Testimony submitted by the Future of Music Coalition
for "Media Ownership: Radio" Hearings
Before the Federal Communications Commission
February 27, 2003

Good morning. On behalf of the Future of Music Coalition I want to thank you for the honor of testifying today. This hearing is much needed, and we applaud you for holding it.

My name is Jenny Toomey. I am a rocker, a businesswoman and an activist. I speak to you today as a working artist and as Executive Director of the Future of Music Coalition, a non-profit think tank that pursues initiatives that can benefit citizens and musicians. Most working musicians aren't superstars – rather, they are independent and local. For the past three years the FMC has worked with musicians and citizens groups on issues from webcasting to health care. But one issue unites our entire constituency: lack of access to commercial radio.

Last February we began an eight-month research project that examined the impact of radio consolidation on musicians and citizens. In the study, we asked the basic questions: how has ownership of commercial radio changed? And how do these changes impact the essential regulatory priorities of localism, competition and diversity?

Our study concludes the following: there is scant evidence that the basic regulatory principles of competition, diversity and localism have been improved in any way, shape or form by the radical restructuring of the industry that has taken place over the past six years. Rather, we are very concerned that this restructuring has created significant harm to this critical public resource. We see a dramatic loss of localism. We see an industry that has lost one-third of its owners over the past six years. We see virtually every local market under the control of four companies or fewer. We question whether independent operators who are less concerned with reaching the most attractive demographics can compete against these broadcasting conglomerates. And we have yet to find a compelling argument that radio listeners, professional broadcasters, local governments, social service agencies or musicians benefit from these changes.

Make no mistake; radio serves a critical role for the music community. Even more important, radio plays a vital part in American culture and political discourse. So, when the basic regulatory structures that have governed radio so well for decades are overturned, at the very least the public deserves both a full accounting of the impact of these changes and a true seat at the table as further changes are debated.

Now, the radio industry defends its consolidated state by pointing at other entertainment industries and saying, "we're not as bad as those guys." But, they aren't "those guys". Radio is not private property, but a public resource regulated by the government on behalf of citizens. The question is not the gross number of owners. The question is how many owners exert control in a specific local market. When measured according to market concentration of listenership and advertising dollars, radio demonstrates the basic principles of ologopolistic control. In New York City, 79 percent of revenue is controlled by four companies. In Washington, DC it's 79 percent. In New Orleans, 90 percent. In Austin, 92 percent. In virtually every local market of the county, four companies or fewer control over 70 percent of the market. And in many cases, these owners are not locally based.

The broadcast industry claims that this reduction in local ownership is not a problem. In fact, they say, fewer owners in a market leads to more diversity. They say radio companies will avoid competing against themselves in a single format.

There are two problems with this rationale. First, formats are a poor measure of diversity. Measuring music diversity by counting the number of radio formats offered in a specific market is like measuring the variety of food in your pantry by counting the number of cans on your shelves without looking at what is inside them.

In our radio study, we found substantial overlap between supposedly distinct formats. In the most extreme case, for the week of August 2, 2002, the national charts for two distinct formats -- Urban and CHR Rhythmic – overlapped at a 76 percent level. In other words, 38 of the top 50 songs were the same.

The second problem with this "we wouldn't compete against ourselves" argument is that it misses the fundamental logic of the value of a station group. The primary goals of a radio station group are to: 1) attract the largest possible number of listeners in the most attractive demographics and 2) maximize the possibility that when the listener changes the station, they change to another station owned by the parent company.

At the same time that the station group attempts to build the largest, most demographically attractive audience, they work to cut costs on the expense side. They streamline management and sales staffs. They increase the amount of nationally syndicated programming – preferably featuring programming owned by the parent company. They implement voice tracking technology that tricks listeners into thinking that disc jockeys are in fact "live and local" when they are pre-taped from a remote location.

So these companies are very focused on their end goals: make as much money as possible while spending as little money as possible.
In the February 18 issue of *Fortune* Magazine, Clear Channel CEO Lowry Mays said it best: "If anyone said we were in the radio business, it wouldn't be someone from our company", he said. "We're not in the business of providing news and information. We're not in the business of providing well-researched music. We're simply in the business of selling our customers products." (1)

This, I would argue, is the sad consequence of media deregulation. The stated goal of promoting competition, localism and diversity through less regulation has merely led to an increased emphasis on the bottom line. But at what point was it decided that the only stakeholders who truly matter in these debates are the licensees and the advertisers? What about the musicians who need to get their songs on the radio to get a break? What about the local officials who want to communicate directly with constituents? What about social service agencies and non-profits who want to broadcast public service announcements? What about the citizens?

Corporations that desire increased consolidation argue fervently in opposition to any restraint on corporate size or power. They exhort the FCC to leave the fate of our public airwaves to the "invisible hand" of the market. Yet as David C. Korten writes in The Betrayal of Adam Smith, "Even the most casual reader of The Wealth of Nations can see that Smith would have vigorously opposed any form of economic concentration that distorts the market's natural ability to establish a price that provides a fair return on land, labor, and capital; to produce a satisfactory outcome for both buyers and sellers; and to optimally allocate society's resources." (2)

Our radio study makes a strong case that concentration has distorted the health and functioning of the radio market. But there are signs of this negative change that go beyond the numbers in our study.
At the most recent Future of Music Policy Summit, Congressman Mark Foley explained that as a result of radio consolidation, the number of local stations that would provide him access to his constituents has diminished from five stations to one. I suspect radio conglomerates have decided that the kind of local-news programming that would have previously welcomed the Congressman onto the airwaves is now not cost-effective. If this is happening in Florida we can bet it's happening all over the country. If this doesn't raise questions about the damage that increased consolidation could inflict upon our participatory democracy, I don't know what does.

It is clearly stated in The Communications Act of 1934 that the FCC is authorized to require licensees to use stations for discussion of public issues and is free to implement requirement by reasonable rules and regulations, which fall short of abridgement of freedom of speech and press and of censorship proscribed by statute.

I urge you today to see radio as a cautionary tale when you consider adjusting the current media ownership rules. Facilitating continued consolidation would speed the unfolding tragedy of our rapidly closing airwaves. We sincerely believe that further deregulation should not receive endorsement from the FCC.

I want to thank Chairman Powell and the commissioners. The receipt of 13,000 public comments is not an indication that the public has been sufficiently heard on this issue. Rather, this new level of citizen participation reflects two things: 1) a growing awareness among the public of the consequences of unchecked media deregulation, and 2) an increased understanding among citizens about how they can articulate their concerns. Most importantly, many citizens with valuable perspectives and personal experience on these issues have not commented publicly for fear that their criticisms of the industry will be met with severe retaliation. This is why Commissioner Copps' recent call for anonymous testimony has so energized the music community. I am confident that you will see indications of the music community's commitment to these issues at upcoming hearings and discussions in Seattle, Austin, and Durham.

Thank you again for inviting me to testify today. I look forward to answering your questions.