the industry.¹⁰ And RTDNA's recently released 2010 study showed that "2009 meant another year of TV news doing more with less."¹¹ Despite exceedingly difficult financial circumstances, stations outdid

⁸ See Pew Research Center, "Understanding the Participatory News Consumer: How Internet and Cell Phone Users Have Turned News Into A Social Experience," at 4 (March 1, 2010) ("*Pew Participatory News Consumer Study*") (noting that "Internet users use the web for a range of news, but local is not near the top of the list," with 38 percent reporting that they would like to see more coverage of their neighborhoods or local communities).

⁹ See NAB Reply Comments, *In the Matter of Broadcast Localism*, MB Docket No. 04-233, at 7-15 (June 11, 2008) ("*NAB Localism Reply Comments*") (providing examples from local radio and television stations). See also *id.* at 15-17 (citing examples of radio and television stations providing locally-oriented sports and entertainment programming).

¹⁰ Bob Papper, "TV and Radio Staffing and News Profitability Survey 2009," RTDNA/Hofstra University, *available at*: www.rtdna.org/media/pdfs/research/TV%20and%20Radio%20Staffing%20and%20Profitability.pdf. The survey noted that "the amount of news on the average station soared to a new record – up an average half hour each weekday to 4.6 hours."

¹¹ Bob Papper, "2010 TV and Radio Staffing and News Profitability Survey," RTDNA/Hofstra University, *summarized at* www.rtdna.org/pages/media_items/2010-tv-and-radio-news-staffing-and-profitability-survey1943.php?id=1943.

themselves again in 2009, with the amount of news rising to an average of five hours per station each weekday.¹² And this trend continues in 2010. This June, Denver stations KUSA and KTVD will expand their local news from 48 to 56 hours per week, adding early-morning, Sunday, and evening news coverage.¹³ Many other stations have added new local programming, from additional news programs to sports to lifestyle shows.¹⁴

Attached hereto as Attachment B is a report on a recent nationwide survey conducted for NAB regarding the economics of local television news.¹⁵ As indicated in the study, stations have remained committed to investing in local news, despite the economic downturn. Respondent stations produce, on average, 26.6 hours of local news programming per week.¹⁶ In addition, they produce an average of 27.2 hours per year of emergency journalism and special news programming.¹⁷ On average, the respondent stations invest over \$4 million per year in their news operating budgets and over \$700,000 in their news capital budgets.¹⁸ It is

¹² *See id.*

¹³ *See* J. Ostrow, “Channel 9 Expands Newscasts,” *The Denver Post* (April 20, 2010).

¹⁴ *See* M. Malone, “Stations Come Out Swinging,” *Broadcasting and Cable* (August 24, 2009). Other stations have maintained historically high levels of investment in the news. For example, Los Angeles station KCAL recently celebrated the 20th anniversary of a uniquely long (three hour) primetime newscast. *See* G. Braxton, “At KCAL, Prime-Time News Still In Its Prime,” *Los Angeles Times* (March 15, 2010).

¹⁵ “The Economic Realities of Local Television News – 2010: A Report for the National Association of Broadcasters,” (April 2010), attached hereto as Attachment B.

¹⁶ *See id.* at 10-11.

¹⁷ *See id.*

¹⁸ *See id.* at 12-13. As the report notes, averaging these figures across all stations nationwide originating local news would indicate that local broadcasters spend \$3.1 billion in operating funds and \$545 million in capital funds each year to produce local news. *See id.* at 13. These estimates do not account for unbudgeted costs and expenses, such as the overtime, lost advertising, and other expenses incurred to provide emergency journalism. *See id.* at 13 and 23-26.

common for more than half of station employees to be involved in the production of local news.¹⁹

For consumers, local television remains the most popular platform for news, according to a March 2010 Pew research study focusing on how the Internet has changed news consumption. While most Americans now use a combination of media platforms to obtain news, on a typical day 78 percent of Americans still get their news from a local television station.²⁰ The study showed that local television news “is the top source of news for Americans” and is “relatively popular across the board compared with other platforms.”²¹ The study also noted that local television news plays a particularly important role for African-Americans, women, and older Americans.²²

Beyond surveys demonstrating the reliance of Americans on broadcast television news, studies have shown that local and national television news encourages political discussion and conversation among citizens and contributes to political and election knowledge by citizens. For example, one recent study concluded that both local and national television election news contributed to political conversation, and particularly found that television news contributed to campaign talk over other types of media.²³ A study of the most recent midterm elections showed that exposure to local/national television news was a “significant correlate[] of election

¹⁹ *See id.* at 13-14.

²⁰ *See Pew Participatory News Consumer Study* at 3.

²¹ *Id.* at 11.

²² *See id.*

²³ *See* H. Liao, “Political Efficacy and Campaign News Attention As Catalysts of Discursive Democracy: The Case of the 2004 U.S. Presidential Election,” 18 *Web Journal of Mass Communication Research* (Dec. 2009) (finding that television news about the 2004 election “got people to talk about the government, the economy, U.S. foreign relations and their religious beliefs”).

knowledge.”²⁴ A comprehensive survey of voter learning in U.S. presidential elections (reviewing data from the 1988, 1992, 1996, 2000 and 2004 elections) indicated that television news and televised debates “are important predictors, or at least correlates, of voter learning of the issue positions of the leading candidates and interest in a presidential election campaign.”²⁵ This survey also found that “attention to radio news” was a “predictor, or at least a correlate, of campaign interest” in presidential elections.²⁶

Aside from providing local and national news and contributing to political knowledge and engagement, local broadcast stations also provide other important and unique services and benefits:

- Local broadcast service is free and relied upon by millions of Americans. Free, over-the-air television is a particularly important resource for low-income viewers, the elderly, Hispanics, and African Americans. More than 23 percent of households with incomes under \$30,000 per year, more than 20 percent of African American television households, and more than 25 percent of Hispanic television households rely solely on over-the-air broadcasting.²⁷ As Commissioner Cops noted at the time of the digital TV transition, “[f]or many people, free, over-the-air television is their primary source of news, information and emergency alerts—not to mention entertainment.”²⁸ Moreover, fully 236 million Americans listened to radio in an average week in

²⁴ R. Wei and V. Lo, “News Media Use and Knowledge About the 2006 U.S. Midterm Elections: Why Exposure Matters in Voter Learning,” 20 *Int’l Journal of Public Opinion Research* 347, 358 (2008).

²⁵ D. Drew and D. Weaver, “Voter Learning in the 2004 Presidential Election: Did the Media Matter?,” 83 *Journalism & Mass Communication Quarterly* 25, 38 (Spring 2006).

²⁶ *Id.* at 38. The authors noted that this finding underscored the need for more research on the role of radio in U.S. presidential elections. *Id.*

²⁷ See Comments of NAB, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 07-269, at 2-3 (July 29, 2009).

²⁸ FCC, “Ten Days and Counting to DTV Transition,” Press Release (June 2, 2009).

the fall of 2009, a number that has remained essentially unchanged during the past five years.²⁹

- Local broadcast service is universal. It is available to virtually every American, including those in the sparsely-populated parts of the country underserved by cable and those in areas unreachable by satellite service due to terrain and foliage. Television and radio service is much less vulnerable to outages caused by weather or emergencies than other services, such as cable, satellite, and the Internet.
- Local broadcasters serve diverse audiences. Broadcasters provide programming for those who do not speak English; for minorities; for people of faith; and for many different groups, from urban residents to people living in rural areas, from children to retirees. For example, Univision provides Spanish-language television service in more than 50 markets (and has noted that, within the Hispanic community, there is “disproportionate reliance on over-the-air broadcasts”).³⁰ Radio stations offer a wide and growing array of programming types, designed to serve increasingly diverse niche audiences.
- Local stations serve the public in myriad ways. Every television station across the country provides at least three hours per week of educational and informational programming for children.³¹ Television and radio stations enhance political discourse by providing coverage of campaigns, elections, and political debates, and by giving access to political candidates. They provide vital, often life-saving, emergency information. And, of course, they provide the most watched and listened to entertainment programming.³²

B. Broadcasting Is Designed, And Continues To Operate, To Collectively Serve The Interests Of Communities Across The Country, Reflecting Local Values And Interests.

²⁹ Pew Research Center, Project for Excellence in Journalism, “2010 State of the News Media,” Sector Highlights/Audio, *available at* www.stateofthemedias.org/2010/audio_summary_essay.php.

³⁰ Reply Comments of Univision Communications Inc., NBP Public Notice #6, GN Docket Nos. 09-47 *et al.*, at 3 (Nov. 13, 2009).

³¹ Additional children’s programming is provided for multicast programming streams. *See* NAB Comments, *Empowering Parents and Protecting Children in an Evolving Media Landscape*, MB Docket No. 09-194, at 9-12 (Feb. 24, 2010) (describing robust amounts of children’s educational programming on stations’ main and multicast channels).

³² The most watched television programs of the decade 2000-2009 were all on free, over-the-air broadcast channels. “Most Watched Television Programs of the Decade,” *New York Post* (Dec. 20, 2009).

Television and radio broadcasters are community-oriented, serving local needs and reflecting local values. As Chairman Genachowski has noted, “[m]any broadcasters still supply important connective tissue holding our communities together.”³³ Indeed, broadcasters know that if they do not strive to serve their local audiences, they will be left without an audience to serve, especially in today’s competitive digital marketplace.³⁴

Broadcasters’ local orientation and public service can be illustrated in many ways.

As just a few examples, consider:

- the increase in diversity of radio station programming, including the addition of hundreds of stations with foreign-language programming over the past several years;³⁵
- the rise in broadcasters’ commitment to local news, even in the face of a difficult economic climate;³⁶
- local stations’ demonstrated service to underserved audiences;³⁷
- the use of on-air programming to raise significant funds for local community organizations and charities;³⁸ and

³³ Prepared Remarks of Chairman Julius Genachowski, NAB Show 2010, Las Vegas, Nevada, at 2 (April 13, 2010) (“*Genachowski NAB Remarks*”). *See also id.* (noting “with pride” that radio’s over-the-air audience has grown by almost 10 percent over the past 10 years, while the DTV transition “underscored [] the original vision of the value of what broadcasting can bring to our country: Local news. Weather. Sports. Emergency information. A platform for diverse programming. Educational programming for our kids.”).

³⁴ *See* Comments of NAB, *In the Matter of Broadcast Localism*, MB Docket No. 04-233, at 2 (April 28, 2008) (“*NAB Localism Comments*”). *See id.* (“Localism is more than a Washington D.C. ideal. For broadcasters across the country, it is a matter of business survival.”).

³⁵ *See* M. Fratrick, “Over-the-Air Radio Service to Diverse Audiences – A Further Update,” BIA/Kelsey (April 30, 2010) (“*Local Radio Service Report*”), attached hereto as Attachment A.

³⁶ *See* 2010 TV and Radio Staffing and News Profitability Survey, *supra* n. 11. *See also Local Radio Service Report* at 8-9 (showing large increase in number of news/talk radio stations since 2000).

³⁷ *See NAB Localism Reply Comments* at 17-19 (citing numerous examples of stations providing targeted services to underserved communities).

³⁸ *See id.* at 19-20.

- the airing of public service announcements (“PSAs”) to provide a voice for local groups to reach mass audiences on important issues such as adult education/literacy, AIDS, crime, smoking, violence, women’s health, children, drug abuse, drunk driving, hunger, poverty, and homelessness.³⁹ Following the devastating earthquake in Haiti, NAB worked with the American Red Cross and the Ad Council to create PSAs for television and radio with critical information on earthquake relief efforts.⁴⁰

Studies show that television and radio stations enhance civic participation and public engagement. Among other things, local and national reporting provided by broadcasters fosters increased awareness and participation among voters, particularly (but not only) within certain demographic groups such as minorities, recent immigrants, and lesser interested and lesser educated citizens. For example, research has shown that “Spanish-language news programs substantially boost Hispanic turnout in nonpresidential election years.”⁴¹ Spanish language local news has been shown to cause 27 percent of Hispanic nonvoters to start participating in nonpresidential elections.⁴² The study shows that “for the case of Spanish-language television news, the spillovers from local media to local civic engagement appear to be

³⁹ *See id.* at 20-27.

⁴⁰ NAB’s last national survey of broadcaster public service found that radio and television stations across the country contributed an estimated value of \$7 billion in PSAs annually, the majority of which were about local issues. *See* NAB, “National Report on Broadcasters’ Community Service,” at 3 (June 2006). 61% of the PSAs aired by the average radio station in 2005 were about local issues. For the average television station, the figure was 55%.

⁴¹ F. Oberholzer-Gee and J. Waldfogel, “Media Markets and Localism: Does Local News *en Español* Boost Hispanic Voter Turnout?”, 99 *American Economic Review* 2120, 2127 (2009).

⁴² *See id.*

fairly important.”⁴³ And radio stations targeting African American listeners increase African American voter participation.⁴⁴

Other studies have similarly demonstrated the particular importance of television news for diverse groups obtaining political information and knowledge and participating in political or civic life. For instance, studies have concluded that television news plays a significant role in political learning for immigrants.⁴⁵ Both older and more recent studies have found “positive correlations between political knowledge” and adolescents “watching television news.”⁴⁶ One recent study demonstrated that local television news in particular “had a positive, significant effect on civic participation” by adolescents.⁴⁷ Additional studies have noted the effectiveness of television news for political learning by lesser interested or lesser educated

⁴³ *Id.* at 2121; *see also id.* at 2127 (“Using Hispanics as a window into the possible effects of television on political behavior, it appears that the effects of television news on voter turnout can be quite large and positive”).

⁴⁴ *See* F. Obeholzer-Gee and J. Waldfogel, “Strength in Numbers: Group Size and Political Mobilization,” 48 *Journal of Law and Economics* 73, 74 (April 2005). *See also id.* at 86 (noting positive effect that such radio stations have on elevating voting participation rates).

⁴⁵ *See, e.g.,* S. Chaffee, C. Nass, S. Yang, “The Bridging Role of Television in Immigrant Political Socialization,” 17 *Human Communication Research* 266 (Winter 1990) (national and local television news exposure found to be a positive predictor of political learning for sample of Korean immigrants, especially those who had been in the U.S. a short period of time and who lacked skill in English); K. Martinelli and S. Chaffee, “Measuring New-Voter Learning via Three Channels of Political Information,” 72 *Journalism and Mass Communication Quarterly* 18 (Spring 1995) (survey of newly naturalized U.S. citizens found that television news made a significant contribution to political issue learning).

⁴⁶ S. Chaffee and S. Frank, “How Americans Get Political Information: Print Versus Broadcast News,” 546 *The Annals of the American Academy of Political and Social Science* 48, 56 (July 1996) (surveying research literature from 1960s to 1990s).

⁴⁷ L. Hoffman and T. Thomson, “The Effect of Television Viewing on Adolescents’ Civic Participation: Political Efficacy as a Mediating Mechanism,” 53 *Journal of Broadcasting & Electronic Media* 3 (March 2009). Specifically, this 2009 study found that viewing local television news “increases adolescents’ internal political efficacy” (*i.e.*, their level of confidence in being able to meaningfully participate in politics), which “in turn positively predicts their civic participation” (*e.g.*, participation in student government or in youth organizations/clubs; volunteering for school, neighborhood, civic or religious groups or programs, etc). *Id.* at 16.

individuals.⁴⁸ Thus, as one study concluded, “television news may be an appropriate vehicle to encourage political participation among diverse groups.”⁴⁹

Locally-oriented broadcasting also can enhance a shared sense of community. As the *Pew Participatory News Consumer Study* noted, “the most popular reasons for following the news... have to do with social interaction and/or a sense of civic responsibility.”⁵⁰ Indeed, the single most-cited reason for consuming news (cited by 72 percent of respondents) is because they enjoy talking about the news with family, friends, and colleagues.⁵¹ Local broadcasting has maintained its unique and strong role with respect to local reporting and other community-oriented services, despite the development and growth of multichannel video and audio competitors.

⁴⁸ See, e.g., Chaffee and Frank, “How Americans Get Political Information” at 48, 55 (television news reaches groups that tend to lack political information, including less interested citizens); David Stromberg, “Distributing News and Political Influence,” *The Right to Tell: The Role of Mass Media in Economic Development* (2002) (study on the effects of the widespread introduction of television from 1950-1960 found that “increases in TV use is very clearly associated with increases in voter turnout, and more so in counties with many people with low education”). See also K. Wilkins, “The Role of Media Public Disengagement from Political Life,” 44 *Journal of Broadcasting & Electronic Media* 569, 579 (Fall 2000) (noting that “while reading the newspaper is highly associated with level of education, watching television news appears to transcend educational distinctions”).

⁴⁹ Wilkins, “The Role of Media” at 579. See also David Stromberg, “Radio’s Impact on Public Spending,” 119 *Quarterly Journal of Economics* 189 (2004) (finding that the widespread introduction of radio from 1920-1940 played a particularly significant role in increasing voting (and, in turn, increasing the allocation of government funds) in rural areas).

⁵⁰ *Pew Participatory News Consumer Study* at 15.

⁵¹ See *id.* at 15 (also noting that “[n]ews meets a mixture of social, civic, personally-enriching, and work-related needs in people’s lives”). These recent survey results are consistent with previous studies about the effects of local media use on community integration and local political involvement. For example, one study analyzed various indicators of community integration (e.g., interacting with neighbors, discussion of area problems with others) and found strong relationships between them and use of local media (television and newspapers). Local television news in particular strongly affected local political interest. See J. McLeod, *et al.*, “Community Integration, Local Media Use, and Democratic Processes,” 23 *Communication Research* 179, 196, 202 (April 1996).

The fact that broadcasters reflect local values and interests also can be seen in the clear trend among radio broadcasters to serve more diverse audiences, including various demographic groups.⁵² For example, between 2000 and 2010, the number of Spanish-language stations increased over 57 percent.⁵³ Today, nearly 47 percent of the Hispanic population in Arbitron markets resides in markets with 10 or more Spanish-language stations, with over 88 percent located in markets with at least three such stations.⁵⁴ Between 2000 and 2010 the number of Urban programmed stations also increased (by 9.4 percent).⁵⁵ Local stations are now utilizing the capabilities of HD Radio to provide increased service to specific demographic/ethnic groups and groups with particular interests, as demonstrated by the programming offered on multicast streams, ranging from Urban to Spanish, Asian to Mexican, Big Band to Christian.⁵⁶

A recent report on programming by the Government Accountability Office (“GAO”) confirmed that diverse programming and preferences are reflected within individual radio markets. Specifically, GAO found that within selected individual markets, the top radio formats differ from the top radio formats nationally, “indicating that programming decisions are locally based on the preferences and interests of listeners within a given market.”⁵⁷ In addition,

⁵² See *Local Radio Service Report*, attached hereto as Attachment A.

⁵³ See *id.* at 5.

⁵⁴ See *id.* at 6.

⁵⁵ See *id.* at 7.

⁵⁶ See *id.* at Appendix 1.

⁵⁷ Government Accountability Office, GAO-10-369, “Media Programming: Factors Influencing the Availability of Independent Programming in Television and Programming Decisions in Radio,” at 28 (March 2010).

GAO analyzed data for the top 10 national radio station owners in 2009 and found that for most owners, “stations’ formats were differentiated within individual markets.”⁵⁸

Local broadcasting also provides a means for local businesses and political candidates to effectively and efficiently reach viewers and listeners. Because audiences for pay-TV channels and the Internet tend to be fractured and dispersed, it is challenging to reach a mass audience through those means. Local television and radio stations, however, provide an effective platform to reach these wider audiences, supporting political candidates and local businesses. With the advent of digital broadcasting, many stations are providing new programming streams to the public, offering local advertisers new ways to reach viewers and listeners.

C. Broadcasting Is The Most Important Source For Critical, Life-Saving Emergency Journalism.

Perhaps nowhere is broadcasting’s unique role and commitment to the public more evident than in local stations’ distinguished record with respect to emergency journalism. This role undoubtedly contributes to the credibility that broadcasters have earned with the public. With “boots on the ground,” broadcasters are the “first informers” of the local and national media ecosystem, providing initial and continuing reports that are vital during times of crisis.

For example:

- During the blizzards that hit the East Coast this winter, which effectively closed down the nation’s capital for four days, broadcasters provided up-to-the-minute information that was critical to affected residents. Washington, D.C. station WRC-TV’s wall-to-wall coverage and “potentially life-saving newscasts” were lauded by Maryland Senator Barbara Mikulski, and stations WJLA-TV and WUSA also earned praise for their coverage of the snowstorms.⁵⁹ Station WTOP-FM alone sacrificed \$140,000 in lost advertising revenue in order to provide 24-7 coverage, and incurred another

⁵⁸ *Id.* at 33.

⁵⁹ John Eggerton, “As the Snowy World Turns,” *Broadcasting & Cable* (Feb. 10, 2010).

\$50,000 in expenses to cover the blizzards.⁶⁰ Chairman Genachowski observed that “not only were local broadcasters a lifeline for the community, WRC-TV used its robust Web site and Twitter feed to help residents who had lost power get up-to-the-minute information through their computers and phones.”⁶¹

- KLFY, a Lafayette, Louisiana CBS affiliate, broadcast continuous live coverage of Hurricane Rita when the path of the hurricane was determined to pose a risk to people in the station’s service area. The station reported:

All resources were put into action. All reporters, live trucks, videographers, directors, producers, studio personnel, and engineering were on hand till the “all clear” was sounded. Network and syndicated programming was preempted for live weather coverage. Emergency generators were put on line when power was lost. Generators could/would run for 72 hours without refueling. Special arrangements were made with MVPDs to ensure the television station’s signal would continue to reach viewers. In addition, additional “signing” persons were hired for the hearing impaired. Bulk food supplies had to be purchased to feed the employees. Sleeping arrangements were provided for personnel on shift relief. The station prepared for 72 hours of continuous coverage before personnel were released to start coverage of the “aftermath.” Overtime, extra staff, food, and shelter were all provided by the station.⁶²

- Following Hurricane Katrina, 13 local radio stations banded together to provide a lifeline to New Orleans residents and emergency personnel, broadcasting news, information about missing people, and other crucial content on station WWL(AM), New Orleans. Television stations WWL-TV and WDSU(TV) continued to broadcast despite the disaster by using transmitters in Baton Rouge, Houston, and elsewhere.

⁶⁰ See “Washington DC Broadcasters Recap Snow Coverage for FCC,” *Radio Business Report/Television Business Report* (March 22, 2010). WTOP-FM’s morning anchor reported that, “[f]or well over 100,000 people who lost their power in the storm, WTOP was a lifeline. That’s not what I say. That’s what they told us.” RBR-TVBR observed, “The FCC shut down, but local broadcasters facing the exact same weather conditions did not – instead, they continued to serve their local market.” Also this past winter, local stations in Hawaii helped residents prepare for the tsunami predicted to strike the islands following the earthquake in Chile.

⁶¹ *Genachowski NAB Remarks* at 2.

⁶² Attachment B at 24.

- Broadcasters pioneered the AMBER Plan (America’s Missing: Broadcast Emergency Response) which since its roll-out in 1996 has been credited with helping to recover over 500 abducted children.

There are many more examples. Broadcast stations continue to provide emergency information and other services even though the costs -- in overtime for personnel, in meals and hotels, in equipment, and of course in advertising lost due to providing wall-to-wall coverage -- are substantial. For example, one station reported that one season’s hurricane coverage cost the station \$160,000 *before* accounting for lost advertising revenue.⁶³ Another station reported that it lost 50 percent of its revenue for an entire month following the events of September 11, 2001, because its intensive news programming preempted so much of its normal programming.⁶⁴

The vitally important service that broadcast emergency journalism provides is not duplicated by other media, such as the Internet.⁶⁵ The spectrally efficient, one-to-many infrastructure of broadcasting positions local stations to provide emergency information to all residents throughout the service area without straining capacity demands, especially on point-to-point wireless broadband systems. One commenter has observed that “when many people need something at the same time, the broadband circuits – wired or mobile – can clog up and information-carrying data can’t pass.”⁶⁶ Broadcasting, by contrast, can blanket “an unlimited

⁶³ See Attachment B at 23.

⁶⁴ See *id.* at 24.

⁶⁵ RBR-TVBR noted that during the 2010 blizzards, “local broadcasters served their local market in a way that is simply impossible for a satellite or internet service.” See “Washington DC Broadcasters Recap Snow Coverage for FCC,” *supra* n. 60.

⁶⁶ T. Wolzien, “Homeland Security Depends on Broadcast,” *TVNewsCheck* (April 4, 2010).

number of users with the same information from a central point simultaneously. No clogs.”⁶⁷

The roll-out of mobile DTV, as well as the inclusion of radio receivers in cell phones, will further enhance broadcasters’ ability to provide this service to the public, with viewers able to access emergency information from home or from the road even if the power goes out, cell towers are overloaded, and/or other information sources are unavailable.⁶⁸

D. Broadcast Stations Are Embracing Digital Technologies To Better Adapt To Changes In Consumer Behavior And To Enhance Local News.

The broadcasting industry continues to enhance its ability to report effectively on the local communities that stations serve. The historic transition to digital television, completed this past June, provides increased flexibility for broadcasters to create new and innovative services in order to provide information and entertainment programming to local communities. And the radio industry is implementing digital broadcasting with an innovative in-band, on-channel technology that permits dramatically higher-quality audio and additional channels of digital programming, thus permitting greatly increased program diversity. There are now 2,056 digital HD Radio stations broadcasting across the country, providing 1,127 additional program streams to local audiences.⁶⁹ Broadcasters also are embracing Internet technologies and using the Internet in innovative ways to serve their audiences.

Multicasting. The transition to digital television permits a single television station to offer multiple over-the-air programming streams. Broadcasters can use this capability

⁶⁷ *Id.* (adding that “[b]roadcasting information through the regular pathways of digital television stations provides a way to blanket crisis areas, or almost the entire country, if needed, with information essential to save lives throughout the crisis, no matter how long it goes”).

⁶⁸ In addition to the discussion above, please see www.broadcastpublicservice.org for extensive examples – and a state-by-state breakdown – of the ways in which local stations serve their communities.

⁶⁹ See *Local Radio Service Report* at 10-11.

to offer otherwise unavailable programming, such as sporting events, classic movies, and highly localized news, emergency information and alerts, and advertising services. Stations across the country in markets large and small are experimenting with new approaches for utilizing their multicast capabilities. For example:

- In the New York City market, WNBC has launched “New York Non-Stop,” a multicast channel featuring New-York centric news, lifestyle, and information stories.⁷⁰
- Station KTVB, Boise, ID, airs more than 15 hours of local news each day on its “24/7” subchannel. Additionally, the station airs the regional news show “Northwest News Today” on a second subchannel.⁷¹
- In Los Angeles, KNBC offers local news programming on a digital multicast channel, including several hours per day of “NewsRaw” -- a local news program offering in-depth news stories that expand upon the main channel’s content and providing a backstage look at the station’s newsroom -- as well as local weather reports and original Saturday morning children’s programming.
- NBC owned-and-operated stations, as well as many NBC affiliates, multicast “Universal Sports,” which features Olympic-related sporting events.⁷²
- In Orlando, WFTV has launched the 24/7 digital channel Severe Weather Center 9 Now and the Spanish-language channel GenTV on separate digital channels.⁷³
- In Chicago, WLS-TV has used a multicast channel to provide live, full coverage of candidate debates for federal, state and local offices.⁷⁴

⁷⁰ See Daisy Whitney, “NBC Goes ‘Nonstop’ on Subchannel,” *Television Week* (March 9, 2009).

⁷¹ See *KTVB 24/7 Schedule*, Titan TV Basic Programming Guide, available at: <http://ktvb.titantv.com/apg/basic.aspx?siteid=50003>.

⁷² See John Ourand and Tripp Mickel, “Universal Sports Gets Big Distribution Bump,” *Street & Smith’s Sports Business Journal*, at 20 (Feb. 16, 2009), available at www.sportsbusinessjournal.com/article/61575.

⁷³ See M. Malone, “WFTV Adds ‘Severe’ Weather, Hispanic Programming on Subchannels,” *Broadcasting & Cable* (Apr. 6, 2010).

⁷⁴ See “WLS-TV Puts HD Side-Channel to Political Use,” *Radio Business Report/Television Business Report* (Dec. 18, 2009).

- In Lexington, KY, WLEX provides 24/7 sports programming on a digital multicast channel. The channel enables the station to cover live high school sports (including high school football and both boys and girls high school basketball) as well as college sports and other events.⁷⁵
- Station KHQ, Spokane, WA has launched a multicast sports and weather channel, SWX, which features live high school and college sports, minor league sports, and motor sports. New SWX initiatives include a live broadcast from a studio located inside a popular local sports bar, where patrons can offer commentary on sporting events.⁷⁶ The channel is accompanied by a comprehensive local sports Web site managed by the station.⁷⁷

Several stations, including stations such as KECY-TV, Yuma, AZ, use multicast channels to offer network programming in smaller markets that do not have local stations affiliated with all of the major networks.⁷⁸ According to a recent SNL Kagan report, the FOX Network is carried as a subchannel by 53 television stations, CBS on the subchannel of 21 stations, NBC on the subchannel of 16 stations, and ABC on the subchannel of 7 stations.⁷⁹

In addition to news, sports, and entertainment programming, niche programming—including multilingual content, children’s programming, and programming aimed at underserved demographic groups—has found a home on digital subchannels. LATV, based in Los Angeles, is a bilingual network channel distributed on digital multicast streams that offers music and entertainment programming for young Latino audiences.⁸⁰ Likewise, Mexicanal Network, which features Spanish-language news, sports, and entertainment programs,

⁷⁵ See “WLEX, Wazoo Sports Debut Channel,” *TVNewsCheck* (Nov. 25, 2009).

⁷⁶ See Michael Malone, “KHQ ‘Zags’ When Others Zig,” *Broadcasting & Cable* (Jul. 25, 2009).

⁷⁷ See www.swxrightnow.com.

⁷⁸ Station KECY-TV offers FOX programming on its primary channel and ABC programming on its multicast subchannel.

⁷⁹ See SNL KAGAN DATA SERVICES: TV Station Database, 2010 Edition (rel. Q1 2010).

⁸⁰ See Laura Martinez, “LATV Debuts in Sacramento; Adds Fourth Tribune Affiliate,” *Multichannel News* (Dec. 15, 2008).

is operating on multiple broadcast digital subchannels across the United States.⁸¹ MHz Networks, based in northern Virginia, programs 10 digital multicast channels in the Washington DC market, including channels that air Chinese, French, Japanese, Middle Eastern, Nigerian, Russian, South African, and Vietnamese news and information in a combination of English and foreign languages.⁸² Children's programming is also found among the new niche content available for free via multicasting. ION Media Networks multicasts Qubo, a 24-hour children's programming channel that focuses on literacy and values,⁸³ as well as Ion Life, which offers programming that focuses on, among other topics, health and fitness, interior design, and "green" living.⁸⁴ Niche entertainment networks also are being distributed exclusively via multicast channels, including Retro TV Network, which airs classic primetime television from the 1950s – 80s,⁸⁵ and This TV, which features MGM films and television series.⁸⁶

The following chart shows the current operations of digital television stations in the Washington, DC area and compares these operations to the previous analog service provided by the same stations. These stations now offer over dozens of program channels, including high-

⁸¹ See "MEXICANAL Television Network Debuts in Las Vegas," Press Release (Oct. 1, 2008), available at <http://hispanic.com/blogs/yourpressreleases/archive/2008/10/06/mexicanal-television-network-debuts-in-las-vegas.aspx>.

⁸² See MHz Networks, "June 12 Digital Transition Ascends MHz Networks to Title of Largest Broadcaster in Washington, DC Metro," Press Release (Jun. 1, 2009); see also www.mhznetworks.org/mhzindc/broadcastindc/.

⁸³ See "About qubo," qubo.com, available at www.qubo.com/about.asp (visited Apr. 29, 2010).

⁸⁴ See John Eggerton, "Ion Life Adding 8 Shows to 2009 Lineup," *Broadcasting & Cable* (Feb. 2, 2009).

⁸⁵ See *RTV Shows, My Retro TV*, available at www.myretrotv.com/shows.html (visited Apr. 29, 2010).

⁸⁶ See Ben Grossman, "MGM Oldies in New Digi-Channel," *Broadcasting & Cable* (Jul. 27, 2008); Wayne Friedman, "This TV Enjoys 60% Clearance," *MediaDailyNews* (Jan. 26, 2009).

definition (“HD”) and standard-definition (“SD”) digital programming channels. They also are launching a robust new mobile DTV service, as described in more detail below.

| Station | Past Analog Service | Current Digital Service |
|------------------------------|---|---|
| WRC | Single channel of NBC programming, syndicated programming, local news and weather | NBC programming in 1080i HD, local news and weather |
| | | Second channel of 24-hour weather |
| | | Third channel multicast of SD programming, including sports (Olympics, ice skating, etc.) and NBC programming |
| WJLA | Single channel of ABC programming, syndicated programming, local news and weather | ABC programming in 720p HD |
| | | Second channel of 24-hour weather |
| | | Third channel – Retro Television Network |
| WUSA | Single channel of CBS programming, syndicated programming, local news and weather | CBS programming in 1080i HD, local news, and weather in HD |
| | | Second channel of 24-hour weather |
| WNVC and WNVT (MHz Networks) | Single channel of world news and foreign programming | MHz Worldview |
| | | NHK World TV in English and Japanese |
| | | Metro Chinese Network (in Mandarin and English) |
| | | Russia Today TV |
| | | Al Jazeera English |
| | | South African News International |
| | | France 24-news programming |
| | | Nigerian Television Authority |
| | | Vietnam TV 4 |
| Euronews | | |
| WETA | Single channel of PBS programming | WETA PBS HD prime time programming in HD quality |
| | | WETA SD PBS programming |
| | | WETA CREATE how to, cooking, and travel programming |
| | | WETA KIDS children’s programming |
| WDCW | Single channel of CW programming | CW programming in HD, local weekend news, sports, and community affairs |
| | | Second channel with ThisTV programming |
| WPXW | Single channel of ION programming | ION programming in 720p HD |
| | | Second channel of Qubo (children’s) programming |
| | | Third channel of ION life programming |
| | | Fourth channel of Worship programming |
| WHUT | Single channel of PBS programming | PBS programming in HD |
| | | PBS programming in SD |

| Station | Past Analog Service | Current Digital Service |
|---------|-----------------------------------|-------------------------|
| WTTG | Single channel of FOX programming | FOX programming in HD |

The roll-out of digital radio broadcasting also enables local stations to multicast, and a similar blossoming of program services has occurred in radio as well. Local audiences in markets across the country now have access to new multicast programming streams with formats ranging literally from A (adult album alternative) to V (variety).⁸⁷ Over half of the population (53.9 percent) in Arbitron markets now has access to 10 or more multicast signals, and nearly 76 percent are in markets with at least three.⁸⁸ And it is clear that multicasting has enhanced substantially the diversity of radio programming available to consumers. For example, of the 63 markets with new multicast classical signals, 22 formerly had no other classical stations in the market; of the 56 markets with new multicast jazz signals, 28 formerly had no other jazz stations in the market; and of the 23 markets with new rhythm/blues signals, 20 formerly had no other rhythm/blues stations in the market.⁸⁹

Here in Washington, WAMU broadcasts an HD channel affiliated with National Public Radio as well as an HD bluegrass/country channel and an HD channel with other NPR and BBC World Service content, as well as content shared by WTMD, a Maryland station. WJFK-FM recently launched the first four channel HD Radio digital multicast station in the country to carry four streams of sports programming.⁹⁰

⁸⁷ See *Local Radio Service Report* at Appendix 1.

⁸⁸ See *id.* at 11.

⁸⁹ See *id.* at 12.

⁹⁰ See “WJFK Launches First HD Radio Quadcast,” *Radio Business Report/Television Business Report* (March 8, 2010).

Mobility. Mobility is an essential feature of local broadcast journalism, and it is increasingly important to viewers and listeners. Mobility is particularly important during times of emergency, when communities rely on the journalism provided by broadcast reporters. Radio is the quintessential mobile medium, with hundreds of millions of portable receivers in use across the United States. Radio broadcasters are also using the capabilities of HD Radio to serve consumers via other mobile devices. For example, Clear Channel recently announced plans for the third quarter of this year to add real-time news to the real-time traffic it delivers via HD Radio. This Total Traffic Network Plus service will be available in the 63 largest metro areas and will deliver such information as local and national weather conditions, sports scores, and news headlines directly to installed in-vehicle navigation systems, as well as to mobile devices such as portable navigation devices equipped with HD Radio tuners.⁹¹

Television, too, is going mobile: mobile DTV is being launched in initial commercial operations across the United States. The mobile DTV standard enables broadcasters to provide real-time, mobile-streaming video, along with interactive services such as programming guides, audience measurement tools, and viewer voting. Consumer demand for mobile video is particularly focused on the kinds of content that broadcasters offer, including local news programming.⁹²

⁹¹ See Joseph Palenchar, “Clear Channel Readies Traffic-Service Upgrade,” *TWICE* (Apr. 8, 2010).

⁹² See Frank N. Magid Associates, Inc., “The OMVC Mobile TV Study: Live, Local Programming Will Drive Demand for Mobile TV.” This recent study showed that 88 percent of consumers are interested in watching local news and information on a mobile device, more than for other categories of content such as entertainment (65 percent) or sports (44 percent). It is available at www.openmobilevideo.com/_assets/docs/press-releases/2009/OMVC-Mobile-TV-Study-December-2009.pdf.

Mobile DTV will provide unsurpassed benefits to viewers. It will not only satisfy the demand for mobility in daily life, but also increase personal safety and security in times of crisis, by making emergency journalism available when service disruptions on wired, satellite, and even cellular systems make communications difficult.

At the same time, mobile DTV could reduce the demands placed on other emergency communications systems and video delivery systems. Mobile DTV's ability to reduce Internet network congestion make it a key part of a national broadband strategy. A former president of CTIA – The Wireless Association recently noted that:

[U]nicast architecture is an inefficient means of delivering bandwidth-hogging video. One-to-one delivery works for phone calls and one-off requests for content, but it is sub-optimal for March Madness or even weather reports where many people want the same content simultaneously. Broadcasting's one-to-many architecture is simply the most efficient means of delivering the commonly used content that makes up the fat part of the long tail....

[B]roadcasting is also the most efficient means of powering the next generation of wirelessly delivered apps such as newspapers, eBooks and digital signage. The Kindle and iPad are wonderful devices, but the one-by-one continual reiteration of identical content is a very inefficient way to deliver the New York Times, text book updates, or digital advertising. The economics of such new mobile-delivered services requires the efficiency of feed-once, then deliver-to-all, rather than the serial one-at-a-time delivery of the current mobile infrastructure.⁹³

Washington, D.C. stations are launching the mobile DTV "Consumer Showcase," which will provide viewers in the capital area with a chance to watch local digital television on a range of mobile devices, "including specially-equipped cell phones, netbooks, portable media

⁹³ Tom Wheeler, "Broadband Plan Is Big Opportunity for TV," *TVNewsCheck* (April 8, 2010).

players, and a unique adapter that can send Mobile DTV to laptops, iPhones, and iPads.”⁹⁴ The Consumer Showcase will take place throughout this summer and is a collaboration among nine local stations as well as OMVC. In addition to the local programming provided by the participating stations, network programming that will be available on a mobile basis includes that from NBC, Fox (including Fox News and Fox Business), My Network, MSNBC, CNBC, Univision, PBS Mobile and PBS Kids, CBS, Global News, CW, ThisTV, and TheCOOLTV.⁹⁵ The initiative also will feature an enhanced “Buzzed Driving Is Drunk Driving” PSA campaign in the period around the July 4 holiday. The campaign will include not just 30-second spots but also interstitial ads that will appear onscreen for a few seconds when viewers change channels, as well as interactive banner ads that will be displayed on the channel guide screen.⁹⁶

Multimedia. Broadcasters are deploying innovative Internet and mobile tools to more comprehensively serve their communities. Broadcast station websites are increasingly broad-based, multimedia platforms that include video, user-generated content, and special features created solely for the Internet. The websites provided by local broadcasters are now the most popular websites for local journalism.⁹⁷ They employ a wide range of interactive devices to

⁹⁴ Open Mobile Video Coalition (“OMVC”), “‘All Systems Go’ For May 3 Launch of Mobile Digital TV Consumer Showcase in Washington, D.C.,” Press Release (Apr. 12, 2010), *available at* www.omvc.org/_assets/docs/press-releases/2010/OMVC-All-Systems-Go-NAB-FINAL.pdf.

⁹⁵ *See id.*

⁹⁶ *See* Ad Council, OMVC, and TVB, “Ad Council’s ‘Buzzed Driving Is Drunk Driving’ Campaign To Be Featured in Mobile TV Showcase,” Press Release (Apr. 12, 2010), *available at* www.omvc.org/_assets/docs/press-releases/2010/Project-Roadblock-OMVC-Announcement-FINAL-April-12.pdf.

⁹⁷ According to the Television Advertising Bureau, 33.4 percent of adults 18 and older turn to local broadcast television websites for local news. The next most popular local website for news are those run by local newspapers, at 25.7 percent. *See* TVB, “Nielsen Media Research Custom Survey 2008,” *available at* www.tvb.org/mediacomparisons/39_AMW_Website_News.asp?mod=R.

engage and expand their audiences, such as blogs that permit broadcasters to supplement their on-air coverage and allow reporters to provide extra information and insights. Stations are using live webcams to provide up-to-the-minute traffic and weather information. They have embraced mobile tools such as applications for the iPhone and Blackberry and RSS feeds to better connect with tech-savvy audiences. They also are turning to social media, such as Facebook, Twitter, and YouTube, to interact with local communities. By incorporating user-generated content into their sites, broadcasters are able to provide a widely-viewed and effective platform for citizen journalists, and enabling citizens to participate in the news process.⁹⁸

Station websites also permit “hyper-local” news coverage. For example, Raycom Media and DataSphere Technologies announced in March 2010 that they would be rolling out neighborhood-focused websites in the communities served by Raycom’s television stations.⁹⁹ The highly localized websites will provide community-specific news and information, and will enable local business to target advertising efficiently and effectively.¹⁰⁰ DataSphere’s similar collaboration with Fisher Communications already has proven successful, with 30 community sites already up and running just for the Portland area¹⁰¹ and 43 neighborhood websites launched for the Seattle area.¹⁰²

⁹⁸ “[N]ews is becoming a participatory activity, as people contribute their own stories and experiences and post their reactions to events.” *Pew Participatory News Consumer Study* at 40.

⁹⁹ See “Raycom Goes Hyper-Local With Station Websites,” *Radio Business Report/Television Business Report* (March 3, 2010).

¹⁰⁰ See *id.*

¹⁰¹ See M. Malone, “Raycom to Debut Hyper-Local Community Sites,” *Broadcasting & Cable* (April 4, 2010).

¹⁰² See *Communications Daily* for August 19, 2009, at 11.

Stations are making serious investments in their websites in order to better serve consumers. According to the recent survey conducted for NAB, some television stations in the top 25 markets spend over \$1 million annually just for news production on their websites.¹⁰³ Respondent stations typically employ two or three full-time web producers, and many produce extra newscasts exclusively for website distribution.¹⁰⁴ For example, one station produces three 5-minute newscasts for posting online, while another station reports that it posts an additional 10-minute mid-day newscast and intra-day updates of 2 minutes each.¹⁰⁵

Chairman Genachowski has praised local broadcasters' use of the Internet and new technologies for serving local communities.¹⁰⁶ He has noted that many stations such as KCRA 3 in Sacramento have entered into partnerships with cityvoter.com to engage local residents and develop user-generated "Best Of" lists for their community. LIN Media partnered with a company called News Over Wireless to develop an iPhone app for all 27 of its television stations.¹⁰⁷ In sum, despite the recent economic struggles of local stations, many "are taking significant strides to be 24/7 news outlets across all means of digital devices."¹⁰⁸

Newsgathering. New digital technologies are influencing the ways that broadcast stations gather the news. Broadcasters today are deploying multimedia journalists to cover local and neighborhood events with video and the written word. These journalists often

¹⁰³ See Attachment B at 20.

¹⁰⁴ *Id.* at 20-21.

¹⁰⁵ *Id.* at 21.

¹⁰⁶ See *Genachowski NAB Remarks* at 2-3 (citing local station's use of Web site and Twitter feed to help local residents during the 2010 snowstorms in D.C.).

¹⁰⁷ See *id.* at 2.

¹⁰⁸ M. Malone, "Local News Escapes the Ax, Stations' Original Content Appears to Be Key to Survival," *Broadcasting & Cable* (Apr. 5, 2010).

compose and edit a story on a laptop and transmit it back to the station for posting via Skype or WiFi. Other technologies, such as LiveStream, permit live video broadcasts without the need for satellite or microwave trucks. These technologies permit live feeds to be transmitted from areas that previously were inaccessible (because they could not accommodate the gear needed for a traditional remote feed). And the Corporation for Public Broadcasting recently announced a local journalism initiative, which will form teams of journalists reporting via multiple media platforms (television, radio, Internet, and mobile).¹⁰⁹ Attachment B highlights other ways in which stations are taking advantage of technology to enhance newsgathering and distribution. For example, some stations may use FTP file sharing to share news scripts and video with stations in neighboring markets, or jointly own and use an ENG receive site.¹¹⁰

II. AS AN ADVERTISING-SUPPORTED MEDIUM, BROADCASTING FACES INCREASING COMPETITION FROM A VARIETY OF SOURCES, INCLUDING CABLE, SATELLITE, THE INTERNET, AND MOBILE DEVICES.

Recent developments and innovations in media have brought about both challenges and opportunities for local broadcasters. Broadcasters today face unprecedented competition for consumers' attention – and for advertising revenues – from other media, including hundreds of pay-TV and radio channels and countless Internet sites. Further, competitors such as cable and satellite systems have the advantage of a dual revenue stream

¹⁰⁹ Press Release, “Corporation for Public Broadcasting Launches New Local Journalism Initiative” (March 25, 2010), *available at* www.cpb.org/pressroom/release.php?prn=814 (announcing seven Local Journalism Centers that will “form teams of multimedia journalists, who will focus on issues of particular relevance to each region; their in-depth reports will be presented regionally and nationally via digital platforms, community engagement programs and radio and television broadcasts”).

¹¹⁰ *See* Attachment B at 27-28.

(both charging subscribers and selling advertising).¹¹¹ Technological developments have made it easier, however, for stations to be attuned to and responsive to their audiences' needs and concerns. This section explores how broadcasters are adapting to new challenges in the digital age, explains the resources required to produce quality local journalism, and describes the shifting bases of support for local broadcasting and local journalism.

A. Broadcasters Are Adapting To The Digital Age, Finding New Revenue Models Over-The-Air, On The Web And On The Go.

Broadcasters are taking advantage of the digital age to create new revenue sources via over-the-air broadcasting, the Internet, and mobile applications. These new services help to serve local viewers and listeners more effectively.

The transition to digital television has enabled local stations to broadcast news, sports, movies, and other programming in HD. The superior picture quality of HD programming makes it highly desirable, enhancing broadcasters' advertising revenues.¹¹² Television broadcasters also offer more than 1,400 multicast programming services, which contribute to diversity and localism. For example, as noted above, some stations use multicasting to provide highly localized news or niche programming, and advertising opportunities can be tailored to

¹¹¹ Despite the vast increase in the number of non-broadcast programming channels, broadcast television programming remains substantially more popular among viewers than cable networks. Broadcast programs typically represent 90 – 98 of the top 100 programs viewed each week. *See, e.g.,* TVB's Ratings Track for the week ending April 25, 2010 (noting that broadcast delivered 92 of the top 100 programs among adults 18-49) (*available at* www.tvb.org/nav/build_frameset.asp?url=/rcentral/index.asp). Analysis of the February 2010 sweeps period shows that broadcast programming "took all but a handful" of the top ratings. *See* TVB, Ratings Track: Sweeps Period Analysis/February 2010, *available at* www.tvb.org/rcentral/viewertrack/trends/sweeps_period_analysis.asp.

¹¹² Consumers have invested over \$109.8 billion in HD television sets since 2003. *See* Consumer Electronics Association ("CEA"), "FastFacts Historical Data" (2009). The CEA's figure represents 118.5 million receivers. CEA also projects the investment of another \$21.6 billion, for 31.2 million receivers, in 2010.

specific populations or geographic areas within these stations' communities. Reports indicate that viewer interest in multicast channels increased substantially following the completion of the digital transition on June 12, 2009.¹¹³ "Between viewer rescanning and the ubiquitous media accounts regarding digital television, so much light has been shed on multicast channels that many are confident they can finally ring up substantial revenue for partner stations."¹¹⁴ Some digital multicast channels can bring more than \$1 million in revenue to a partnering station, prompting carriage by more stations, as well as the launching of new channels.¹¹⁵ The Retro TV Network, for example, now boasts more than 140 broadcast station affiliates, and LATV has 30 affiliates. As these channels continue to prove their success, viewers can expect broadcasters to increase multicast offerings. Beyond multicasting, broadcasters use their digital spectrum to provide ancillary/supplementary services, including data and software transmissions, interactive services, and multichannel alternatives to cable and satellite, such as the blended, broadcast-broadband system offered by Sezmi.¹¹⁶

The Web also provides new revenue opportunities for broadcasters. As explained above, the Internet enables broadcasters to enhance and expand their on-the-air coverage of news stories, with additional content and multimedia features. Station websites are attractive not only to the viewers and listeners who traditionally tune in to the station, but also to new audiences that

¹¹³ See Michael Malone, "Digi-Channels Enjoy Brave New Post-DTV World," *Broadcasting & Cable* (Jun. 20, 2009).

¹¹⁴ *Id.*

¹¹⁵ *See id.*

¹¹⁶ Sezmi has negotiated arrangements with some local broadcasters to lease and aggregate spectrum to deliver high-demand video content to customers. Another entrepreneur, the CTB Group, has proposed potential partnerships with broadcasters that would provide a wide array of mobile video and data services with digital broadcast signals. *See* Comments of CTB Group, Inc. in GN Docket No. 09-51 (Dec. 22, 2009).

desire the convenience of checking the news – and being able to comment on it and engage with their community – from a computer or a handheld device. Thus, the websites provided by local broadcasters are now the most popular websites for local journalism.¹¹⁷ These websites, as well as related station presences on Facebook, Twitter, YouTube, and other sites, provide additional revenue streams that stations can use to support their investments in journalism and other programming.

A recent study showed that television stations’ web sales “defied gravity in 2009,” with online revenues growing 10 percent for a total of \$1.1 billion¹¹⁸ – and with predictions for stations’ online advertising revenue to grow 21 percent to nearly \$1.4 billion in 2010.¹¹⁹ Another study confirmed that television stations continue to increase the content on their websites, and that these sites continue to “climb in profitability.”¹²⁰

Broadcast radio stations’ online audience is also growing at an impressive pace -- from 11 million weekly U.S. listeners in 2004 to 27 million in 2009.¹²¹ Forecasters predict that

¹¹⁷ See *supra* n. 97.

¹¹⁸ Borrell Associates, Inc., “Benchmarking: TV Web Sales Defy Gravity, Gain 10%” (April 2010), at 5, *available at* www.tvb.org/pdf/multiplatform/Borrell_2009_TV_Internet_Growth_April_2010_Non_Members.pdf.

¹¹⁹ See Katy Bachman, “Report: TV Stations Online Revenue to Grow,” *Mediaweek* (Apr. 20, 2010).

¹²⁰ “RTDNA/Hofstra Survey Finds Revenue Boost for TV Web Sites, Shift in Content,” News Release (April 22, 2010), *available at* www.rtdna.org/pages/posts/rtdnahofstra-survey-finds-revenue-boost-for-tv-web-sites-shift-in-content927.php. This survey indicated that TV stations’ websites increased profitability by 4.3 percent in 2009.

¹²¹ See Sarah McBride, “Mixed Signals in Web Radio,” *The Wall Street Journal* (Dec. 1, 2009). “One area of strong growth for AM/FM radio is the number of people tuning in to the stations’ website audio streams.” Pew Research Center, Project for Excellence in Journalism, “2010 State of the News Media,” Audio, *available at* www.stateofthedia.org/2010/audio_traditional_broadcast.php

radio stations' web and online revenues will grow at an increased rate over the next few years.¹²²

Radio and television broadcasters, however, face real challenges in monetizing these new platforms.¹²³

Finally, mobile DTV provides broadcasters with a new opportunity to serve viewers and to create revenue. As consumers increasingly desire and demand access to content anytime, anywhere, broadcasters are poised to meet this demand. The mobile DTV standard enables broadcasters to provide real-time, mobile-streaming video (along with interactive services such as programming guides, audience measurement tools, and viewer voting). The standard provides a framework for seamless incorporation of Internet content, such as the ability for a news report to link to additional online content. Further, this medium can be used to provide not just live video but also on-demand video.¹²⁴ Local mobile advertising is growing “and is seen as a big opportunity for local media,” including television broadcasters.¹²⁵

¹²² See “BIA/Kelsey Sees Prospects for Radio Industry Revenues Increasing in 2010 After Bottoming Out Last Year at \$13.7 Billion,” BIA/Kelsey News & Events (March 24, 2010) (predicting a 16.5 percent compound growth rate from web and other online revenues over next few years). “There has been strong growth in ad revenue from radio station websites and mobile devices, and further gains are projected.” Pew Research Center, Project for Excellence in Journalism, “2010 State of the News Media,” Audio, *available at* www.stateofthemediamedia.org/2010/audio_traditional_broadcast.php

¹²³ Attachment B describes several of these challenges, including advertiser reluctance to “buy in” to new platforms, a lack of established standards and pricing, and a limited number of local advertisers. One station suggested that, while new platforms may increase stations’ inventory, “to some degree, existing dollars are just being moved around.” Attachment B at 22. See also McBride, “Mixed Signals in Web Radio” (noting radio companies’ difficulty turning the growing online audience into cash, in part due to newness of the technology).

¹²⁴ See “Twelve Major Broadcast Groups to Form Joint Venture to Develop National Mobile Content Service,” Press Release (April 13, 2010) (stating that a recently formed joint venture among broadcast groups will provide national mobile content service, providing “live and on-demand video, local and national news from print and electronic sources, as well as sports and entertainment programming”).

¹²⁵ Katy Bachman, “Report: TV Stations Online Revenue at Grow,” *Mediaweek* (Apr. 20, 2010).

B. Quality Broadcaster-Produced Local Journalism Requires Substantial Investment.

The local journalism provided by broadcasters requires extensive investments, from employing reporters, anchors, camera operators, newsroom personnel, and technical staff to purchasing and maintaining the necessary equipment, such as electronic newsgathering trucks, satellite or microwave linking facilities, cameras and microphones, studio equipment, and other key infrastructure. The resources required to provide local journalism and emergency information are extensive, but broadcasters believe that these investments are worth the price so that they can provide relevant, timely, and critical services to the public.

In the aggregate, each year local television stations in the U.S. spend approximately \$3.1 billion in operating expenses and \$545 million in capital funds, and dedicate roughly 83 million employee-hours to produce and broadcast local news.¹²⁶ Given this level of resources necessary to maintain local news operations and produce local programming, the clear connection between the financial health of broadcast stations and the provision of local news and other non-entertainment programming is unsurprising. For example, one study the Commission conducted in connection with its 2006 quadrennial review of the broadcast ownership rules found that the “financial strength of the parent” of a television station, “measured by its revenues, is associated with a larger news output.”¹²⁷ Other studies also have linked station profitability with the provision of news and local public affairs programming. For example, one study concluded that television stations in larger markets tend to provide more local news

¹²⁶ See Attachment B at 3; 13-14.

¹²⁷ FCC, 2007 Ownership Study No. 4, Daniel Shiman, “The Impact of Ownership Structure on Television Stations’ News and Public Affairs Programming” (July 24, 2007) (“*Shiman Ownership Structure Study*”) at I-21.

programming than stations in smaller markets, likely due to the greater revenue potential in larger markets, and expressly found that public affairs programming “is a function of station revenues.”¹²⁸ And in several cases, financial struggles—particularly in smaller markets—have resulted in the reduction or loss of local news in these stations’ markets.¹²⁹ These recent findings by the Commission and independent researchers confirm earlier studies that also demonstrated the link between station profitability and the provision of news and other non-entertainment programming.¹³⁰

C. The Traditional Financial Bases Of Local Broadcasting And Local Journalism Are Under Threat.

Broadcasters, like other advertiser-supported media, are faced with challenges as to how to utilize opportunities presented by the digital revolution and how to monetize content on new distribution platforms. As noted above, extensive resources are required in order to provide trusted journalism and emergency information. In turn, strong local news can help to

¹²⁸ Philip Napoli, “Television Station Ownership Characteristics and News and Public Affairs Programming: An Expanded Analysis of FCC Data,” 6 *Info: The Journal of Policy, Regulation, and Strategy for Telecommunications, Information, and Media* 112 (2004). NAB’s survey of local news economics confirms that the amount of local news programming appears correlated with market size, with large market stations airing more local news than stations in smaller markets, on average. See Attachment B at 12.

¹²⁹ See, e.g., Coalition of Smaller Market Television Stations Comments, MB Docket No. 06-121 *et al.*, at 9-10 (Oct. 23, 2006) (noting stations in Topeka, Portland, and other markets dropping newscasts, citing, *inter alia*, “TV News: Down the Tube,” *Columbia Journalism Review* (Sept./Oct. 2002)).

¹³⁰ See, e.g., Raymond Carroll, “Market Size and TV News Values,” 66 *Journalism Quarterly* 49, 55-56 (1989); Barry Litman, “Public Interest Programming and the Carroll Doctrine: A Reexamination,” 23 *Journal of Broadcasting & Electronic Media* 51, 59 (Winter 1979); R.E. Park, Rand Corp., “Television Station Performance and Revenues,” P-4577 (Feb. 1971).

provide needed revenue to stations.¹³¹ However, the traditional bases of broadcasters' revenue streams are under threat. The most significant threats include:

- The reduction in advertising spending by companies nationwide, attributable to the ongoing recession;
- The fragmentation of the advertising market and strength of competitors for advertising dollars, including the rise of new media such as the Internet; and
- Calls by pay television providers to tilt the free market retransmission consent regime established by Congress in their favor, thus undermining the ability of local stations to negotiate for compensation for the value of their signals.¹³²

“Already facing intense competition from multichannel video programming distributors[] and the Internet for viewers and advertising dollars, the global recession hit local broadcasters hard,” and stations are “having to fight harder than ever for each and every viewer.”¹³³ Given that most stations report that the vast majority of their revenues come from on-air advertising,¹³⁴ the recession has hit local broadcasters particularly hard.

Data regarding the financial performance of television stations from 1998 to 2008 is illuminating.¹³⁵ On average and across all markets, pre-tax profits for stations declined 56.3

¹³¹ See Attachment B at 10 (noting that while local news constitutes an average of 16 percent of the broadcast day for survey respondents, the advertising associated with local news provides an average of 39 percent of station revenues).

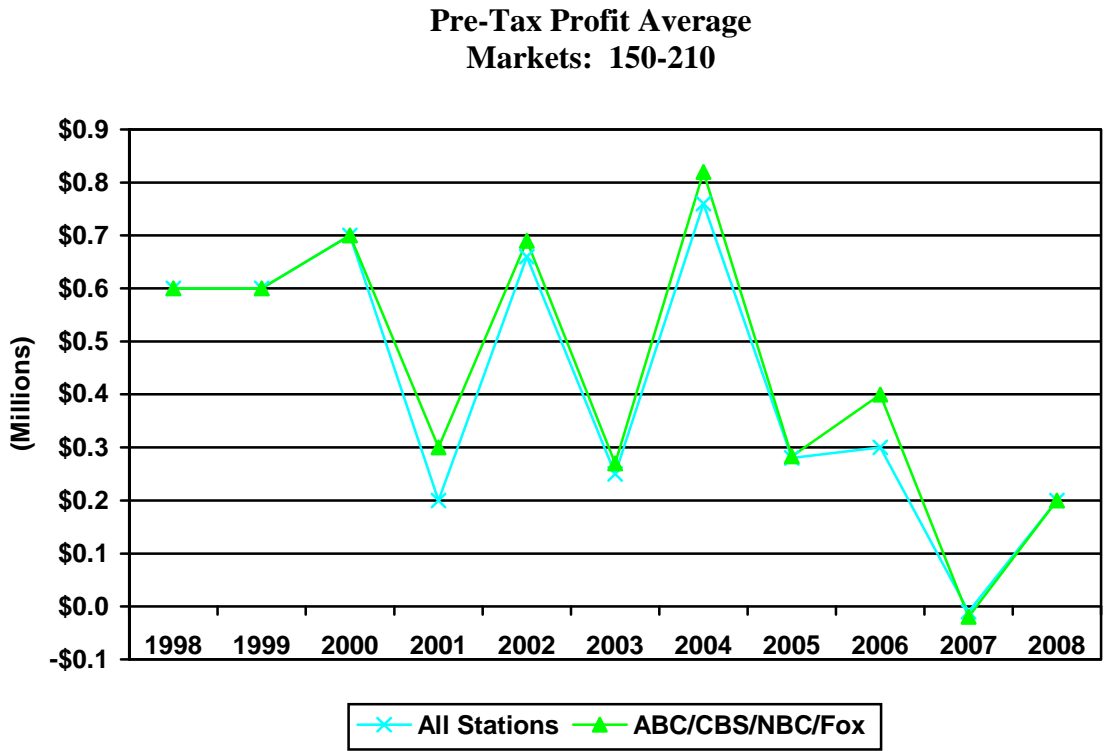
¹³² Retransmission consent is discussed in greater detail below, in Section III(C).

¹³³ Attachment B at 3-4. See *id.* at 4-5 (noting declines in local television advertising and revenue).

¹³⁴ See *id.* at 10. This is consistent with recent data from the Pew Research Center, Project for Excellence in Journalism, “2010 State of the News Media” Report (noting that approximately 90% of station revenue comes from on-air advertising). See “Local TV – Economics,” available at www.stateofthemediamedia.org/2010/local_tv_economics.php. Other sources of station revenues include retransmission consent fees and online advertising. See Attachment B at 10.

¹³⁵ Data in this section is drawn from NAB's annual Television Financial Reports, based on NAB's television financial surveys conducted from 1999 to 2009. A summary is attached hereto as Attachment C, “Television Station Financial Data: 1998-2008.” For many years, NAB, in conjunction with an outside accounting firm, has conducted an annual financial survey of all (continued...)

percent over the course of that decade.¹³⁶ In smaller Designated Market Areas (“DMAs”), the decrease in profitability was even larger, with a loss of 62.9 percent for all stations (62.3 percent for stations affiliated with the “Big Four” networks – ABC, CBS, NBC, and Fox).¹³⁷ The following chart from Attachment C shows the pre-tax profit average for all stations and for Big Four network affiliated stations from 1998 to 2008, in markets 150-210:



During this period of financial stress, however, television stations continued to invest in local news. Expenses spent on news consistently constituted about 25 percent of total station expenses from 1998 to 2008 (as shown in the chart below and in Attachment C at 13-14).

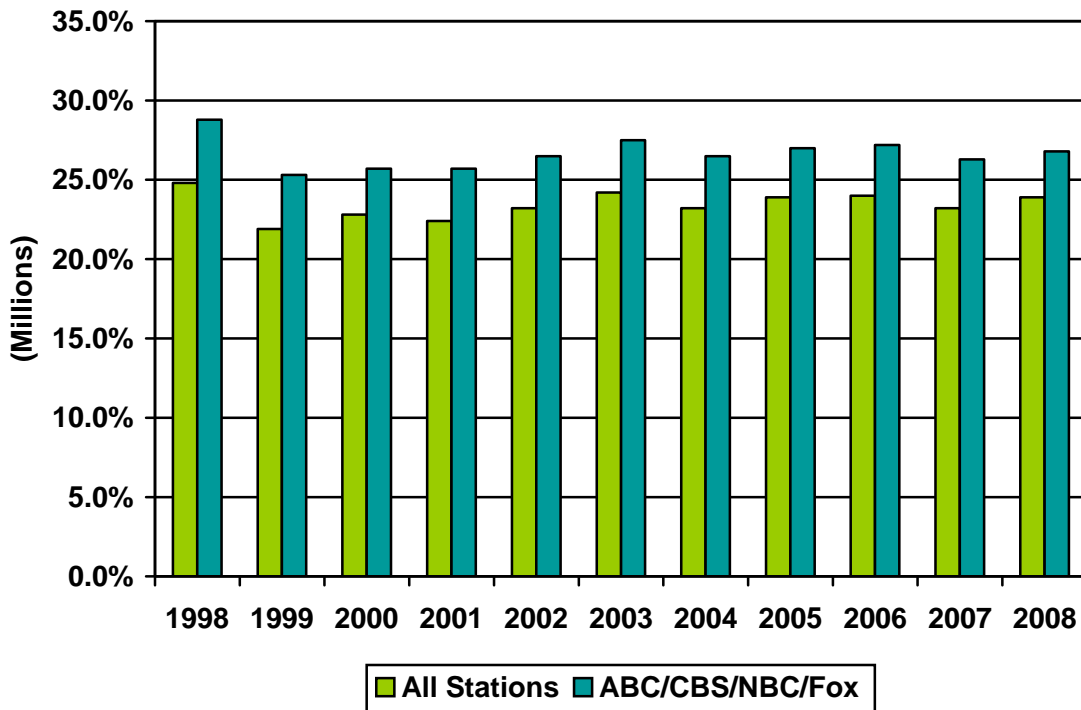
Stations surveyed just last month about their news operations report airing an average of about _____ commercial television stations in the country. Between 60-70 percent of all stations consistently respond to these annual surveys.

¹³⁶ See Attachment C at 1.

¹³⁷ See *id.* at 10.

1,400 hours of local news programming annually (not counting the hours of national news programming they provide).¹³⁸ Aggregating these survey results to all television stations in the country that originate local news, local stations produce over *one million hours* of original local news per year.¹³⁹

**News Expense:
Percent of Total Expenses**



Local television stations maintained this impressive level of local journalism despite another challenging year in 2009. Local television stations’ advertising revenue dropped

¹³⁸ See Attachment B at 11-12.

¹³⁹ *Id.* at 12.

by 24 percent in 2009 (triple the decline of 2008), according to a recent study by the Pew Research Center.¹⁴⁰

Similarly, broadcast radio experienced an 18% drop in advertising revenues in 2009 compared to 2008 (which was itself a year in which advertising revenue had declined from 2007).¹⁴¹ “Many stations have left the air and some owners of multiple stations have entered bankruptcy.”¹⁴²

While some of this decline can be blamed on the economic downturn, broadcasters’ revenue losses are also attributable to an incontrovertible fact: broadcasters compete with multichannel video and audio providers and online media more than ever for fragmenting audiences and, thus, for local advertising. Between 1995 and 2005, cable’s local advertising revenues doubled.¹⁴³ The market for online search engine advertising for local business more than doubled in the last decade; in the first quarter of 2006, for example, online advertising rose by almost 47 percent while local broadcast spot advertising remained flat.¹⁴⁴ And the flow of local ad dollars from broadcasting to multichannel providers and new media has

¹⁴⁰ See Pew Research Center, Project for Excellence in Journalism, “2010 State of the News Media,” Overview/Introduction, *available at* www.stateofthemediamedia.org/2010/overview_intro.php.

¹⁴¹ See *id.*

¹⁴² *Id.* at www.stateofthemediamedia.org/2010/audio_summary_essay.php

¹⁴³ See Project for Excellence in Journalism, “2005 Annual Report: Local TV Economics,” *available at* www.journalism.org/node/739 (“Due to [cable franchisee] consolidation, cable companies dominate entire metropolitan areas, and new technology makes it possible to run the same ad on a group of systems at once.... [The rise in cable local ad spending] would represent a growth rate of at least 10% each year, [while] local broadcast revenues are expected to grow barely 5% a year.”).

¹⁴⁴ See Kris Oser, “2008 Market for Local Search Engine Ads: \$2.5 billion,” *AdAge* (Nov. 2, 2004) (http://adage.com/digital/article?article_id=41448); Samantha Melamed, “Stunner: Web Dollars Rise 46.4 Percent,” *Media Life* (July 18, 2006) (www.medialifemagazine.com/cgi-bin/artman/exec/view.cgi?archive=399&num=6030).

only increased since these reports.¹⁴⁵ Notably, even during the recent severe recession, online search advertising grew a projected three percent in 2009.¹⁴⁶ And this year, advertisers are predicted to reduce spending on television, radio and movies and spend nearly ten percent more on web sites and other digital media.¹⁴⁷

The FCC has recognized in several contexts the financial challenges faced by broadcast stations, especially small market television stations, independent stations, and stations affiliated with minor networks.¹⁴⁸ And the FCC currently estimates that 97 AM stations and 271 FM stations and translators have been silent at least two months.¹⁴⁹ Obviously, financially struggling stations cannot serve their local audiences as effectively as economically healthy stations with greater resources – and silent stations cannot serve the public interest at all.

¹⁴⁵ In its most recent video competition report, the FCC reported that cable operators' local advertising revenues rose 8% from 2005-2006. *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 24 FCC Rcd 542, ¶ 47, Table 5 (2009).

¹⁴⁶ See Pew Research Center, Project for Excellence in Journalism, "2010 State of the News Media," available at www.stateofthemedias.org/2010/online_economics.php.

¹⁴⁷ See "Online Ad Spending to Surpass Print in the U.S. This Year," *Bloomberg Business Week* (May 7, 2010) (for the first time, U.S. advertisers are predicted in 2010 to spend more on digital marketing than on print).

¹⁴⁸ See Third Report and Order, 22 FCC Rcd 21064 n.192 (2007) (noting the "particularly great" financial hardships of these television stations). See also Report and Order, 18 FCC Rcd 13620, 13698 (2003) (explaining that "the ability of local stations to compete successfully" in the video marketplace has been "meaningfully (and negatively) affected in mid-sized and smaller markets," primarily because "small market stations are competing for disproportionately smaller [advertising] revenues than stations in large markets"). More recently, the National Broadband Plan reported that "broadcast TV station revenues have declined 26%" since 2005, and "overall industry employment has declined as well." FCC, "A National Broadband Plan for Our Future," GN Docket No. 09-51, at 89 (March 16, 2010).

¹⁴⁹ See www.fcc.gov/mb/audio/status/silent.html.

III. ENSURING A QUALITY LOCAL BROADCAST SYSTEM IN THE FUTURE REQUIRES THAT THE COMMISSION APPLY A LIGHT REGULATORY TOUCH AND NOT IMPOSE ASYMMETRIC REGULATIONS THAT DISFAVOR LOCALLY-ORIENTED RADIO AND TELEVISION STATIONS.

Television and radio broadcasters compete with many other traditional and new-media market participants, from newspapers and bloggers to national search engines that increasingly market advertising services in local markets. The Commission should consider the effect of this competition in crafting and applying effective media policies for the future. These policies should not only take account of the competition and diversity that exist in local media markets, but also should seek to avoid the substantial costs imposed by asymmetric regulation (*i.e.*, regulatory costs and restrictions imposed on only some marketplace participants, leaving other competitors unencumbered by regulation). Certain regulations impose heavy costs on broadcasters, affecting their competitive posture and spurring scarce capital to flow to the market participants who compete without these constraints. As we move forward into the new media age, Commission policy should not tilt the competitive playing field against locally-licensed and -oriented broadcasters.

A. The Commission Should Reform Ownership Rules So That They Reflect Current Competitive Realities In A Multichannel, Multiplatform Media Marketplace.

The current multiple ownership rules have the unintended consequence of artificially fragmenting the broadcasting industry. Although broadcasters today generally are performing better than local newspapers, they are being buffeted by the same economic winds, including the worst advertising market in sixty years and the dramatic increase in competition for consumers' attention (and advertising revenue). On the whole, the Commission's media ownership rules hinder broadcasters from competing fully and efficiently with other media

competitors. Ironically, rules meant to promote viewpoint diversity may undermine that goal by preventing combinations and ventures that could save or expand local journalism.

For example, the current regulations suggest that it is better for a newspaper to go out of business than for its newsroom resources to be combined with a broadcast newsroom – an outcome that makes little sense and does not advance the interests of modern media consumers. Allowing flexibility for reasonable multiple ownership and cross-ownership combinations is important in supporting broadcasters’ viability and competitive posture, particularly in the face of challenging trends such as the increasing fragmentation of advertising dollars across other media, including those media that earn subscription revenues as well.¹⁵⁰

In a similar vein, the current duopoly rule essentially prohibits the common ownership of two television stations in markets outside the top 50 largest markets. As shown in Attachment C, this rule prevents the efficient combination of television stations in markets (DMAs 50-210) where stations experienced a 63.7 percent decline in pre-tax profits from 1998-2008 (and where even economically stronger major network affiliates experienced a 52.9 percent decline in pre-tax profits).¹⁵¹ Indeed, the data show that lower performing stations in these markets where duopolies are generally prohibited consistently suffered *actual losses* (not just declining profits) during the 1998-2008 period.¹⁵²

Evidence in the Commission’s ownership docket shows that permitting stations (especially those under financial stress) the flexibility to form same market combinations would promote improved programming generally and increased local news and public affairs

¹⁵⁰ The financial problems of the newspaper industry are well known, and many have documented these struggles in detail in the FCC’s ownership proceedings.

¹⁵¹ See Attachment C at 4.

¹⁵² See *id.* at 5-6.

programming specifically. For example, in a range of markets from Seattle to Jacksonville, in-market TV station duopolies have preserved or increased local news and public interest programming.¹⁵³ Like duopolies, local marketing agreements, which allow a brokering station to provide up to 15 percent of the programming aired on another in-market station, increase the likelihood of stations carrying local news and public affairs programming, and in many cases have allowed the weaker station to air more news programming or acquire network affiliation.¹⁵⁴ And the FCC's own 2007 media ownership studies demonstrated that allowing local broadcasters to adopt more economically viable ownership structures directly results in more local news.¹⁵⁵ It

¹⁵³ See, e.g., Belo Comments, MB Docket No. 06-121 *et al.*, at 22-25 (Oct. 23, 2006) (duopolies in Seattle-Tacoma, Phoenix, Tucson, and Spokane markets resulted in increased local news, including addition of daily newscasts, weekly local public affairs program, and public affairs specials); Gannett Comments, MB Docket No. 06-121 *et al.*, at 46 (Oct. 23, 2006) (same public interest benefits in Gannett's duopoly markets of Jacksonville, Denver, and Atlanta); Waterman *et al. Ex Parte*, MB Docket No. 02-277 *et al.* (May 23, 2003) (noting the local news increases and public interest benefits resulting from duopolies, in Ft. Myers, Honolulu, Cleveland, Grand Rapids, Hartford-New Haven, Norfolk-Portsmouth-Newport News, Austin, and Providence-New Bedford); Coalition of Smaller Market Television Stations Reply Comments, MB Docket No. 06-121 *et al.*, at 13 and cites therein (Jan. 16, 2007) (noting that "the record evidence convincingly demonstrates that station combinations in smaller and mid-size markets provide localism benefits").

¹⁵⁴ See, e.g., LIN Television Corp. and Raycom Media Petition for Reconsideration, MB Docket No. 02-277 *et al.*, at 6-8 (Sept. 4, 2003); Economists Incorporated, "Effect of Common Ownership or Operation on Television News Carriage: An Update" (Attachment A, NAB Reply Comments, MB Docket No. 06-121 *et al.*, at 6-7 (Nov. 1, 2007)) (finding broadcast stations that are commonly owned or operated with another in-market station are more likely to carry local news, public affairs, or current affairs programming). The 15 percent limitation on local marketing agreements in fact can limit the amount of news market-wide in some cases, since the Commission's attribution rules, combined with the duopoly rule, bars the brokering station from providing additional news, even if it would otherwise be willing and able to do so. The result is less news than might otherwise be aired on the brokered station. Studies also show that the acquired stations in duopolies experience a 15.4 percent increase in their revenue shares and an 11.0 percent increase in their audience shares, thereby demonstrating that they are able to offer programming more attractive to local audiences. See BIA Financial Network, "Economic Viability of Local Television Stations in Duopolies," at 6-8 (Attachment H, NAB Comments, MB Docket No. 06-121 *et al.* (Oct. 23, 2006)).

¹⁵⁵ See FCC, 2007 Ownership Study No. 6, Jeffrey Milyo, "The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News," at 18-20 (finding television (continued...))

is thus clear that in-market asset- and resource-sharing structures preserve and expand broadcasters' ability to serve their communities, and that rules treating certain in-market combinations as *per se* harmful to localism – despite evidence to the contrary – inhibit that ability.

Respondents to the 2010 survey for NAB on the economics of local news provided numerous examples of ways in which local partnerships enhance the provision of local news. Many television stations reported unique partnerships that increase the amount of local news in the market, from a station that produces an original morning newscast for another local station (and has a partnership with six local radio stations and three local newspapers) to a station that has a newsgathering partnership with ten regional newspapers in outlying counties of its markets.¹⁵⁶ As the report notes, many “broadcasters that own television duopolies report that co-ownership provides operational efficiencies leading to higher quality and more local news than would otherwise be produced absent the duopoly.”¹⁵⁷ Consumers benefit when stations have flexibility to cooperate and share resources with other local media outlets.

stations cross-owned with in-market newspapers aired more local news, including more coverage of state and local political candidates); FCC, 2007 Ownership Study No. 3, Gregory Crawford, “Television Station Ownership Structure and the Quantity and Quality of TV Programming,” at 23 (finding newspaper cross-owned television stations aired more local news); *Shiman Ownership Structure Study*, at I-21 (finding that co-ownership of television stations in the same market “has a large, positive, statistically significant impact on the quantity of news programming”); *id.* at I-24 (finding that television stations cross-owned with in-market radio stations aired more public affairs programming). In 2007, NAB cited 10 studies conducted between 1973 and 2006 all showing that newspaper cross-ownership of broadcast stations in local markets resulted in the production of more and higher quality news and nonentertainment programming on the broadcast outlets. See NAB Reply Comments in MB Docket No. 06-121 at 82-84 (Jan. 16, 2007).

¹⁵⁶ See Attachment B at 26.

¹⁵⁷ *Id.* at 26-27 (providing specific examples).

B. Unnecessary And Burdensome Regulations On Broadcast Stations Impair Their Ability To Serve The Public Interest.

In today's competitive marketplace, regulations that are imposed on broadcasters – but not on competitors – are of particular concern. For example, the FCC's "enhanced disclosure" requirements for television stations (which have not yet come into effect) impose recordkeeping, paperwork, and reporting requirements that would be exceedingly burdensome – and those burdens would not be offset by any appreciable benefit to the Commission or to the public. The "enhanced disclosure" obligations, including the detailed quarterly reporting requirement, would impose recordkeeping burdens that are orders of magnitude greater than the FCC's estimate.¹⁵⁸ Indeed, they would be so time- and labor-intensive that many broadcasters would be required to employ a part-time if not a full-time staff member solely to complete the required information collection and reporting. Broadcasters' "trial runs" to test the total annual burden of responding to the enhanced disclosure form (FCC Form 355) showed that the burden would be greater than the burden associated with the former TV programming log requirement (which, before it was eliminated in 1984, was characterized by the General Accounting Office as the single largest paperwork burden imposed on business by the federal government).¹⁵⁹

These new regulations would directly and significantly impact broadcasters' ability to provide community-responsive programming, for the simple reason that every dollar spent on detailed recordkeeping and recording tasks is a dollar unavailable to use in designing and creating programming that is responsive to community issues. Ironically, the heaviest

¹⁵⁸ See NAB Comments on Proposed Information Collection Requirements, MM Docket Nos. 00-168 and 00-44, OMB Control No. 3060-0214 (May 12, 2008).

¹⁵⁹ See *id.*

burden associated with the detailed reporting required under the “enhanced disclosure” regime would fall on those stations that provide the most community-responsive programming.

Certain proposals made in the localism proceeding (such as restrictions on stations’ ability to engage in remote operations and on main studio location) also would be very costly and, ultimately, counterproductive to the FCC’s goal of enhancing local service. New localism mandates are unnecessary because the market already demands that broadcasters serve their local communities to survive and thrive. Additional “localism” requirements would impose substantial new costs on local broadcasters, and would particularly impact small broadcasters and station groups and those broadcasters in rural areas. The additional costs would adversely impact these stations’ ability to serve local audiences, and in today’s economic climate could even threaten some stations’ viability.¹⁶⁰

Consumers today have access to more information than at any point in history, with more media options and more control over how, when, and where to access them. Consumers are served well by a wide array of outlets, from broadcast television and radio to print resources, cable, satellite TV, telco service, the web, and mobile Internet access. In this diverse and rich media environment, “it is neither necessary nor economically efficient for every broadcast station to be ‘all things to all people.’”¹⁶¹ The Commission’s regulations should account for all of these market competitors in its examination of the media marketplace and its media regulations. Thus, the Commission should not adopt rules that require all broadcast

¹⁶⁰ See *NAB Localism Comments* and *NAB Localism Reply Comments*.

¹⁶¹ *NAB Localism Comments* at 39. See also *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 355-56 (D.C. Cir. 1998) (it is “at least understandable why the Commission would seek station to station differences,” but a “goal of making a single station all things to all people makes no sense” and “clashes with the reality of the radio market”).

stations to offer the same categories of local programming, or generally require “one-size-fits-all” guidelines that do not account for the diversity of services and programming – and audiences – in local markets throughout the country.

In today’s multichannel, multiplatform media environment, minimum or quantitative public interest standards, as discussed above, are at best unnecessary and, more likely, counterproductive. They are also at odds with the FCC’s supervisory role, as envisioned by Congress, with respect to only the totality of a broadcast licensee’s performance of public interest obligations.¹⁶² As the Supreme Court has observed, “Congress has affirmatively indicated in the Communications Act that certain journalistic decisions are for the licensee, subject only to the restrictions imposed by *evaluation of its overall performance* under the public interest standard.”¹⁶³ As discussed in more detail in our localism comments, quantitative content-based requirements raise serious legal questions about the scope of the FCC’s statutory authority and are highly suspect under the First Amendment.¹⁶⁴

¹⁶² See *CBS v. DNC*, 412 U.S. 94, 121 (1973) (“Every licensee is already held accountable for the totality of its performance of public interest obligations.”)

¹⁶³ *Id.* at 120 (emphasis added).

¹⁶⁴ See, e.g., *MPAA, Inc. v. FCC*, 309 F.3d 796 (D.C. Cir. 2002) (FCC’s general powers under Communications Act do not authorize the adoption of rules about program content); *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 650-51 (1994) (the FCC may not impose upon broadcasters “its private notions of what the public ought to hear”); *Office of Communication of United Church of Christ v. FCC*, 707 F.2d 1413, 1430 (D.C. Cir. 1983) (Congress “has explicitly rejected proposals to require compliance by licensees with subject-matter programming priorities,” and a “Commission requirement mandating particular program categories would raise very serious First Amendment questions”). See also *NAB Localism Comments* at 41-45; *NAB Localism Reply Comments* at 46-51.

C. The Government Should Not Interfere With The Retransmission Consent Process.

The retransmission consent regime that Congress established in 1992 helps to ensure that broadcasters can negotiate in the marketplace for fair compensation for their programming. This system ultimately benefits consumers, as Congress intended, because it supports local broadcasters' investments in high-quality, diverse programming. A recent Petition for Rulemaking seeks a number of changes to the Commission's retransmission consent rules that would skew this process in favor of multichannel video programming distributors ("MVPDs") and would undermine the system that Congress intended to create.¹⁶⁵ While NAB intends to submit more detailed comments on this issue in MB Docket No. 10-71, it takes this opportunity to briefly summarize the importance of maintaining the free market retransmission consent regime established by Congress.

As described above, stations must invest significant resources in producing local news and providing other information and critical services. Revenues from retransmission consent help to finance these investments and support local broadcasting's position as a viable competitor to MVPDs (which do not typically provide local journalism or emergency information).¹⁶⁶ Retransmission consent negotiations also may result in other beneficial outcomes, such as carriage of a local station's cable-only news and weather channel. Consumers

¹⁶⁵ See Petition for Rulemaking, MB Docket No. 10-71, filed by Public Knowledge; DIRECTV, Inc.; DISH Network LLC; Charter Communications, Inc.; American Cable Association; New America Foundation; OPASTCO; Time Warner Cable Inc.; Verizon; Cablevision Systems Corp.; Mediacom Communications Corp.; Bright House Networks, LLC; Insight Communications Company, Inc.; and Suddenlink Communications (filed March 9, 2010).

¹⁶⁶ Stations responding to the survey conducted for NAB reported that retransmission consent fees generally constituted 6.3 percent of station revenues. See Attachment B at 9-10.

benefit from a strong, viable local broadcast industry, and thus they benefit from the retransmission consent regime that Congress established.

Among other things, a recent study on retransmission consent¹⁶⁷ showed that:

- The television programming market is competitive. “[C]able operators possess greater market power, overall, than broadcasters.”¹⁶⁸
- In cases where an impasse results in a local broadcast signal being dropped from an MVPD’s channel lineup, the broadcaster stands to lose more.¹⁶⁹
- Retransmission consent fees are not responsible for any significant portion of cable operators’ ever-increasing monthly fees.¹⁷⁰
- Aggregate service interruptions due to retransmission negotiation impasses represent only about one one hundredth of one percent of annual U.S. television viewing hours.¹⁷¹

Thus, the current retransmission consent regime is economically efficient and helps to ensure that broadcasters reap some of the financial benefits that MVPDs receive when subscribers pay them to receive the valuable broadcast programming retransmitted over their systems. Both cash and in-kind consideration provided in exchange for retransmission consent

¹⁶⁷ J. Eisenach, Ph.D., Empiris LLC, “The Economics of Retransmission Consent” (March 2009) (attached as Appendix A to Reply Comments of NAB, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 07-269 (June 22, 2009)).

¹⁶⁸ *Id.* at 11-12. *See id.* at 12 (noting that MVPDs “possess monopsony power as a result of high concentration and barriers to entry”); *compare id.* at 16 (observing that television programming sellers are in a highly competitive market and not in a position to command above-market prices).

¹⁶⁹ *See id.* at 22-23.

¹⁷⁰ *See id.* at 33 (“even under very liberal assumptions about the trend towards monetary retransmission consent fees in the future, [monetary compensation] will never reach one percent of cable revenues”).

¹⁷¹ *See id.* at 40. Dr. Eisenach very recently confirmed these findings in an updated study. J. Eisenach, Ph.D. and K. Caves, Ph.D., Navigant Economics, “Retransmission Consent and Economic Welfare: A Reply to Compass Lexecon” (April 2010), attached to NAB *Ex Parte*, MB Docket No. 10-71, *et al.* (May 6, 2010).

benefit consumers by supporting local broadcasters' ability to provide high-quality programming, including local news and network and syndicated programming.

D. The Commission Should Recognize That Broadcasting Is A Key Part Of The Communications Landscape.

As NAB and the Association for Maximum Service Television, Inc. ("MSTV") have shown, broadcasting is an important part of the communications landscape, and it complements the one-to-one architecture of wireless broadband.¹⁷² In the *Proposed Framework* that NAB and MSTV submitted in connection with the Commission's broadband proceeding, we stated that:

[I]t is necessary to address a crucial fact of technology that has been assiduously ignored, as well as a pernicious myth that has been advanced in this proceeding. The technological fact is that the case for more broadband spectrum is based primarily on demand for mobile video services. Yet broadcasting's point-to multipoint architecture is a far more efficient means of delivering many of these services, especially real-time, live video content, than wireless' point-to-point distribution architecture. Broadcasters' mobile DTV services are being implemented now, do not have to await a protracted re-allocation process, and will not disrupt and destroy existing consumer services.

The myth pervading this proceeding is that only those Americans who receive television service exclusively over-the-air, via antennas, have a stake in this service and that viewers who receive this service as part of their pay-TV packages would be unaffected by reallocation of spectrum away from it. The fact is that all television viewers, not just viewers who rely in whole or in part on over-the-air television, benefit from local broadcast services. It is inconceivable that, with the demise or marginalization of over-the-air television service that would result from the spectrum re-allocation proposals broached to date, pay-TV subscribers would receive anywhere near the same amount, quality, and diversity of local services—local journalism, local emergency information and

¹⁷² See "Broadcasting And The Broadband Future: A Proposed Framework For Discussion," *In the Matter of Spectrum for Broadband; A National Broadband Plan for Our Future*, GN Docket Nos. 09-47, 09-51, and 09-137 (Dec. 22, 2009) ("*Proposed Framework*").

alerts, and a variety of local voices—as they do now. Neither cable, satellite, nor the Internet would serve these functions if broadcasting were crippled or eliminated.¹⁷³

The FCC should not lose sight of these important points, which are expanded upon in detail in the *Proposed Framework*.¹⁷⁴

Broadcast operations are important not only for those viewers that rely directly on over-the-air broadcasting (about a third of U.S. households, and projected to increase),¹⁷⁵ but also the pay-TV only households that rely on broadcaster-provided journalism, emergency information and alerts, and other local services. We are already witnessing the effects of the so-called “over the top video” movement as consumers move away from pay television regimes and embrace instead a combination of on-demand IP-video and local digital television received over-the-air as their primary sources of video entertainment and news.¹⁷⁶ Indeed, one recent study

¹⁷³ *Proposed Framework* at 4.

¹⁷⁴ As recently explained in *The Wall Street Journal*, “unlike mobile or fixed broadband,” broadcast “can deliver the same bits to many viewers without sending congestion-creating individual streams to each. Bottom line: In the future, a revamped and transformed broadcast sector will lift a large amount of video load off the fixed and mobile networks – if we let it.” Holman W. Jenkins, Jr., “The FCC’s Misguided Spectrum Quest,” *The Wall Street Journal* (March 10, 2010).

¹⁷⁵ According to Knowledge Networks/Statistical Research, Inc., Home Technology Monitor Ownership Survey from the spring of 2009, 32.2 percent of all television households have one or more sets receiving television signals over-the-air. SNL Kagan reports that in 2009 approximately 15 percent of television households relied *exclusively* on free, over-the-air television service. According to one estimate, the number of over-the-air only homes is expected to increase by 36 percent from 2010 to 2014. See Informa Telecoms and Media, UK LTD, *Global Digital TV: 9th Edition*, Oct. 2009, at 378. See also *Proposed Framework* at 10 and n. 30.

¹⁷⁶ See Erick Schonfeld, “Estimate: 800,000 U.S. Households Abandoned Their TVs For The Web,” TechCrunchBlog (April 13, 2010), *available at* <http://techcrunch.com/2010/04/13/800000-households-abandoned-tvs-web/>.

estimates that one in eight consumers will eliminate or scale back their cable, satellite or other pay-TV service this year.¹⁷⁷

Moreover, a viable broadcasting industry with full use of its spectrum will help provide room for innovations. Having rolled out high-definition television and multicasting, broadcasters are moving forward with the next generation of innovations, including mobile DTV.¹⁷⁸ Broadcasters are also exploring other cutting-edge technologies, such as 3D television.

NAB is concerned that certain ideas suggested in the National Broadband Plan could make these services technically infeasible and could undermine incentive to invest in their development. Specifically, suggestions of forced channel changes and reduced distance separations (which exist to provide critical interference protection to stations), could disrupt the public's television service and cause permanent service losses. In the worst cases, stations that must build new facilities on new channels – or accept service losses to accommodate the relocation of another station – may find it economically infeasible to continue broadcasting (or have to cut back service in order to survive). And in all likelihood it would be smaller stations serving diverse and niche audiences that would be most adversely affected – the very stations that the Commission has for years valued and actively promoted.

As Commissioner Clyburn has noted, we ought to be “concerned about sacrificing an essential service to our communities in favor of new apps that have nothing to do with ensuring that we can have meaningful access to the news and information critical to our daily

¹⁷⁷ D. Goldman, “One in Eight to Cut Cable and Satellite TV in 2010,” CNNMoney.com (Apr. 30, 2010).

¹⁷⁸ See *Genachowski NAB Remarks* at 7: “I’m pleased that the DTV transition has enabled the development of standards and the launch of market trials for mobile DTV. Our job is not to predict innovation or business models, but to enable them.”

lives. It is unclear at this point whether the Internet can currently replace these trusted sources.”¹⁷⁹

* * *

Local broadcasting is a trusted, vital, and unique part of today’s media environment. Broadcasters provide local journalism and emergency information, locally oriented service, and innovative digital offerings both over-the-air and online. Local stations compete in an increasingly challenging advertising market, with a high level of competition eroding the traditional base of support used to provide quality local journalism. The Commission should not unduly burden broadcasting by retaining outdated and overly restrictive ownership rules, imposing onerous and unnecessary regulatory requirements, skewing the retransmission consent process in favor of MVPDs, or unnecessarily sacrificing the public’s broadcasting service.

¹⁷⁹ Statement of Commissioner Mignon L. Clyburn, Re: A National Broadband Plan for Our Future, GN Docket No. 09-51 (April 16, 2010). Commission Clyburn added, “While the Plan acknowledges the current public interest mandates and goals of broadcast spectrum, it does not contain a rigorous analysis of the practical implications of its proposed actions on the public interest. This is a serious concern given that the broadcast spectrum is the lone spectrum through which our nation’s public interest goals are effectuated.”

Respectfully submitted,

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May 7, 2010

Attachment A: Over-the-Air Radio Service to Diverse Audiences – A Further Update
Attachment B: The Economic Realities of Local Television News – 2010
Attachment C: Television Station Financial Data: 1998-2008

Attachment A

**OVER-THE-AIR RADIO SERVICE
TO DIVERSE AUDIENCES –
A FURTHER UPDATE**

Mark R. Fratrik, Ph.D.

Vice President

BIA/Kelsey

April 30, 2010



TABLE OF CONTENTS

| | |
|--|-----------|
| Executive Summary | 1 |
| Introduction | 3 |
| Specific Programming to Diverse Audiences | 4 |
| Spanish–Language Programming | 4 |
| Urban Programming..... | 6 |
| News/Talk Programming..... | 7 |
| HD Radio Service | 9 |
| Conclusions | 12 |
| Appendix 1 – Types of Programming Being Offered Via Multicast Signals | 14 |

Executive Summary

In their continuing effort to attract listeners and generate advertising revenues, local radio stations are focused on improving the attractiveness of their programming. Facing competition from numerous radio stations as well as other sources of audio programming, radio broadcasters continually seek to adjust their programming services offered in local markets. As a result of this marketplace competition, radio broadcasters are increasingly providing service to more diverse audiences, including different demographic groups, in their local markets.

This paper reexamines the diversity of programming resulting from radio broadcasters' efforts to attract audiences in a competitive marketplace. We will update prior reports that analyzed some of these same issues. Additionally, we will reexamine the extent of digital radio service, specifically examining the number of stations on air, the number utilizing the multicasting capabilities of that new technology, and the various types of programming being offered.

The results of this update clearly show that the trend for greater service to local markets continues:

- ❖ The number of Spanish-language stations has dramatically increased, with the number having grown by over 57% in the past ten years.
- ❖ Nearly 47% of the Hispanic population in Arbitron markets now resides in markets with 10 or more Spanish-language stations, with nearly 90% located in markets with at least three such stations. Over three-quarters of the Hispanic population located in Arbitron markets receive six or more Spanish programmed stations.
- ❖ From 2000 to 2010, the number of Urban programmed stations rose 9.4%. Almost 70% of African Americans in Arbitron markets now reside in markets with three or more Urban programmed stations, compared to only approximately 62% in 2000.
- ❖ Nearly six of ten people residing in Arbitron markets are in markets with at least six news/talk stations, and three-quarters of the population in these markets are in markets with at least four news/talk stations. Since 2000, the number of news/talk stations has increased 26.6%.
- ❖ The number of radio stations broadcasting in digital has increased dramatically to over 2,000, with 1,127 additional multicast programming streams now being provided.
- ❖ Over one-half (53.9%) of the population located in Arbitron markets are in markets with 10 or more digital multicast signals, and over three-quarters (75.9%) are in markets with at least three.
- ❖ Multicast signals are bringing more diverse programming into local markets. For example, of the 63 markets with new multicast Classical signals, 22 had no other Classical stations in the market; similarly, of the 56 markets with new multicast Jazz signals, 28 had no other Jazz stations in the market; of the 40 markets with new Alternative signals, 22 had no other Alternative stations in the market; of the 23 markets with new Rhythm/Blues signals, 20 had no other Rhythm/Blues stations in the market.

Obviously, over-the-air radio stations are continuing to search for new and different programming in response to competitive pressures in today's digital, multichannel marketplace. Whether it is adjusting their program elements (e.g., play lists, personalities) or changing entire program formats, radio broadcasters are always seeking to improve their programming to attract larger audiences. As the findings summarized above show, one option has been for radio stations to provide increased programming appealing to specific demographic groups, and another to expand the provision of news/talk programming. Also, radio stations that are broadcasting in digital expand the diversity of programming by providing new types of programming in their local markets so as to attract new listeners, including members of niche audiences.

LOCAL RADIO SERVICE TO DIVERSE AUDIENCES – A FURTHER UPDATE

Introduction

Local radio stations continue to compete to attract listeners and generate advertising revenues, and, consequently, continue to be interested in improving the attractiveness of their programming. Facing competition from other radio stations as well as other sources of audio programming, radio broadcasters continually seek to adjust their programming services and differentiate their programming from that of their competitors. This marketplace competition leads to local radio broadcasters increasingly providing service to more diverse audiences, including different demographic groups and niche audiences, in their local markets.

Providing more diverse programming has also resulted from radio stations broadcasting digitally, with many of these stations also multicasting one, two, three, or even four additional programming streams. Broadcasters can experiment with their programming by airing additional programming streams and by providing programming on a local level that would not have been financially viable and sustainable on their main signal.

In this paper we reexamine the diversity of programming in local markets resulting from radio broadcasters' efforts to attract audiences in a competitive marketplace. In two previous papers,¹ we examined the delivery of programming targeted at diverse audiences, including various demographic groups and including specifically news/talk/informational programming.

¹ Mark R. Fratrik, *Over-the-Air Radio Service to Diverse Audiences*, October 23, 2006, submitted as Appendix G, NAB Comments in MB Docket 06-121 (“*2006 Radio Diversity Study*”); and Mark R. Fratrik, *Local Radio Service to Diverse Audiences – An Update*, April 28, 2008, submitted as Appendix E, NAB Comments in MB Docket 04-233.

We will update the results of those earlier analyses. Additionally, we will update our examination on the growth of digital radio service, specifically examining the number of stations on air, the number utilizing the multicasting capabilities of that new technology, and the various types of programming being offered.

Clearly, the earlier studies and this updated report demonstrate that radio stations are serving increasingly diverse audiences in their local markets, and, with expected growth in digital services, this trend should only continue. Faced with continually increasing competition in the audio marketplace, local radio stations are reacting by offering new and varied programming while continuing to provide news and informational services.

Specific Programming to Diverse Audiences

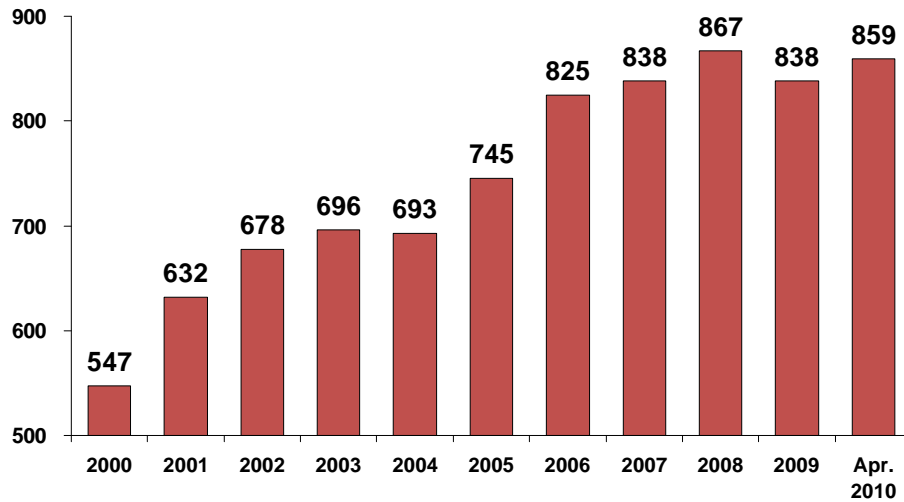
To evaluate the extent of local radio stations' provision of service to specific audiences, we examined the number of radio stations providing Spanish language, Urban, and News/Talk programming, as well as the coverage of these stations.

Spanish-Language Programming

The radio industry has dramatically increased the amounts of Spanish language programming available throughout the U.S. Increasing populations of Hispanics in many markets have led more radio stations to provide programming targeted to this population, including in smaller and more rural markets.² Figure 1 below shows the number of radio stations providing Spanish-language programming over the last ten years.

² For example, in the Louisville, KY radio market, where only 3.1% of the population is of Hispanic descent, there are now three radio stations airing Spanish-language programming.

Figure 1
#of U.S. Hispanic Radio Stations



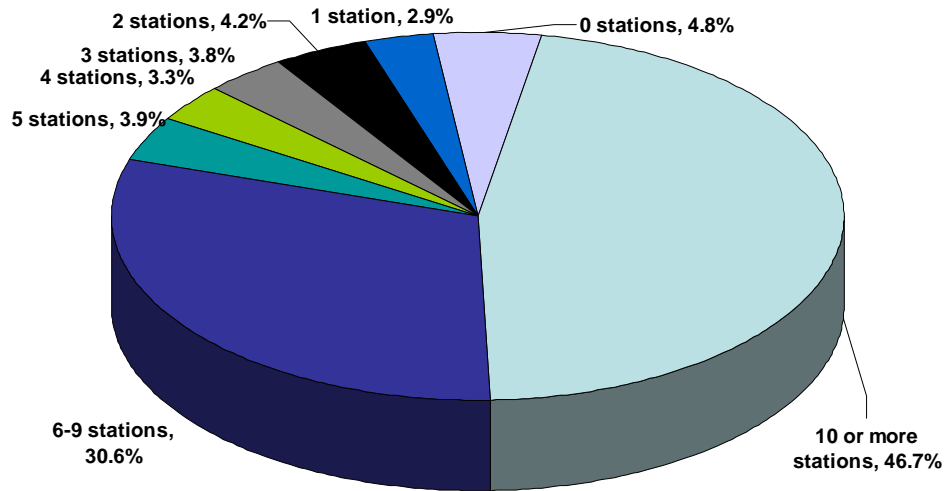
Source: Media Access Pro, BIA Financial Network

In just ten plus years, the number of U.S. Spanish-language radio stations has increased over 57%.³ These Spanish-language stations are offering varied programming, including different types of music – Mexican, Tejano, Tropical, Ranchero, etc. – and news/talk programming.

Another way of evaluating the service being provided to the Hispanic community is to examine the number of stations in each market providing Spanish-language programming. In particular, examining the percentage of the Hispanic population in Arbitron metro markets with varying number of Spanish-language stations provide a clear picture of the widespread provision of this programming to this demographic group. Figure 2 shows that distribution.

³ This number actually understates the number of Spanish-language radio stations as it does *not* include the Mexican radio stations airing this programming and serving U.S. populations in markets along the U.S.-Mexican border.

Figure 2
Percentage of Hispanic Population Receiving
Spanish Programmed Stations



These percentages have not changed significantly since the previous two surveys, with over 75% of the Hispanic population in these Arbitron markets continuing to receive six or more Spanish programmed stations. Currently, nearly 90% (88.3%) of the Hispanic population located in Arbitron markets are in markets with at least three Spanish language stations.

Urban Programming

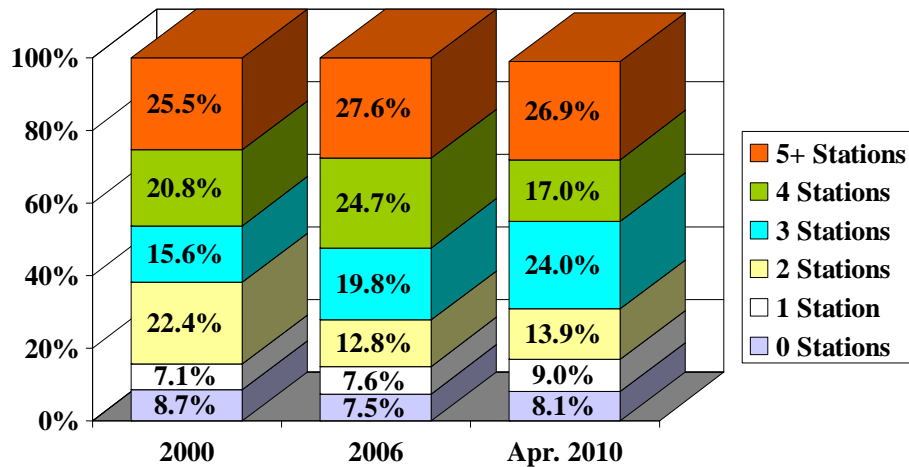
In earlier studies, it was shown that African American listeners were being provided with increased amounts of targeted programming, as more radio stations in local markets offered Urban programming.⁴ The increase in service to this demographic group from 2000 to 2010 was

⁴ See *2006 Radio Diversity Study* at 11-12. As previously noted, Urban stations, like Spanish-language ones, are quite varied, with stations targeting different demographic groups within the African American community by offering programming ranging from Urban/Talk to diverse music formats, including Urban AC, Urban CHR, Urban/Jazz, Rhythm and Blues and even Urban/Gospel.

noteworthy. There are presently a total of 409 Urban stations today compared to 374 in 2000 (an increase of 9.4%).

Figure 3 shows the percentage of African Americans within Arbitron radio markets that are served by varying numbers of Urban programmed stations for 2000, 2006, and 2010.

Figure 3
Percentage of African American Population
Receiving Urban Programmed Stations



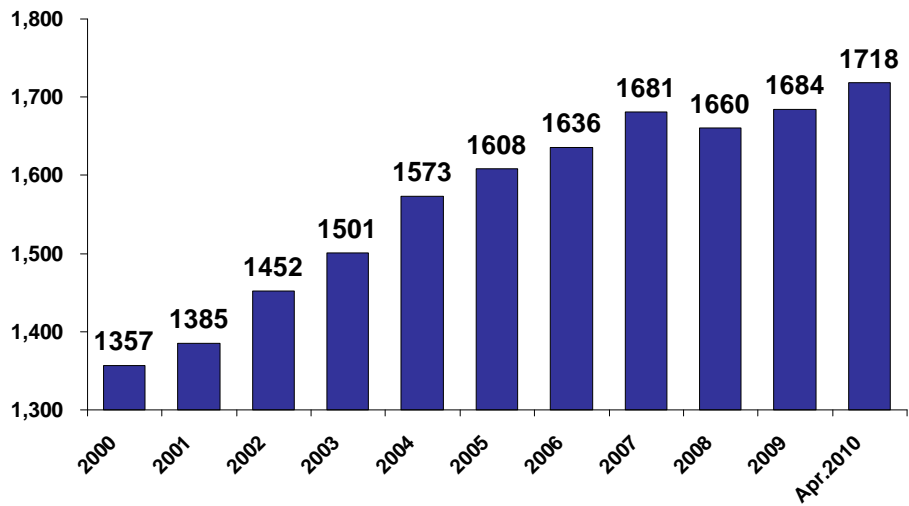
The share of African Americans in Arbitron markets with at least one Urban programmed station has not changed substantially in the past ten years, though the number with at least three stations has increased (61.9% in 2000 and 67.9% in April 2010).

News/Talk Programming

Beyond providing expanded services to specific demographic groups as shown above, radio broadcasters continue to increase the news and information being provided to their local communities. The number of radio stations airing news and talk programming has steadily

increased. Figure 4 shows the number of news/talk programmed stations over the past eight years.⁵

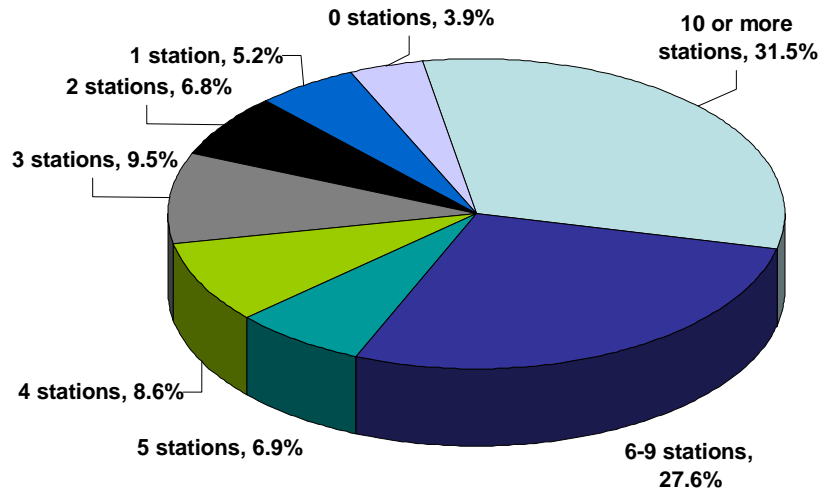
Figure 4
of U.S. News/Talk Radio Stations



Over the past ten years, the number of news/talk local radio stations has grown by over 360, a 26.6% increase. Just citing the number of news/talk stations may, however, not fully demonstrate the true level of service being afforded by these stations in local markets. As with Spanish-language and Urban stations, the widespread service afforded by news/talk stations is best shown by examining the percentages of the population in Arbitron markets receiving service from different numbers of news/talk radio stations. Figure 5 shows this distribution.

⁵ It should be pointed out that these totals do *not* include stations that are either sports or sports/talk stations.

Figure 5
Percentage of Population Receiving
News/Talk Programmed Stations



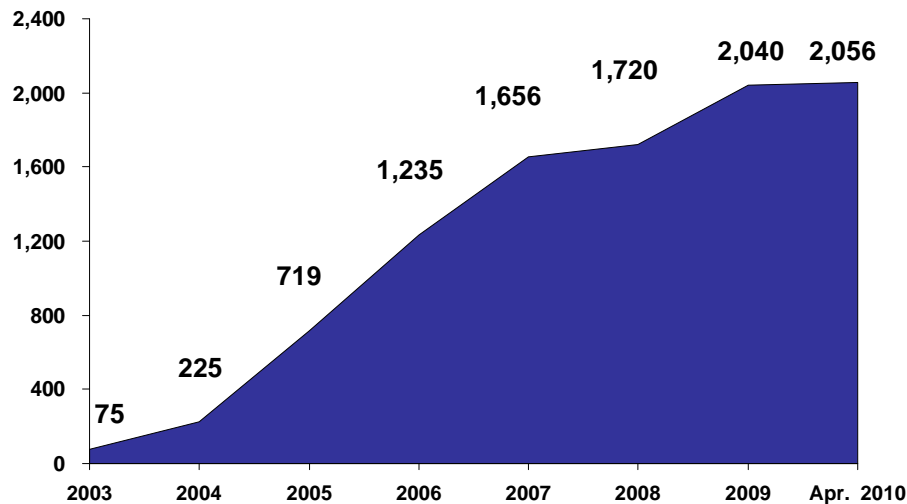
The availability of news/talk programming in local markets clearly continues to increase. Nearly six of ten people (59.1%) residing in Arbitron markets are in markets with at least six news/talk stations (2006 value: 55.5%). Three quarters (74.6%) of the population in Arbitron markets are in markets with at least four news/talk stations (2006 value: 70.8%).

HD Radio Service

In recent years, the radio industry has made significant investments in improving its technical facilities and expanding programming services. Investment in the new digital radio service, HD Radio, has been widespread and significant by radio broadcasters across the country. Although the number of HD radio receivers in the marketplace is still relatively small, many radio stations are presently broadcasting in digital, with the expectation that the new and improved services provided by this technology will lead to more widespread consumer

acceptance of digital radio in the next few years, just as digital television has gradually been embraced by consumers.⁶ Figure 6 shows the number of digital radio stations on the air for each of the past eight years.

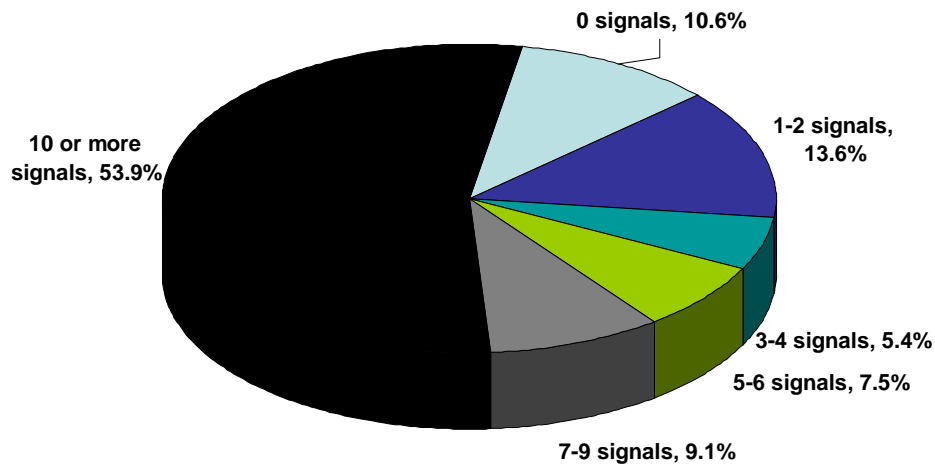
Figure 6
of HD Radio Stations @ Year End



Local radio stations are offering digital service for several reasons. One is to improve the quality of their sound in an era where consumers have many choices for audio entertainment. Another is the ability to provide additional programming through multicasting. Currently, 1,127 additional multicast programming streams are being provided to audiences by their local radio stations. To see the breadth of this service, Figure 7 shows the percentages of the population in Arbitron markets served by varying numbers of multicast radio signals.

⁶ Many broadcasters are continuing to stream their multicast programming over the Internet, providing this new programming service to consumers who have not yet purchased an HD Radio receiver.

Figure 7
Percentage of Population Receiving Multicast Signals



Over one half (53.9%) of the population located in Arbitron markets are in markets with at least ten multicast signals, and over three-quarters (75.9%) are in markets with at least three. This number will grow as more stations that are already operating in digital determine the types of programming best suited for their multicast signals and as more stations convert to digital.

To attract listeners to these new multicast signals, many radio stations are offering programming that differs from any programming presently being offered in their local markets. Appendix 1 identifies the various types of programming now being offered in local markets via these multicast signals. After analyzing some local markets in detail, it is clear that multicasting has significantly enhanced the diversity of programming available to consumers. For example:

- Of the 63 markets with new multicast Classical signals, 22 had no other Classical stations in the market;

- Of the 56 markets with new multicast Jazz signals, 28 had no other Jazz stations in the market;
- Of the 40 markets with new Alternative signals, 22 had no other Alternative stations in the market; and
- Of the 23 markets with new Rhythm/Blues signals, 20 had no other Rhythm/Blues stations in the market.
- Of the 19 markets with new Comedy signals, all 19 had no other Comedy stations in the market.
- Of the 7 markets with new International signals, all 7 had no other International stations in the market.

Conclusions

Over-the-air radio stations are continuously searching for new and different programming in response to competition from both over-the-air radio stations and other audio programming sources. Whether it is adjusting their program elements (e.g., play lists, personalities) or changing entire programming formats, radio broadcasters are always seeking to improve their programming to attract larger audiences. One option for radio stations has been to provide increased programming appealing to specific demographic groups. This paper confirms the findings of earlier studies showing increases in the number of stations offering services targeted to specific audience segments.

As a result of the development and adoption of digital technology, stations are also now able to expand their services to local communities by airing multiple programming services on

multicast signals. While provision of certain programming services that appeal to smaller numbers of listeners may not make financial sense on the main signal of a radio station, and could not be sustained, such niche programming may well be economically viable on one of a station's multicast signals.

Further expansion of free over-the-air radio services to diverse local audiences is also likely to occur as the radio industry's transition to digital broadcasting continues and the number of multicast programming streams grows. Radio stations have a strong economic incentive to expand their reach by offering more niche programming on these streams, thereby greatly expanding radio service in local markets. These expanded services will be necessary for local radio stations to respond to growing competition and will also benefit local listeners and communities.

Appendix 1 – Types of Programming Being Offered Via Multicast Signals

| | | |
|----------------------------|----------------------------|------------------------|
| 70s & 80s | Classical | Modern Rock |
| 70s Hits | Classical/News/Information | New Rock |
| 70s Oldies | Classic Hits | News |
| 80&90/90&20 | Classic Rock | News/Classical |
| 80s & 90s | Classical/Alternative | News/Info |
| 80s Hits | Classical/Jazz | News/Jazz |
| 90s & 2000s | Classical/News | News/Talk |
| AAA | Classical/NPR | NPR |
| AAA/Folk | Classical/Variety | NPR/Classical |
| AAA/Urban | Country/Rock | NPR/Eclectic |
| AC | Country/Variety | NPR/News |
| AC/Classic Hits | Comedy | NPR/News/Classical |
| AC/Rhythmic | Country | NPR/News/Information |
| Adult CHR/Soft Rock | Cst/Hip Hop/Urban | NPR/News/Talk |
| Adult Hits/Variety | Dance | NPR/Talk |
| Adlt Stndrd | Dance Olds | New Rock/Alternative |
| Adult Standards/Oldies | Dance/Top40 | News/Jazz/NPR |
| Adult CHR | Eclectic | News/Talk/Information |
| Adult Hits | Eclectic/Pub Service | News/Talk/Sports |
| Adult Rock | Educational/Info | Oldies |
| Alternative | Ethnic | Pop |
| Alternative/Classic Hits | Family Hits | Pop/CHR |
| Americana | Folk | Pop/Dance |
| AOR | Gospel | Pride |
| Asian | Gospel/Inspirational | Public |
| Big Band | Gospel/Rhythmic | Ranchera |
| Black Gospel | Hip Hop | Reggaeton |
| Blue Grass/Americana | Hot AC | Religion/Inspirational |
| Blue Grass | Hip Hop/ R&B | Religion/Talk |
| Blues | Hurban | Religious Music |
| Bob | Info/News | Religion |
| Bright AC | Information | Rhythmic/AC |
| Business News/Talk | Inspiration | Rhythmic/CHR |
| ChristianContemporary/Rock | International | Rhythmic/Oldies |
| Children | Jack | Rhythm/Blue |
| CHR | Jazz/Hip Hop/International | Rock |
| CHR/Rhythmic | Jazz | Rock & Roll |
| CHR/Top40 | Jazz/Blues | Rock AC |
| Christian | Jazz/Classical | Rock/Alternative |
| Christian Contemporary | Jazz/News | Rock/Country |
| Christian/AC | Jazz/NPR | Rock/Spain |
| Christian/CHR | Lite AC | Rock/Variety |
| Christian/Hip Hop | Mexican/CHR | Romantic |
| Christian/Inspirational | Mexican/Variety | Spanish AC/News/Talk |
| Christian/Rock | Mexican | Smooth Jazz |
| Christian/Talk | Modern AC | Soft AC |

| | | |
|----------------------------|-------------------------|----------------------|
| Soft Rock | Spanish AC | Top 40 |
| Southern Gospel | Spanish/NPR/Information | Top40/Dance |
| Span/80Hts | Spanish/News/Talk | Top40/Rhythmic |
| Span/ChristianContemporary | Spanish/News/Variety | Tropical |
| Span/CHR | Spanish/Talk/Sports | Urban |
| Span/Oldies | Spanish AC/Rhythmic | Urban AC |
| Span/Religion | Sports | Urban/Hip Hop |
| Span/Rock | Sports/Talk | Urban/Oldies |
| Span/Sports | Talk | Urban/Rhythmic Blues |
| Span/Tejano | Talk/Classical | Urban/Variety |
| Span/Variety | Talk/News | Variety |
| Spanish | Tejano | Variety Hit |

Attachment B

THE ECONOMIC REALITIES OF LOCAL TELEVISION NEWS—2010

A Report for the National Association of Broadcasters

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April 30, 2010

THE ECONOMIC REALITIES OF LOCAL TELEVISION NEWS—2010

A Report for the National Association of Broadcasters

In launching the Future of Media project,¹ the Federal Communications Commission is asking some of the very same questions that television broadcasters have been grappling with for some time now. In many places and for many people, the local television station remains the community's most reliable source for news and information about issues of importance to local residents. According to the Pew Internet and American Life Project, even with the explosive growth of access to news on the Internet and cell phones, 78% of Americans still get some part of their news on a typical day from a local television station, the most of any single news source.² According to the Commission's last video competition report, 15.5 million households (14% of the U.S. total) continued to rely *solely* on over-the-air television broadcasts for their video programming, including their local news.³ Local television stations responded to that need in 2009 by producing and broadcasting, in the aggregate, more than 1,000,000 hours of original

¹ *FCC Launches Examination of the Future of Media and Information Needs of Communities in a Digital Age*, Public Notice, 25 FCC Rcd 384 (2010).

² *Understanding the Participatory News Consumer*, Pew Internet and American Life Project at 3, 10 (2010), available at <<http://www.pewinternet.org/Reports/2010/Online-News.aspx?r=1>>. That same survey found, for example, that only 50% of Americans get their news from the print version of the local newspaper. See *id.*

³ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Thirteenth Annual Report, 24 FCC Rcd 542, ¶ 108 (2009). Almost 87% of U.S. households subscribe to a multichannel video programming distributor ("MVPD") service, see *id.* at ¶ 8, through which they can access local news. In addition, millions of MVPD households have one or more television sets that receive only over-the-air signals.

local news.⁴ That herculean effort required a significant investment of both financial and human resources. Every year, local stations, in the aggregate, spend some \$3.1 billion in operating funds and \$545 million in capital funds, and devote some 83 million employee-hours just to produce and broadcast local news.⁵

Local broadcast stations are the very backbone of the Commission’s “localism” policy pillar.⁶ Despite many technological and marketplace changes, local television stations remain the last, best hope to preserve vital local content and services in a video programming ecosystem with increasing numbers of cable, satellite and Internet-based channels and outlets.

By any measure, the past two years have been incredibly challenging for local television broadcasters. Already facing intense competition from multichannel video programming distributors (“MVPDs”) and the Internet for viewers and advertising dollars, the global recession hit local broadcasters hard.⁷ In almost every relevant area—revenue, staffing, transactional

⁴ This number is based on 762 local stations originating local news as reported in Robert Papper, *TV and Radio Staffing and News Profitability Survey 2010*, RTDNA/Hofstra University Survey (forthcoming) (“*2010 Papper/RTDNA Study*”). The *2010 Papper/RTDNA Study*, due to be published in the spring of 2010, found that stations in 2009 broadcast an average of 28.3 hours of news per week (5 hours per day on weekdays, 1.7 hours on Saturday, and 1.6 hours on Sunday). That figure is in line with the results of a survey of a sampling of NAB members taken in April 2010 (discussed below), in which the 53 stations across a range of markets that responded reported an average of nearly 27 hours per week of local news.

⁵ Both figures are derived from the results of an April 2010 survey by the National Association of Broadcasters of a sampling of its member television stations on the economics of local news and assume there are 762 local stations originating local news. *See supra* note 4.

⁶ *See* CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN at 89 (2010), available at <<http://download.broadband.gov/plan/national-broadband-plan-chapter-5-spectrum.pdf>>.

⁷ *Local TV*, Pew Research Center Project for Excellence in Journalism, THE STATE OF THE NEWS MEDIA 2010: AN ANNUAL REPORT ON AMERICAN JOURNALISM at 2 (2010), available at http://www.stateofthemedial.org/2010/printable_local_tv_chapter.htm (“*State of the News Media*”).

activity, and ratings—2009 brought more bad news for local broadcasters. Local television stations are having to fight harder than ever for each and every viewer.⁸ More importantly, faced with the worst economic circumstances in industry history, local television stations have been forced to modify a revenue model that relies almost entirely on advertising revenue, and, in particular, advertising from just a handful of economic sectors. Under this model, bad news in one of those sectors (such as the automotive industry) has an outsized effect on local television stations' budgets.

Though the final numbers for 2009 are not yet available, estimates indicate that total revenue for broadcasters fell approximately 22% between 2008 and 2009.⁹ That comes after a 4% decline between 2007 and 2008.¹⁰ Closely related to this is the Television Bureau of Advertising's report that in the first nine months of 2009 local television advertising was down 27% from the previous year.¹¹ The collapse of the automotive industry led to a drop of more than 50% in automotive advertising in the first nine months of 2009.¹² Considering that as recently as 2006 automobile advertising accounted for more than 30% of all advertising on local television, this precipitous drop carved a major hole in station budgets.¹³ The recession reached

⁸ The Pew Research Center's *State of the News Media* report found, for example, that in 2009 viewership of the late local news on NBC and ABC affiliates fell by almost 20% and 9%, respectively. *See id.* at 37-38. Viewership for CBS affiliates' late local news programs increased slightly in 2009. *See id.*

⁹ *See State of the News Media* at 9 (citing BIA/Kelsey Group estimates).

¹⁰ *See id.*

¹¹ *See id.* at 10 (citing Television Bureau of Advertising statistics).

¹² *See id.*

¹³ *See id.*

far beyond the automotive industry, however, as advertising revenue was down in 22 of 25 categories of local television advertisers, including furniture stores (down 21%), financial (down 19%), cosmetics (down 35%) and motion pictures (down 23%).¹⁴

More broadly, after peaking in 2006 at approximately \$23 billion, total revenue for local broadcasters in 2009 is projected to be just more than \$16 billion.¹⁵ Of the top 30 television station ownership groups, which in the aggregate account for 80% of the total industry revenue, 27 reported lower revenue in 2008 than in 2007.¹⁶

In response, as the poor economy caused companies' advertising budgets to shrink, and as ratings generally declined, local broadcasters are increasingly seeking to develop new, non-broadcast-advertising revenue streams. For example, in 2009, across all market sizes, 35% of television stations reported making a profit on their station website, up from approximately 30% in 2008.¹⁷

In addition to maximizing new revenue streams, local television stations have made painful budget cuts and have asked their smaller staffs to do more with less. As Hofstra University's Bob Papper commented in his 2010 study of television and radio news staffing and profitability, which is due to be published this spring, the television news budget numbers for 2008 were the worst he had seen in 15 years, and 2009 made 2008 "look like the good old

¹⁴ See Television Bureau of Advertising, *Ad Revenue Track: 2009 TV Ad Revenue Figures* (Mar. 19, 2010) ("2009 Ad Revenue Track"), available at <http://www.tvb.org/nav/build_frameset.aspx>.

¹⁵ See *State of the News Media* at 9.

¹⁶ See *id.* at 27.

¹⁷ See *2010 Papper/RTDNA Study*.

days.”¹⁸ In 2009, more than 65% of stations across all markets decreased their news budgets, while fewer than 10% increased their budgets. For Big 4 affiliates, the numbers were even worse—nearly 68% decreased their budgets and fewer than 9% showed an increase.¹⁹ That follows 2008, in which nearly 42% of stations across all markets decreased their news budgets while 25% increased their budget.²⁰

As one might imagine, as budgets for local news decreased, so too did staff size. Across all markets, 64% of stations reported a decrease in staff size in 2009.²¹ Fewer than 12% of stations increased their news staff size in 2009.²² Overall, the local news industry lost approximately 400 jobs in 2009, a third of what it lost in 2008.²³ In a testament to how seriously local broadcasters take their core mission—to provide the community with in-depth and current news about important public issues—many local stations have continued to add *more* local news to their weekly schedule, despite shrinking budgets and staffs. Moreover, as outlined below, local television stations have demonstrated their commitment in times of emergency and disaster (natural and otherwise) to provide the community with vital information, notwithstanding the cost.

¹⁸ *Id.*

¹⁹ *See id.*

²⁰ *See* Robert Papper, *TV and Radio Staffing and News Profitability Survey 2009*, RTDNA/Hofstra University Survey (2009), available at <<http://www.rtdna.org/media/pdfs/research/TV%20and%20Radio%20Staffing%20and%20Profitability.pdf>> (“2009 Papper/RTDNA Study”).

²¹ *See 2010 Papper/RTDNA Study.*

²² *See id.*

²³ *See id.*

Even with the quickly changing financial picture, the fact remains that local television news broadcasts continue to be a major source of television station revenue, and, for many stations, a profit center. In 2009, nearly 48% of stations across all markets reported making a profit on their local news.²⁴ Another 15% reported breaking even. This apparent good news is tempered by the fact that those numbers mark a significant decrease from previous years. In 2008, 53% of stations made money on their local news.²⁵ In 2007, more than 55% recorded a profit on their local news. In the early 2000s, approximately 58% of stations reported making money on their local news.²⁶

Without question, the financial pressures that local television stations face will, in the long run, have an impact on their ability to provide top-quality local news. To ameliorate these pressures on local news production, the Commission should adopt policies that allow (and rescind, or at least not adopt, policies that hinder) local broadcasters to (1) pursue opportunities for non-advertising revenue, such as that derived from retransmission consent, and (2) benefit from economies of scale and allocate their news resources in the most efficient way, such as through modifications to the Commission's structural ownership rules.

NAB Survey Provides Economic Snapshot

In April 2010, the National Association of Broadcasters sampled its member television stations on the economics of local news. The survey sought detailed information on the sources of station revenues, revenues specifically supporting local news, news budgets, news staffing,

²⁴ *See id.*

²⁵ *See id.*

²⁶ *See id.*

and local news production, as well as information and insights on local news trends, new news platforms (such as multicast channels and websites), emergency journalism, strategic news partnerships, and competitive pressures affecting local television news production.

NAB received detailed responses from 53 television stations, including ten in DMAs 1-25, nine in DMAs 26-50, 16 in DMAs 51-100, 13 in DMAs 101-150, and five in DMAs 151-210. Respondents were primarily television stations affiliated with one of the Big 4 Networks (ABC, CBS, FOX, and NBC) but also included stations affiliated with the CW Network and MyNetwork programming service, as well as an independent station. Numerical results are aggregated in the tables below, followed by a narrative summary by topic of other survey information related to news production. Numerical responses are based on current year data.

NAB News Results Consistent with Other Studies

To ensure validity, the results generated by NAB's sample survey were compared against other recent surveys and reports examining the economics of local broadcasting and local news. These reports include the Pew Research Center's 2010 *State of the News Media* report,²⁷ Bob Papper's 2009 and 2010 *TV and Radio Staffing and News Profitability Survey*,²⁸ and NAB's *Television Financial Surveys: 1999-2009*. As is detailed below in discussing the April 2010 NAB news survey, its results were fully consistent with these other reports, even though NAB's sample size was smaller than those of the other reports.²⁹

²⁷ See *supra* note 7.

²⁸ See *supra* note 4.

²⁹ For example, Papper surveyed more than 1,770 television stations and received
(continued . . .)

NAB News Survey Results

As seen in Table 1, the vast majority of station revenues derive from on-air advertising. This result is consistent with the Pew Research Center's 2010 *State of the News Media* report, which found that across all markets approximately 90% of station revenue comes from on-air advertising.³⁰ The second most important category of station revenues is retransmission consent fees, which every station in the NAB survey reported receiving, followed, in most cases, by web advertising revenues. Retransmission consent fees as a percentage of station revenue ranged from a low of 1.2% to a high of 14.0%, with a median value of 6.3%. Retransmission consent fees as a percentage of revenue were nearly twice as high as web advertising, the third most important source of revenue. Previously, "network compensation" had been an important source of station revenues for network-affiliated stations. Only one quarter of the stations sampled reported receiving any network compensation, and the impact on station revenues is now very small, averaging just 0.7%. Market size does not appear to have any appreciable influence on the relative percentages of the sources of station revenues.

As noted, local news production is generally supported by on-air advertising and other revenue sources such as retransmission consent fees. However, particular forms of advertising do support news production. These include news sponsorships, news billboards, weather bug and weather radar sponsorships, and locator map sponsorships (e.g., for accidents, fires, etc.). These various sponsorships are a relatively small source of revenue for news production (approximately 1.3% on average).

(. . . continued)
responses from 1,355 (76.6%).

³⁰ See *State of the News Media* at 9.

Table 1
Sources of Station Revenues

| Markets | Advertising Revenues | | | Other Revenues | | | |
|----------------|----------------------|------------------|-----------------|---------------------|------------|----------------------|----------------|
| | On-Air Advertising | Paid Programming | Web Advertising | Retransmission Fees | Production | Network Compensation | Miscellaneous* |
| All | 84.6% | 2.7% | 3.2% | 6.2% | 0.3% | 0.7% | 2.2% |
| 1-25 | 85.3% | 3.8% | 2.5% | 6.3% | 0.1% | 1.0% | 1.0% |
| 26-50 | 86.6% | 1.2% | 1.6% | 5.9% | 0.7% | 1.0% | 3.0% |
| 51-100 | 83.7% | 2.9% | 2.8% | 6.7% | 0.7% | 0.6% | 2.6% |
| 101-150 | 84.3% | 2.5% | 4.3% | 5.9% | 0.1% | 0.5% | 2.6% |
| 151+ | 83.5% | 3.2% | 5.4% | 6.1% | 0.2% | 0.6% | 1.0% |

* Miscellaneous station revenues include revenues derived from such sources as rental fees, tower fees, royalties, and joint sales agreements.

According to the stations responding to the 2010 NAB survey, although local news programming accounts, on average, for only 16% of the broadcast day, 39% of a station's revenue, on average, is derived from advertising associated with the broadcast of local news. In fact, this number may well be conservative, as the *2010 Papper/RTDNA Study* found that across all markets stations derived nearly 45% of their yearly revenue from the local news.³¹

As seen in Table 2, respondent stations produce an average of 26.6 hours of local news programming per week. This figure does not include national news programming the stations broadcast from their affiliated network, nor does it include local news programming produced by the respondent station for another local television station in its market. In addition, stations estimated that they produce, on average, 27.2 hours per year of emergency journalism and

³¹ See *2010 Papper/RTDNA Study*. For stations in DMAs 1-25, 47% of their revenue came from local news. For stations in DMAs 26-50, nearly 40% of revenue came from local news. Stations in DMAs 51-100 derived more than 45% of their revenue from local news.

special news programming (e.g., weather emergencies, candidate forums, etc.).

Table 2
Local News Production

| Markets | Local News Hours Per Week | Emergency & Special News Programming Hours Per Year | Total Local News Programming Hours Per Year |
|----------------|----------------------------------|--|--|
| All | 26.6 | 27.2 | 1413 |
| 1-25 | 35.8 | 37.2 | 1899 |
| 26-50 | 29.3 | 44.4 | 1570 |
| 51-100 | 26.6 | 22.8 | 1406 |
| 101-150 | 20.5 | 20.2 | 1088 |
| 151+ | 19.5 | 7.5 | 1022 |

Again, the results of the *2010 Papper/RTDNA Study* indicate that the numbers reported to NAB may be conservative. That study found that in 2009 stations increased the amount of news they broadcast by an average of 24 minutes per weekday.³² As a result, according to Papper, local broadcasters across all markets now broadcast an average of 28.3 hours of news per week (5 hours per day on weekdays, 1.7 hours on Saturday, and 1.6 hours on Sunday).³³ The 2009 increase follows a similar jump in 2008, when stations added nearly a half-hour of news each week (up to 26.4 hours total per week).³⁴

³² See *2010 Papper/RTDNA Study*.

³³ See *id.*

³⁴ See *2009 Papper/RTDNA Study*.

The amount of local news programming does appear correlated to the larger revenue base related to market size. Stations in larger markets air more local news than stations in smaller markets, on average. In fact, stations in major media markets (DMAs 1-25) produce 84% more local news programming than stations in the smallest markets (DMAs 151-210).

The results show that local television stations, on average, air more than 1,400 hours per year of local news programming (again, not including national news programming). Stations in the largest media markets (DMAs 1-25) broadcast, on average, nearly 1,900 hours per year of local news programming. If the all-markets averages are applied to all 762 local television stations originating local news,³⁵ the local broadcasting industry produces more than 1,000,000 hours (1,076,706) of original local news per year.

Table 3 provides the aggregate responses for stations' news budgets. As seen, the average station's news operating budget is more than \$4 million per year, representing more than 25% of the station's total budget,³⁶ and the average station's news capital budget is more than \$700,000. Not surprisingly, both news operating and news capital budgets appear correlated with market size, with major market stations (DMAs 1-25) spending nearly \$11 million per year, on average, to produce local news programming and spending nearly another \$1.5 million per year on capital items for the local news. These expenditures exceed by multiples the amounts that smaller market stations can afford to spend. Except for the very largest and smallest markets, news capital budgets hover around 53+% of a station's total capital budget.

³⁵ See *supra* note 4.

³⁶ This figure is consistent with the results of the *NAB Television Financial Surveys: 1999-2009*, which found that approximately 24% of all stations' total expenses were news expenses during the years 1998-2008.

**Table 3
News Budgets**

| Markets | News Operating Budget | News Operating Budget As % of Station Budget | News Capital Budget | News Capital Budget As % of Station Budget |
|----------------|------------------------------|---|----------------------------|---|
| All | \$4,068,331 | 25.9% | \$715,225 | 56.7% |
| 1-25 | \$10,830,833 | 36.7% | \$1,408,200 | 68.9% |
| 26-50 | \$6,476,046 | 28.3% | \$461,110 | 53.3% |
| 51-100 | \$2,240,324 | 23.9% | \$428,528 | 52.2% |
| 101-150 | \$1,260,542 | 21.7% | \$376,913 | 54.0% |
| 151+ | \$694,210 | 19.7% | * | 45.0% |

* Insufficient reportage.

Reported station news operating budgets range from \$321,000 in a small market (DMA 151-210) to more than \$18 million in a large market (DMA 1-25). The median operating budget is \$2,121,000 and the median capital budget is \$428,000.

If the all-markets averages are applied to all 762 local television stations originating local news, the local broadcasting industry spends \$3.1 billion in operating funds and \$545 million in capital funds each year to produce the local news. (These gross estimates do not include expenses for unbudgeted emergency journalism or the lost advertising revenues attendant upon such wall-to-wall local coverage.)

Table 4 shows the human capital dedicated to local news production. As seen, slightly more than half of all station employees (51%), on average, are involved in the production of local news—55 such employees at the average station. Again, news staffing appears to be correlated with market size. In major media markets (DMAs 1-25), stations detail nearly a hundred employees (95) to local news production on average. In fact, seven stations reported employing more than 100 persons for the production of local news, ranging as high as 140

employees. Even stations in the smallest markets (DMAs 151-210) employ nearly two dozen employees to produce local news. The median number of news employees across all stations is 51, and the median percentage of news staff to total station staff is 50%.

**Table 4
News Staffing**

| Markets | Number of News Employees | News Employees As % of Station Staff | Employee-Hours Per Year Devoted to News Production |
|----------------|---------------------------------|---|---|
| All | 55 | 51% | 109,434 |
| 1-25 | 95 | 58% | 189,400 |
| 26-50 | 74 | 53% | 147,556 |
| 51-100 | 45 | 52% | 89,375 |
| 101-150 | 36 | 49% | 72,923 |
| 151+ | 20 | 40% | 40,000 |

On average, stations devote more than 100,000 employee-hours per year (109,434) to produce local news, with major market stations devoting nearly 75% more employee-hours per year than the average (189,400 employee-hours per year, on average).³⁷ These figures do not include employee overtime hours dedicated to producing emergency journalism.

If the all-markets average is applied to all 762 local television stations originating local news, the local broadcasting industry devotes more than 83 million employee-hours per year to produce local news.

Trends Reported by NAB Members

³⁷ These calculations are based on a 2000-hour work year.

In the past several years, television stations have faced the worst economic environment in their industry's history, while undergoing the digital television ("DTV") transition and dealing with other macro-forces, such as the development of the Internet and broadband services, that are beyond their control. As a general rule, stations report that they are doing more with less.

More specifically, news staffing is down throughout the industry, although one station (DMA 101-150) reports that its news budget has increased 3%, even though staffing is down 8.1%. For some stations, the reduction in staffing during the economic downturn, but the expansion in the number of half-hours of local news—by stretching news personnel—has proven to be a good way of leveraging existing fixed costs over more inventory. For example, one station (DMA 26-50) reports that news staffing is down 20% over the past five years but news production has increased 63% over that same time period.

Doing more with less has been made possible, in part, because operational costs have been partially contained through technological efficiencies. However, some stations report that modern equipment needs and costs have outstripped capital budgets, and that this, in part, is responsible for the delay in more stations broadcasting local news in high definition ("HD"). Some stations have achieved operational efficiencies through joint sales agreements ("JSAs") and local marketing agreements ("LMAs") which can allow for a significant reduction of operating expenses through consolidation of functions and reductions in staff.³⁸ As seen below,

³⁸ Indeed, studies commissioned by the FCC have recognized the benefit of economies of scale and have concluded that "[h]aving co-owned stations in the same market, which is sometimes referred to as duopoly status, has a large, positive, statistically significant impact on the quantity of news programming. For each additional co-owned station within the market, there is an increase in the amount of news minutes by 24 per day, about a 15% increase. . . ." *See FCC Seeks Comment On Research Studies On Media Ownership*, Public Notice, 22 FCC Rcd 14313, 14565 (2007) (quoting 2007 study by Daniel Shiman titled "The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming").

such arrangements typically result in an increase in production of local news, not a decrease.

Many stations are migrating to a video journalist model which typically consolidates the responsibilities of the reporter, photographer, editor, and writer into a single video journalist – a sort of “one man band.” Video journalists act as “mobile newsrooms,” able to feed in stories using Wi-Fi hotspots or wireless broadband. Video journalists still do live shots when necessary using live vans staffed by operators who continue to do only live shots. According to the *2010 Papper/RTDNA Study*, the number of stations in 2009 reporting that they are “mostly” using video journalists rose to nearly 32%, from 22% in 2006.³⁹ Another 29% reported “some” use of video journalists in 2009.⁴⁰ As one might expect, stations in smaller markets (DMAs 101 and higher) reported higher use of video journalists, with two-thirds of stations in DMAs 151 and higher “mostly” using video journalists.⁴¹

The importance of news to stations that want to be market leaders cannot be overstated. Indeed, stations are seeing the percentage of station revenue coming from news dayparts to be higher now than when prime time ratings were higher. Within those news dayparts, viewership levels for late news have been decreasing while viewership levels for early morning news have been increasing, and advertising revenue is following this trend.

³⁹ *See 2010 Papper/RTDNA Study.*

⁴⁰ *See id.*

⁴¹ *See id.*

The overall trend of the past few years is towards dual revenue streams to support station and news operations. In particular, as seen in the numerical survey results above, first retransmission consent revenue, followed by web advertising revenue, are offsetting some of the declining on-air advertising revenue and, for affiliates, the loss of significant network compensation.

Ten years ago there were no effective competitive alternative platforms. But the rise of these platforms, together with the explosive growth in the number of satellite-delivered cable networks, has led to increasing audience fragmentation. This has put pressure not only on traditional revenue sources, but news and sales staffs have had to become familiar with multi-platform media.

Looking to the future, television stations predict that news production costs will continue to increase. Indeed, news costs are likely to continue to become a greater share of overall expenses until news resources can be contributed and shared by multiple outlets (e.g., a second station, a local newspaper, mobile TV). The “doing more with less” model will likely continue, as smaller news staff utilizing improved technologies will generate the same amount or more content and repurpose that content on multiple platforms (primary and multicast channels, website, mobile TV, etc.). In fact, several stations commented that they see a need for additional news content on their non-news multicast channels. However, additional growth in news production itself may be difficult due to shrinking staff numbers. Some foresee that increasing automation may result in further reduction in news staffing requirements. It is likely that stations will make increasing use of the video journalist model discussed above.

The other major trends stations foresee in the next few years revolve around new distribution platforms. The migration of younger viewers to mobile and web content will continue. Viewership of broadcast news via traditional platforms will decline somewhat, while it

will increase for the web and mobile devices; however, it is believed that revenues will fall more rapidly for broadcast than they will increase for the newer technologies. Nevertheless, stations say they will dedicate resources to new platforms, such as mobile TV, to supply daily news and emergency information to viewers, even if advertising support lags behind.

Stations also predict that they will be producing more long-form news as web and multicast platforms develop, use more viewer-generated stories and video, and explore the use of electronic billboards. These new platforms are creating a demand for more “on demand” news. Newsroom skill sets and cultures are slowly shifting to a framework of 24/7 “publishing” on all platforms as a result of technological, economic, and cultural changes.

The Role of Multicasts

As the country approaches the first anniversary of the DTV transition, television stations are still finding their way with multicast channels. Some stations have programmed general entertainment channels, including some in foreign languages, others have programmed 24/7 news or weather channels, and others have not yet dipped their toes into multicasting, waiting to see how the economic currents develop.

One of the principal problems with multicasting is that multicast channels are frequently not carried by MVPDs. For example, multicast channels that are not the primary in-market affiliate of a Big 4 Network are typically not available on DIRECTV, DISH Network, or AT&T’s U-verse. Therefore, audience levels are necessarily smaller than for a stations’ primary channel, which adds to the challenge of monetizing them. More problematically, the reluctance of MVPDs to carry multicasts is a significant barrier to stations that are attempting to use their multicasts for local content and emergency information.

Stations that are multicasting report that they are using their multicast channels in a variety of ways with respect to news and weather content. For stations programming a general entertainment multicast, the channel provides an alternative outlet for programming during news events. For instance, continuous news coverage can be provided on the multicast channel without preempting the network programming on the primary channel. Conversely, network programming can be moved to the multicast channel with continuous news coverage on the primary channel.

One station (DMA 51-100) reports that it currently offers two multicast channels—a 24-hour news channel and a 24-hour weather channel:

We have offered the news channel via cable for over 9 years. Recently we lost the cable placement during retransmission negotiations and opted to continue the service over our digital channels. While the focus of the news channel is a repeat of our daily newscasts, we are also programming other live news programs, events, and breaking news stories that are of interest to the public. Earlier this year, we televised the New Orleans Saints parade following their Super Bowl win. Without this channel, we would not have had the opportunity to preempt network programming to provide this coverage. During hurricane season last year, our staff televised live coverage of the storms via our digital channel and also streamed this information via the web. Today our news department produces monthly news enterprise shows on topics of interest to the DMA. These shows focus on severe weather preparations, the political scene, medical issues, sports, education, crime, etc.

On non-news multicast channels, taped replays of the news broadcast on the primary channel appears to be the most common approach (e.g., a station in DMA 101-150 provides taped replays of its 5:00 pm and 10:00 pm newscasts on its multicast channel; another station in DMA 101-150 provides a taped replay of its 6:00 am newscast on its multicast channel). Other stations do produce unique news content, even for non-news multicast channels. Thus, a station

in DMA 1-25 produces a separate 11:00 am one-hour weekday newscast on its general entertainment multicast channel. The additional cost is approximately \$80,000 per year.

Many stations broadcast 24/7 weather multicast channels. One station (DMA 26-50) reports that its weather multicast channel uses an automated weather template with software allowing for the insertion of local weather information and commercials. The additional cost is approximately \$25,000 per year; however, existing personnel are used for talent and production. Another station (DMA 51-100) uses a third-party weather service for its weather multicast channel at a cost of \$24,000 per year. The station's weather staff produces 10-15 mini-broadcasts per day for this multicast (depending on weather conditions). Similarly, a station in DMA 51-100 produces 12 unique one-minute weather reports for its weather multicast; all other content is provided via shared video servers and/or duplicate streams from existing weather and graphics systems.

Use of Station Websites

Television stations are devoting substantial efforts to news production on their websites. Major market stations (DMA 1-25) spend upwards of \$1,000,000 per year just for news production on their websites (e.g., one station reports that it devotes approximately \$1,000,000 of its news budget (12.8%) to its web-based platforms; a second station reports that it devotes \$1,260,000 of its news budget (15.8%) to its website; and a third station reports that its annual budget for website operations is approximately \$900,000, with the incremental cost for news production on the web being approximately \$300,000 per year).

Generally, it appears that television stations employ two or three full-time web producers. Examples include a station in DMA 101-150 that has two full-time web producers, who, together with other members of the news staff, produce local news content for the website; costs are about

12% of the news budget. Another station in DMA 1-25 has two full-time web producers; costs are about 10% of the news budget. A station in DMA 26-50 has two full-time web producers with a budget of \$101,000 for the web platform and \$75,000 in payroll. A station in DMA 51-100 has two full-time web producers with a budget of approximately \$100,000 and \$90,000 in payroll. A station in DMA 1-25 has three full-time and three part-time employees dedicated to its website; total payroll is approximately \$165,000, with an additional \$10,000 budgeted for overtime for those positions due to breaking news coverage.⁴²

In addition to news personnel posting scripts and video to a station's website, many stations produce unique newscasts for their websites. A station in DMA 101-150 reports that it produces an additional mid-day newscast (10 minutes) and intra-day updates (2 minutes each) specifically for its website. Another station in DMA 101-150 produces three 5-minute news updates for its website. And a station in DMA 26-50 not only streams live video of news, weather, and breaking news to website, but it also produces three newscasts exclusively for its website each day, as well as three video weather forecasts for the website each day.

Challenges in Monetizing New Platforms

While television stations are devoting significant resources to news production for their websites and multicast channels, stations responding to the NAB survey reported that they are not yet making significant money from these platforms to support any additional growth in such news production.⁴³ These platforms are in essence new businesses for broadcasters, and any new

⁴² According to the *2010 Papper/RTDNA Study*, stations across all markets employ an average of 2.8 full-time people to work on the station website.

⁴³ The *2010 Papper/RTDNA Study* found that 35% of all stations reported making a profit on the station website. Of course, more than 43% of all stations reported that they did not know
(continued . . .)

business requires some time to develop positive revenue streams. The reasons that these new platforms cannot be easily monetized are myriad:

- * Advertisers are reluctant to “buy in” to new platforms.
- * There is a lack of accurate measurement of audience for these new platforms.
- * There is a lack of proven results for these new platforms.
- * Advertisers are inexperienced in buying on new platforms.
- * Advertisers are dubious of “impression reporting.”
- * Web-based platforms are in a very crowded space that lacks established standards and pricing.

Perhaps most fundamentally, demand for the newly created inventory, especially given the economy generally and the advertising market in particular, is lagging. In addition, multicast channels add more inventory, but there is still the same number of local advertisers in the market. As one station commented, to some degree, existing dollars are just being moved around.

Another difficulty stations face is that even when they do sell ads, their margin is lower since salespersons are paid a higher commission rate because of the increased difficulty of selling ads on new platforms.

On the positive side, stations believe that their local “brand” should ultimately give local stations a competitive marketing advantage for their websites. Another station has found that it can generate a new revenue stream in operating as an “advertising agency” and producing ads for direct customers.

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whether or not their website was profitable, casting doubt on the accuracy of all website profitability statistics.

Emergency Journalism

Television stations know that they are “first informers” when it comes to emergency journalism. Time after time, emergency after emergency, stations as a matter of course take an “all hands on deck” approach to covering emergencies and disasters, regardless of the financial costs. For example, one station recently provided wall-to-wall coverage of the West Virginia mining disaster.

But that does not mean that the costs in overtime, meals, hotels, and equipment—not to mention, lost advertising—are not substantial. A station in DMA 26-50 reports that minor events, such as a snow storm, tornado or small hurricane, can easily cost \$20,000 in unbudgeted expenses; a major event, such as a large hurricane, can easily exceed \$100,000 in unbudgeted expenses—not counting lost advertising revenues. A station in DMA 51-100 reports that additional expenses for severe weather events typically run from \$5,000 to \$25,000 per event. A station in DMA 1-25 reports that coverage of four hurricanes in one season cost the station \$160,000 in overtime, meals, travel, satellite fees, and generator rental, not counting lost advertising revenue. Coverage of a recent flood for a station in DMA 1-25 cost \$26,000 in overtime, hotel rooms, and meals, not counting lost advertising revenue. Overtime for a single catastrophic event, such as a 100-year flood, can approach budgeted overtime for the entire year.

A station in DMA 26-50 reports that tornado warnings and coverage can cost the station anywhere from \$5,000 to \$30,000 in lost advertising revenue per event. During this past winter, 80% of the news staff at a station in DMA 51-100 worked multiple weekends to provide around-the-clock coverage of several major snowstorms and their aftermath. The station preempted all advertising for a total of 8 hours to provide continuous coverage. When a Midwest station (DMA 1-25) provided around-the-clock coverage of the I-35 bridge collapse in 2007, the out-of-pocket costs to the station were approximately \$73,000, with an additional \$94,000 in lost

advertising revenue. In extreme events, the costs to a station can be enormous. For example, one station in a relatively small market (DMA 101-150) reported that its revenue was reduced by 50% for the entire month following the tragic events of 9/11 because its news coverage preempted so much normal programming. And these costs do not include the fundraising that television stations will engage in to support relief efforts, such as the telethons that a station (DMA 51-100) produced and aired around disasters such as Hurricane Katrina, 9/11, and the Indonesian tsunami, each of which is non-revenue generating programming broadcast solely for charitable purposes.

Two stations, in particular, illustrate the all-out efforts broadcasters undertake in times of emergency. Station KLFY is a CBS affiliate in Lafayette, Louisiana (DMA 123). KLFY began broadcasting continuous live weather coverage of Hurricane Rita, the most intense tropical cyclone ever observed in the Gulf of Mexico, when the path of the hurricane was determined to put people in the station's coverage area in harm's way. The station explained its preparations as follows:

All resources were put into action. All reporters, live trucks, videographers, directors, producers, studio personnel, and engineering were on hand till the "all clear" was sounded. Network and syndicated programming was preempted for live weather coverage. Emergency generators were put on line when power was lost. Generators could/would run for 72 hours without refueling. Special arrangements were made with MVPDs to ensure the television station's signal would continue to reach viewers. In addition, additional "signing" persons were hired for the hearing impaired. Bulk food supplies had to be purchased to feed the employees. Sleeping arrangements were provided for personnel on shift relief. The station prepared for 72 hours of continuous coverage before personnel were released to start coverage of the "aftermath." Overtime, extra staff, food, and shelter were all provided by the station.

Station WKMG, the CBS affiliate in Orlando, Florida (DMA 19), branded as "Local 6,"

explains its emergency journalism efforts during several recent incidents:

On November 6, 2009, a lone gunman walked into a downtown Orlando office building and began shooting people. Within minutes, Local 6 was on the air warning viewers that a dangerous man was on the loose. Police blocked off several blocks and completely shut down a major interstate highway (I-4). Local 6 told viewers about the shut down and stayed on the air as the gunman continued to evade police. We were on the air for approximately 5 hours until they found the gunman. We used 6 photographers and 5 reporters during this coverage. Because we kept morning crews past their shift, we incurred about 20 hours of overtime.

During summer months thunderstorms can be very dangerous and even deadly. High winds during these thunderstorms can cause damage to homes and structures. Florida is the lightning capital of the world and people die from lightning strikes each year. Between June and September each year, Local 6 breaks into programming to warn viewers about dangerous thunderstorms approximately 8 hours each week. If the severe weather is especially dangerous, we will stay on the air for several hours. We are able to warn viewers that dangerous weather is heading their way so they can take precautions to stay safe. On March 11, 2010, we went into continuing coverage mode to warn the public about tornado warnings in our area. We were on the air for several hours as the storms became more intense. We also went into continuing coverage mode for an actual tornado touchdown on July 15, 2009. In both cases, we dedicated at least 6 photographers and 5 reporters to the story.

When a child is missing, the state issues an Amber Alert. When this happens Local 6 goes on the air asking the public to keep an eye out for the endangered child. On April 9, 2010, 11-year old Nadia Bloom walked into the woods. Her parents called 911 and the search for Nadia began. Local 6 put Nadia's picture on the air in hopes that someone would spot her. She was later found safe. On November 16, 2008, a woman kidnapped a baby from a local hospital. As soon as we learned about this we broke into programming to inform the public. Police released video and pictures of the kidnapper. We showed her picture in hopes of finding her and the baby. A few hours later, the baby was found safe and the kidnapper arrested.

When it comes to reporting weather and other emergencies, no one else in the entire information ecosystem is able to provide the kind of minute-by-minute, street-level reporting that local broadcasters do every day—not cable, not the Internet, and not newspapers. In short, no

other media can dedicate the resources that local television stations put into action whenever there is a local emergency.

Strategic Partnerships

Television stations have entered into a variety of arrangements to bring more and better news coverage to their communities. These partnerships include arrangements with other television stations in their own market as well as with stations in neighboring markets, with local and regional newspapers, and with local radio stations. Examples include the following:

- * A station in DMA 101-150 produces 19.5 hours per week of local news for another station in its market through a JSA. This station also produces news and weather reports for four local radio stations.
- * A station in DMA 51-100 produces an original daily 10:00 pm newscast for another local station. This station also has partnerships with 6 local radio stations and 3 local newspapers.
- * Similarly, another station in DMA 51-100 produces 7 hours per week of local news for another local station under a shared services agreement.
- * A station in DMA 26-50 has a news gathering partnership with 10 regional newspapers in outlying counties of its market.
- * A station in DMA 101-150 produces a 30-minute weekday newscast for another local station in its market under a JSA. This station devotes three dedicated staff members, with contributions from the rest of its news staff, for this news production.
- * A station in DMA 1-25 simulcasts some newscasts on 3 radio stations and provides weather reporting for 6 radio stations. This station also uses traffic reporters from a local radio station in its morning and early evening newscasts.
- * A station in DMA 26-50 has a significant partnership with its grandfathered co-owned newspaper. The station's and newspaper's reporters share research and investigative journalism in both directions for both media.

A number of broadcasters that own television duopolies report that co-ownership

provides operational efficiencies leading to higher quality and more local news than would otherwise be produced absent the duopoly. Thus one station (DMA 26-50) produces more than 14 hours of local news programming per week for its sister station that would not otherwise be produced. More importantly, the revenue generated from the additional newscasts is ploughed back into the joint news operations, making the newscasts both best-in-class and the forum of record in the local market.

As a broadcaster in the Northwest states:

We operate 3 radio stations, 2 television stations with 1 multicast stream (all three of which are broadcasting a mobile DTV signal), and local websites. We hold a common news brand in the market across our all-news radio station, our network-affiliated television property, and our websites. We also own a Univision-affiliated television station and share all news resources in the production of a local 30-minute daily newscast for the Hispanic market. Within the past year, we have launched over 50 hyper-local neighborhood websites that serve many different communities within the DMA. We operate one newsroom under common leadership that serves radio, English and Spanish television, and all digital platforms.

In addition to actually producing news for other outlets, television stations engage in a number of other news gathering partnerships and arrangements. For example, stations may share scripts and video with stations in neighboring markets (through FTP file sharing); partner with rural radio stations for story sharing; partner with a local monthly magazine to generate content ideas and provide a forum for the magazine's editors to highlight their major stories during a station's newscasts; particularly in larger markets, share a news helicopter with other local stations; enter into pool camera agreements with other local stations; and, in one instance in DMA 51-100, jointly own, manage, and utilize an ENG receive site on the tallest structure in the

market.⁴⁴ The prevalence and success of these partnerships and JSAs is evidence that the market is pushing for efficiencies while regulatory policy lags behind.

Competitive Pressures

Television stations are facing a variety of competitive pressures that affect their ability to produce news in the quality and quantity that they would prefer. Cable operators, through a variety of means, are one of the leading pressure points on local broadcast news. In some markets, the local cable operator has launched its own local news operation. Other markets, such as a mid-size market (DMA 51-100), face news competition from two regional all-news cable channels. In another market (DMA 26-50), the dominant cable operator has added a local sports channel to its line-up in the market. As one broadcaster reports, competition is so fierce in its small market (DMA 151-210)—there are multiple cable operators and 21 radio stations—that the station’s advertising competitors are giving away spots for *free*.

Of course, competition comes from fellow broadcast stations as well as from non-broadcast competitors. Thus, in one market (DMA 51-100), all four local Big 4 Network-affiliated television stations are producing local news in expanded time periods at the same time that the local newspaper is adding video content to its website. In another market (DMA 1-25), the four English-language affiliates, one Spanish-language station, and a 24/7 local cable news channel are all producing local news in the same market, competing for the same

⁴⁴ According to the *2010 Papper/RTDNA Study*, in 2009, nearly 33% of all stations provided some news content to another local or nearby station. More than 50% provided news content to a local radio station. In addition, 24% of all stations in 2009 had some kind of cooperative news gathering or coverage agreement with a local newspaper, and 28% had such an agreement with a local radio station. These agreements provided for the sharing of information (32%), pooling of video (15%), and splitting of costs to operate a helicopter (4%).

viewers and advertisers.

To remain competitive, particularly with other sources of news, some stations believe they will need additional staff to produce news outside of the “normal” television news time coverage (e.g., late night and weekends).

Other Observations from NAB Members

Several television stations participating in the survey also provided a number of other observations concerning their production of news. A broadcaster in a small market noted that capital expenses in smaller markets are challenging because they are unrelated to revenue potential: A camera, a news truck, a microphone costs the same regardless of market size. Another broadcaster observed that substantial capital was drained by the DTV conversion.

As seen by the survey results, the costs of news production are the single largest portion of any traditional affiliate’s operating budget. Nevertheless, news production is commonly seen as a completely necessary component both to establish the long-term viability of the broadcast property and as necessary to fulfill the stations’ deeply held commitment to community service.

Stations believe they need a strong investigative presence in their news product on a frequent basis. One station (DMA 26-50) reported that, to accomplish this, it has four highly-experienced journalists that make up the station’s own investigative unit. Not surprisingly, these are some of the station’s most highly paid news reporters.

In addition to the extraordinary emergency journalism efforts detailed above, some stations produce substantial amounts of special news programming. For example, one station in DMA 26-50 maintains a full-time, exclusive documentary unit that produces seven or eight programs per year on important local subjects. The operating expense for this special unit is approximately \$250,000 per year.

As one broadcaster summed it up: “Doing real journalism—even in a small market—is expensive. ‘Citizen journalism’ is fine, but we cannot rely on it to keep the public informed.”

Conclusions

As the foregoing statistics from both the 2010 NAB news survey and other studies make clear, the financial upheaval in the past two years has forced local television broadcasters to face difficult questions about the future of local news. While local news broadcasts continue to be the primary source of revenue for most stations, declining advertising revenue and ratings have forced stations to significantly trim their budgets and to find other non-broadcast-advertising sources of revenue.

Nonetheless, despite intense financial pressures, local broadcasters have found ways to put *more* news than ever on the air and have responded with full force when emergencies or disasters hit their communities. Broadcasters’ ability to overcome these financial pressures and to continue to fulfill their public duty is not without limits, however. As the Commission examines the Future of the Media and considers ways to bolster the provision of local news, it should adopt policies that allow (and to rescind, or at least not adopt, policies that hinder) local broadcasters to (1) pursue opportunities for non-advertising revenue, such as that derived from retransmission consent, and (2) benefit from economies of scale and allocate their news resources in the most efficient way, such as through modifications to the Commission’s structural ownership rules. Such policies will support the Commission’s vital focus on “localism” by providing a solid financial foundation for the production of local news.

Attachment C

Television Station Financial Data 1998-2008

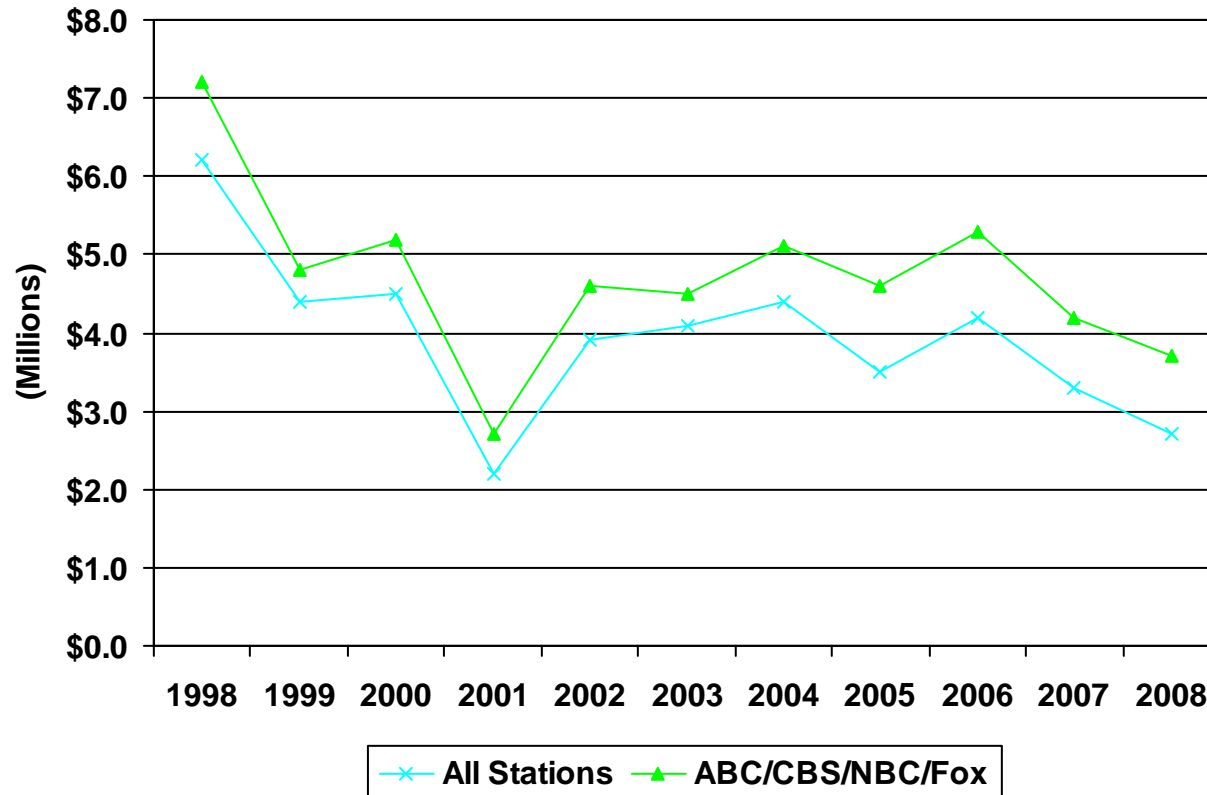
Pre-Tax Profits and News Expense

Source: NAB Television Financial Surveys: 1999-2009

Pre-Tax Profit

Television Station National Averages

(Data detail contained in the next two charts)



| | <i>Percent Change 1998-2008</i> | <i>CAGR 1998-2008</i> |
|-----------------|-------------------------------------|---------------------------|
| All Stations | (56.3%) | (7.9%) |
| ABC/CBS/NBC/Fox | (48.6%) | (6.4%) |

Source: NAB Television Financial Surveys: 1999-2009

**Pre-Tax Profits Average
All Markets
All Stations**

| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|-------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$6,145,583 | (\$220,970) | \$1,575,778 | \$5,944,967 |
| 1999 | \$4,361,828 | (\$659,146) | \$916,554 | \$4,323,452 |
| 2000 | \$4,537,894 | (\$584,884) | \$1,113,634 | \$4,596,413 |
| 2001 | \$2,171,188 | (\$1,445,544) | \$67,067 | \$2,575,895 |
| 2002 | \$3,858,644 | (\$451,601) | \$911,827 | \$4,188,476 |
| 2003 | \$4,073,056 | (\$458,512) | \$464,019 | \$3,344,000 |
| 2004 | \$4,442,379 | (\$158,079) | \$1,128,782 | \$4,686,237 |
| 2005 | \$3,512,208 | (\$512,639) | \$670,946 | \$3,426,952 |
| 2006 | \$4,210,359 | (\$305,161) | \$1,120,443 | \$4,154,310 |
| 2007 | \$3,320,667 | (\$454,837) | \$520,164 | \$3,446,126 |
| 2008 | \$2,686,481 | (\$750,149) | \$630,300 | \$3,178,780 |
| | | | | |
| Percent Change 1998-2008: | (56.3%) | | | |
| CAGR 1998-2008: | (7.9%) | | | |

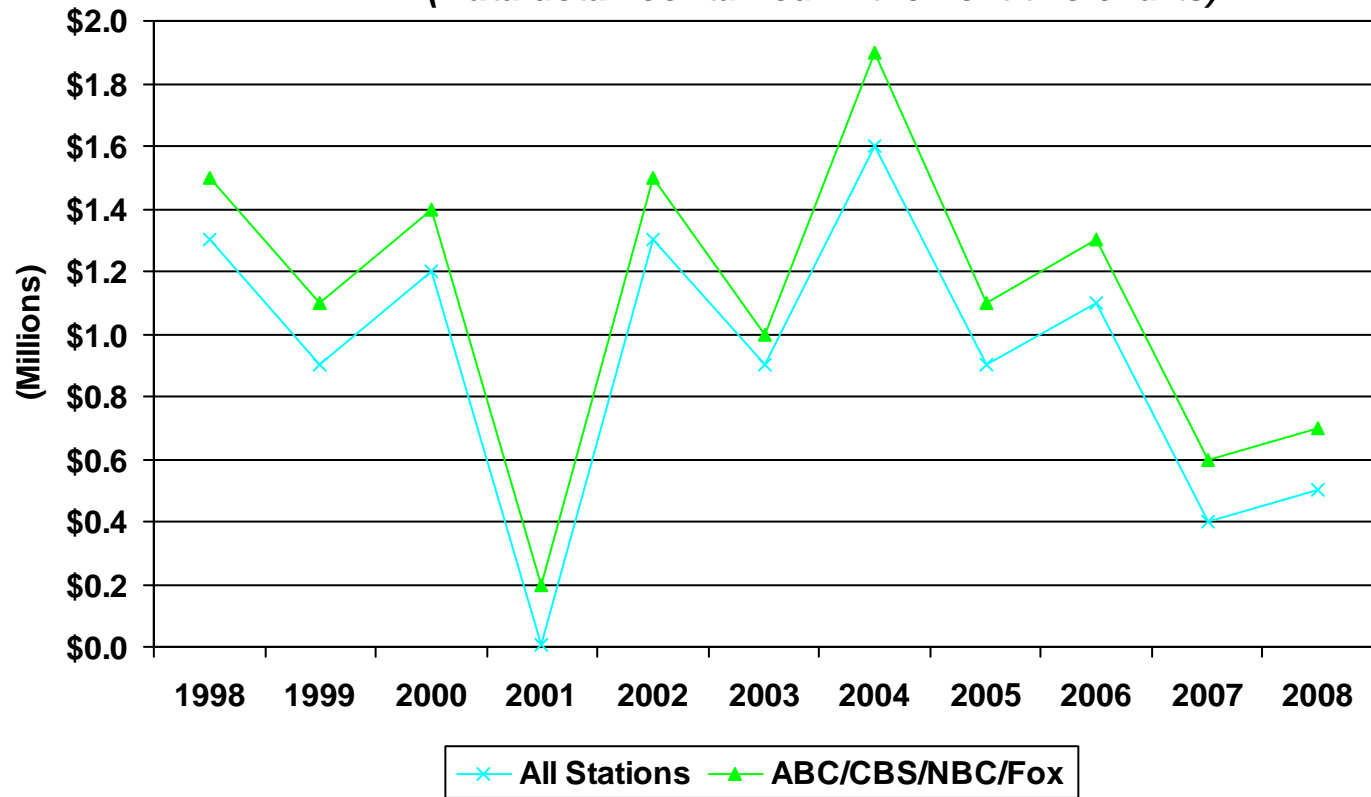
**Pre-Tax Profits Average
All Markets
ABC/CBS/NBC/Fox Stations**

| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|-------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$7,193,369 | \$280,202 | \$1,901,898 | \$7,128,773 |
| 1999 | \$4,810,849 | (\$202,824) | \$1,114,579 | \$4,501,192 |
| 2000 | \$5,191,611 | \$20,640 | \$1,476,582 | \$4,806,008 |
| 2001 | \$2,714,160 | (\$1,010,131) | \$275,077 | \$2,876,357 |
| 2002 | \$4,591,075 | \$23,658 | \$1,580,710 | \$4,598,100 |
| 2003 | \$4,524,942 | (\$209,253) | \$846,973 | \$3,787,402 |
| 2004 | \$5,148,287 | \$267,750 | \$1,702,493 | \$5,426,739 |
| 2005 | \$4,606,835 | (\$69,096) | \$1,033,987 | \$4,406,915 |
| 2006 | \$5,268,941 | \$187,536 | \$1,717,122 | \$5,303,542 |
| 2007 | \$4,168,157 | (\$189,446) | \$828,947 | \$4,112,912 |
| 2008 | \$3,700,547 | (\$220,863) | \$1,067,431 | \$4,394,017 |
| | | | | |
| Percent Change 1998-2008: | (48.6%) | | | |
| CAGR 1998-2008: | (6.4%) | | | |

Pre-Tax Profit Average

Markets: 50-210

(Data detail contained in the next two charts)



| | <i>Percent Change 1998-2008</i> | <i>CAGR 1998-2008</i> |
|-----------------|-------------------------------------|---------------------------|
| All Stations | (63.7%) | (9.6%) |
| ABC/CBS/NBC/Fox | (52.9%) | (7.2%) |

Source: NAB Television Financial Surveys: 1999-2009

**Pre-Tax Profits Average
Markets: 50-210
All Stations**

| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$1,337,459 | (\$269,859) | \$837,828 | \$2,483,749 |
| 1999 | \$908,462 | (\$601,340) | \$459,871 | \$2,217,697 |
| 2000 | \$1,158,747 | (\$441,800) | \$707,730 | \$2,595,927 |
| 2001 | \$9,426 | (\$1,379,567) | (\$55,989) | \$1,226,440 |
| 2002 | \$1,321,800 | (\$408,698) | \$662,564 | \$2,475,608 |
| 2003 | \$859,309 | (\$510,777) | \$210,500 | \$1,694,630 |
| 2004 | \$1,566,372 | (\$97,116) | \$841,950 | \$2,692,097 |
| 2005 | \$872,360 | (\$513,000) | \$383,397 | \$1,792,464 |
| 2006 | \$1,056,903 | (\$354,437) | \$696,942 | \$2,362,563 |
| 2007 | \$426,644 | (\$561,750) | \$274,509 | \$1,385,949 |
| 2008 | \$486,163 | (\$681,268) | \$375,674 | \$1,653,518 |
| | | | | |
| Percent Change 1998-2008: | (63.7%) | | | |
| CAGR 1998-2008: | (9.6%) | | | |

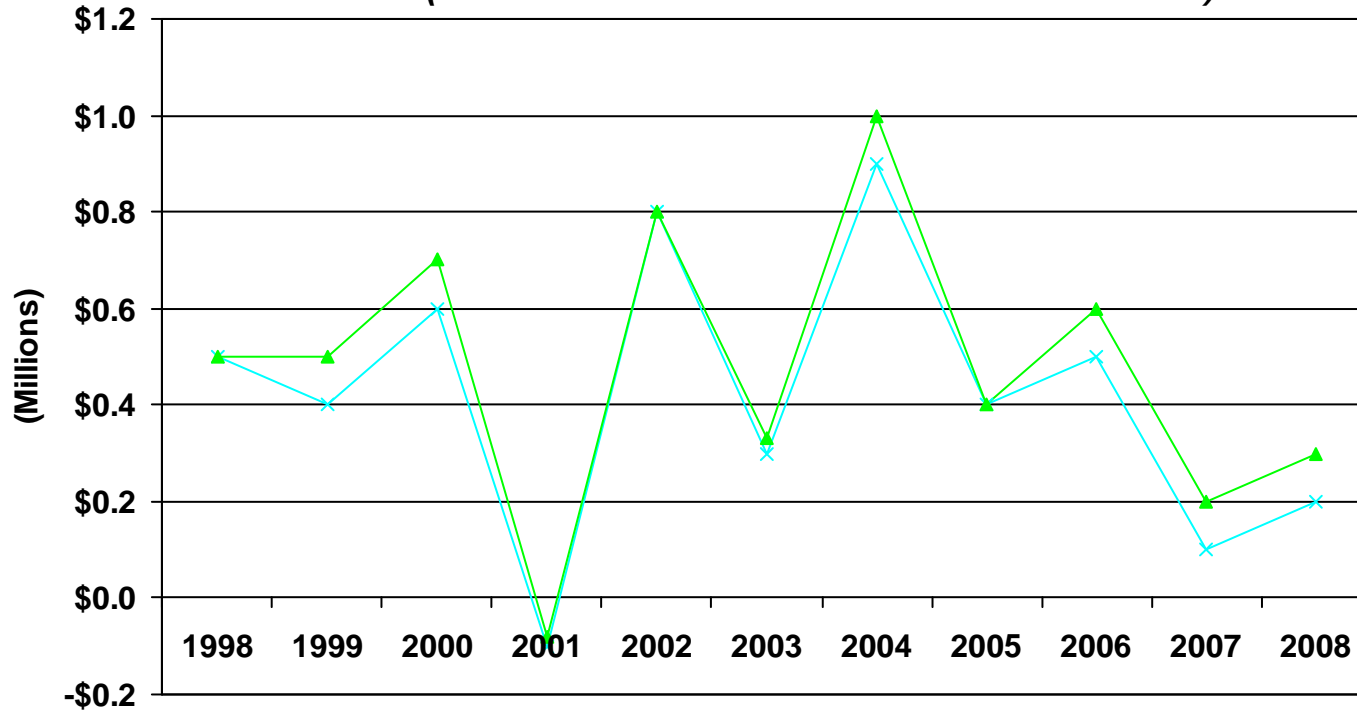
**Pre-Tax Profits Average
Markets: 50-210
ABC/CBS/NBC/Fox Stations**

| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|-------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$1,495,629 | (\$91,962) | \$976,150 | \$2,591,764 |
| 1999 | \$1,096,054 | (\$297,763) | \$710,881 | \$2,374,554 |
| 2000 | \$1,366,816 | (\$136,046) | \$932,941 | \$2,869,060 |
| 2001 | \$158,135 | (\$1,216,481) | \$36,464 | \$1,426,126 |
| 2002 | \$1,520,384 | (\$77,848) | \$900,314 | \$2,801,227 |
| 2003 | \$987,956 | (\$328,281) | \$360,805 | \$1,974,788 |
| 2004 | \$1,856,973 | \$83,870 | \$1,140,392 | \$2,907,824 |
| 2005 | \$1,076,981 | (\$327,515) | \$518,184 | \$2,039,546 |
| 2006 | \$1,327,500 | (\$26,639) | \$963,444 | \$2,589,755 |
| 2007 | \$569,951 | (\$403,340) | \$429,455 | \$1,729,721 |
| 2008 | \$705,130 | (\$535,215) | \$517,602 | \$2,052,326 |
| | | | | |
| Percent Change 1998-2008: | (52.9%) | | | |
| CAGR 1998-2008: | (7.2%) | | | |

Pre-Tax Profit Average

Markets: 100-210

(Data detail contained in the next two charts)



—x— All Stations —▲— ABC/CBS/NBC/Fox

| | <i>Percent Change 1998-2008</i> | <i>CAGR 1998-2008</i> |
|-----------------|-------------------------------------|---------------------------|
| All Stations | (50.4%) | (6.8%) |
| ABC/CBS/NBC/Fox | (46.1%) | (6.0%) |

Source: NAB Television Financial Surveys: 1999-2009

**Pre-Tax Profits Average
Markets: 100-210
All Stations**

| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|-------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$462,145 | (\$360,199) | \$505,727 | \$1,422,758 |
| 1999 | \$405,087 | (\$495,824) | \$276,246 | \$1,095,467 |
| 2000 | \$628,797 | (\$368,023) | \$547,127 | \$1,527,772 |
| 2001 | (\$115,924) | (\$981,552) | (\$110,963) | \$833,635 |
| 2002 | \$779,941 | (\$338,732) | \$383,313 | \$1,624,185 |
| 2003 | \$298,365 | (\$510,777) | \$68,400 | \$882,548 |
| 2004 | \$935,686 | (\$74,622) | \$623,088 | \$1,713,898 |
| 2005 | \$371,905 | (\$394,439) | \$269,869 | \$1,096,397 |
| 2006 | \$542,804 | (\$247,352) | \$554,406 | \$1,600,031 |
| 2007 | \$142,601 | (\$421,711) | \$216,065 | \$833,359 |
| 2008 | \$229,070 | (\$536,987) | \$237,779 | \$1,107,271 |
| | | | | |
| Percent Change 1998-2008: | (50.4%) | | | |
| CAGR 1998-2008: | (6.8%) | | | |

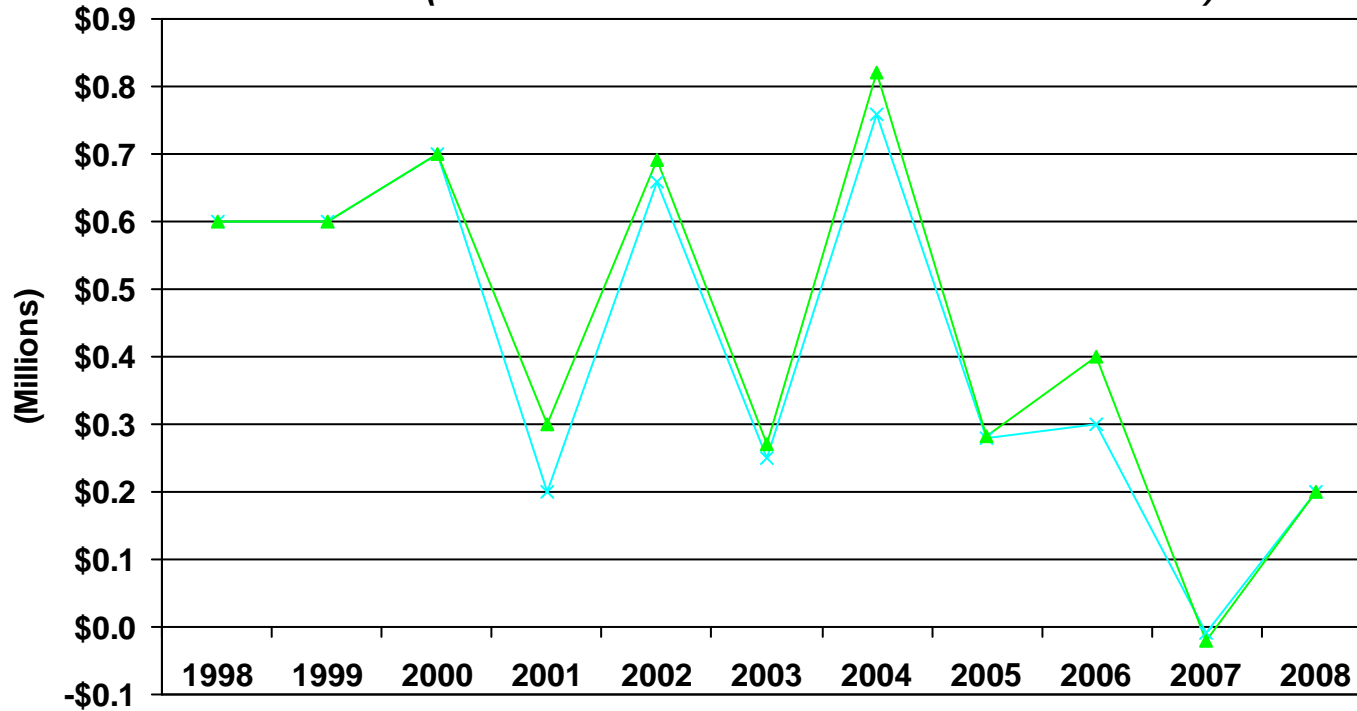
**Pre-Tax Profits Average
Markets: 100-210
ABC/CBS/NBC/Fox Stations**

| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$514,787 | (\$266,541) | \$526,532 | \$1,440,557 |
| 1999 | \$454,998 | (\$438,409) | \$325,234 | \$1,201,549 |
| 2000 | \$687,596 | (\$234,288) | \$610,137 | \$1,556,761 |
| 2001 | (\$75,356) | (\$973,108) | (\$99,280) | \$858,245 |
| 2002 | \$838,622 | (\$157,121) | \$429,752 | \$1,813,903 |
| 2003 | \$334,125 | (\$511,476) | \$107,484 | \$941,788 |
| 2004 | \$1,049,608 | (\$31,883) | \$714,080 | \$2,036,955 |
| 2005 | \$417,878 | (\$399,474) | \$289,533 | \$1,161,143 |
| 2006 | \$644,344 | (\$166,784) | \$626,879 | \$1,763,096 |
| 2007 | \$202,424 | (\$383,873) | \$265,020 | \$871,903 |
| 2008 | \$277,244 | (\$536,101) | \$264,341 | \$1,163,992 |
| | | | | |
| Percent Change 1998-2008: | (46.1%) | | | |
| CAGR 1998-2008: | (6.0%) | | | |

Pre-Tax Profit Average

Markets: 150-210

(Data detail contained in the next two charts)



—x— All Stations —▲— ABC/CBS/NBC/Fox

| | <i>Percent Change 1998-2008</i> | <i>CAGR 1998-2008</i> |
|-----------------|-------------------------------------|---------------------------|
| All Stations | (62.9%) | (9.4%) |
| ABC/CBS/NBC/Fox | (62.3%) | (9.3%) |

Source: NAB Television Financial Surveys: 1999-2009

**Pre-Tax Profits Average
Markets: 150-210
All Stations**

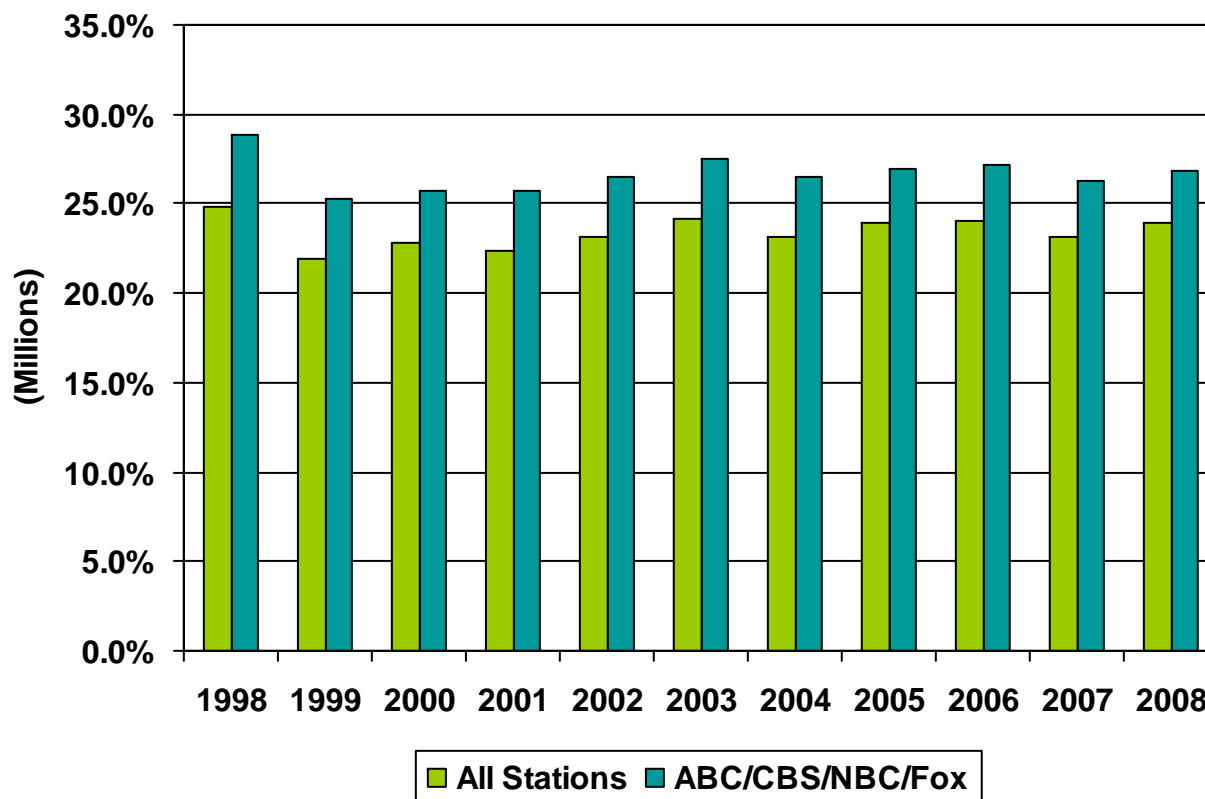
| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$575,753 | (\$92,120) | \$503,929 | \$1,237,583 |
| 1999 | \$575,253 | (\$134,854) | \$325,234 | \$1,114,479 |
| 2000 | \$692,252 | (\$306,089) | \$343,555 | \$1,418,240 |
| 2001 | \$211,897 | (\$333,000) | \$40,585 | \$976,871 |
| 2002 | \$659,568 | (\$93,736) | \$244,200 | \$,161,363 |
| 2003 | \$253,964 | (\$342,021) | \$10,334 | \$519,772 |
| 2004 | \$758,398 | (\$176,831) | \$379,601 | \$1,126,003 |
| 2005 | \$278,977 | (\$363,518) | \$180,000 | \$659,742 |
| 2006 | \$343,423 | (\$176,368) | \$347,253 | \$1,137,005 |
| 2007 | (\$14,339) | (\$322,410) | \$139,787 | \$526,494 |
| 2008 | \$213,643 | (\$362,945) | \$170,993 | \$790,257 |
| | | | | |
| Percent Change 1998-2008: | (62.9%) | | | |
| CAGR 1998-2008: | (9.4%) | | | |

**Pre-Tax Profits Average
Markets: 150-210
ABC/CBS/NBC/Fox Stations**

| | | -----Percentiles----- | | |
|--------------------------------------|----------------|-----------------------|------------|-------------|
| Year | Average | 25% | 50% | 75% |
| 1998 | \$575,753 | (\$92,120) | \$503,929 | \$1,237,583 |
| 1999 | \$575,253 | (\$134,854) | \$325,234 | \$1,114,479 |
| 2000 | \$727,182 | (\$299,919) | \$410,450 | \$1,424,435 |
| 2001 | \$287,471 | (\$302,689) | \$59,611 | \$1,020,006 |
| 2002 | \$687,329 | (\$83,144) | \$269,990 | \$1,240,392 |
| 2003 | \$265,410 | (\$342,021) | \$13,500 | \$610,591 |
| 2004 | \$820,554 | (\$223,029) | \$470,191 | \$1,301,608 |
| 2005 | \$283,212 | (\$399,474) | \$182,278 | \$800,538 |
| 2006 | \$351,282 | (\$180,902) | \$382,644 | \$1,182,908 |
| 2007 | (\$18,578) | (\$323,296) | \$141,282 | \$558,096 |
| 2008 | \$216,860 | (\$372,482) | \$176,621 | \$819,475 |
| | | | | |
| Percent Change 1998-2008: | (62.3%) | | | |
| CAGR 1998-2008: | (9.3%) | | | |

News Expense: % of Total Expenses

(Data detail contained in next chart)



Source: NAB Television Financial Surveys: 1999-2009

**News Expense:
% of Total Expenses**

| Year | All Stations | ABC/CBS/NBC/Fox Stations |
|-------------|---------------------|-------------------------------------|
| 1998 | 24.8% | 28.8% |
| 1999 | 21.9% | 25.3% |
| 2000 | 22.8% | 25.7% |
| 2001 | 22.4% | 25.7% |
| 2002 | 23.2% | 26.5% |
| 2003 | 24.2% | 27.5% |
| 2004 | 23.2% | 26.5% |
| 2005 | 23.9% | 27.0% |
| 2006 | 24.0% | 27.2% |
| 2007 | 23.2% | 26.3% |
| 2008 | 23.9% | 26.8% |

Definitions

- **CAGR (Compounded Annual Growth Rate)**: Annualized growth rate over a given period of time.
- **Percentiles**: The 50th percentile or median represents the mid-point of the range of figures reported for that line item with one-half of the stations reporting figures above it and one-half below. The 75th percentile case is equal to or greater than 75% of the responding stations. Thus, 75% of the responding stations reported a value lower than this case and 25% reported a value higher. Likewise, the 25th percentile case is equal to or less than 25% of the responding stations. Meaning, 25% of the responding stations fall below the reported figure and 75% of them fall above. Taken together the 25th percentile and the 75th percentile represent the "middle range." This represents the values of the middle 50% of stations when figures for a given item are arranged numerically from lowest to highest.