

Testimony of
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Future of Music Coalition
Education, Research and Advocacy for Musicians

Good morning. My name is Kristin Thomson, and I'm the Education Director for Future of Music Coalition, a national research, education and advocacy organization that seeks a bright future for musicians. We are honored to participate today, and would like to thank the Commission for holding these workshops. I'm particularly pleased by the serious and thoughtful questions that the Commission has assembled as it begins this important proceeding. FMC has spent much of its ten-year history examining the issues that inform these questions, and I will do my best to address some of them today.

Since 2002, FMC has conducted six major research initiatives that examined various aspects of radio in the post-Telecom Act landscape. We've done detailed studies on radio station ownership and market share, broadcast industry employment and wages, a content analysis of citizens' comments filed during the 2002 proceeding, and the effectiveness of the FCC's payola content decrees. All of these documents and reports have been filed at the Commission during prior proceedings, and they are also each accessible our website at futureofmusic.org/research.

Our research has brought to light several important findings about the radio industry, some of the most memorable being that simply counting formats names was an inadequate measure for format "diversity"; that just fifteen formats make up 76 percent of commercial radio programming; that FCC's signal contour market definition had allowed companies to exceed the ownership caps in 104 markets; and that the 2007 payola consent decrees and Rules of Engagement seemed to have had little impact on musicians' access to the airwaves. Given our prior participation on FCC matters, I'd like to focus on something that undergirds your entire process: access to data. Debates and decision-making in the media policy arena increasingly rely on quantitative data analyses. And because of this, issues of access to data – and data quality – are central to the process. The Commission has put forth some really engaging questions, but who has the data to answer them? As you enter this next rulemaking, it's essential that the Commission be equally committed to collecting more and better data from its licensees, and storing it in a database that is more accessible, searchable, and easy to download.

My remarks are largely based on our experiences both using FCC data and licensing proprietary data sets for research and analysis. However, I want to mention a number of academics and

researchers who are not here today, but whose work on data access and data quality should also be recognized: Phil Napoli at Fordham University, Joe Karaganis at the Social Science Research Council, Danilo Yanich at the University of Delaware, Mark Cooper at Consumer Federation of America, Gabriel Rossman at UCLA and, Peter DiCola at Northwestern University, who has done some significant work in the past for FMC. I encourage the Commission to seek the guidance and counsel of these experts and others as they move ahead in this process.

We see three challenges associated with the current data protocols.

First, the FCC has not been collecting *enough* data from its radio broadcast licensees. Take, for example, the Commission's mandate to define and measure localism. The Commission asks in this Notice: "are the extent of local news and public affairs and other local programming, such as local school sports, still relevant and useful?" It's an important question, but difficult to answer because the FCC currently doesn't collect any information from radio licensees about how much of their broadcast week is dedicated to locally produced music, talk or sports, versus content that is provided by networks, remote sources or via syndication.

The Commission could remedy this by collecting *objective* data about programming from their commercial and noncommercial broadcast licensees: what portions of their broadcast week are made up of such elements as locally produced music shows, syndicated music shows, local talk, syndicated talk, locally produced news, network news, local sports, and so on. FMC feels that this is not an unrealistic request. In fact, the information is on many stations' websites in the form of a weekly programming grid. The Commission needs to recognize that this information is relevant to its oversight goals in the pursuit of competition, localism and diversity, and have station owners regularly provide this information as part of their licensee obligations.

Second, much of the data that is collected isn't *accessible*. We are aware that the GAO issued a detailed report earlier this year about the challenges associated with extracting data about minority ownership, and that modifications to Form 323 are underway. My colleague Peter DiCola ran into similar issues in 2006 when he found that the ownership data in the FCC databases was not searchable, and key data sets were stored in different and unrelated databases.

In his case, Peter wound up combining FCC data, data licensed from BIA, signal contour maps and Arbitron definitions to develop a very sophisticated Localism Index, through which he revealed that the FCC's idiosyncratic signal-contour market definition meant that companies exceeded the local caps in over 100 markets – an important finding that would be nearly impossible to discover using FCC data alone.

We agree with what the GAO, other researchers and FCC commissioners themselves have expressed over the past few years: the Commission needs to build a modern data management system that is flexible, uses relational databases to connect it all together, and makes a majority of fields searchable and all queries downloadable. This would greatly improve the Commission's ability to conduct proper oversight, to more efficiently conduct high-quality research and allow outside access to similar data. Data.gov is setting new standards to increase transparency and make data more accessible to the public, and the FCC should adopt these standards as well. FMC urges the Commission to seize this moment to undertake a drastic overhaul of its own data management system.

The third challenge is associated with proprietary data. While often the most robust source of data available to outside researchers like myself, and even to the FCC, proprietary data sets are often expensive and not entirely appropriate for research purposes. The research community has often worked around those two concerns, but an issue far more difficult to deal with is restrictions placed on the use of the data by the owner. Due to licensing contracts, researchers are frequently not able to share their data with other researchers, the public, or even with the FCC. In some instances, researchers aren't allowed to publish their findings.

FMC has firsthand knowledge of this problem. When we began our playlist research in 2008, we licensed data from an industry-leading airplay monitoring service. This gave us access to playlists and annual summaries as far back as 2001. It was beautiful stuff that was well organized and it was a snap to download very specific queries. According to our licensing agreement, we needed written consent if we intended to use the data in certain ways. While we felt like our research did not expose or diminish the value of the licensor's property, as a courtesy we sent a draft copy of the paper to our contacts. They didn't like what they saw, and they refused to let us

publish. We spent three months negotiating with the company and offered a number of remedies — whether they wanted anonymity, or disclaimers, or full disclosure, or even a bigger licensing fee — but we could not come to an agreement. We had to shelve that report. Ultimately, we were able to obtain data from another airplay monitoring service, but because of database differences, we spent hundreds more hours of staff time and our publishing date was delayed by ten months. In the long run I'm very satisfied with the quality of the reports, but our experience underscores difficulties faced by all researchers who rely on proprietary data to do work that informs media policymaking.

FMC would like to submit two specific recommendations. First and foremost, to better understand the broadcast sector, the Commission should collect more robust and accurate data about station ownership. Other information that we think would be helpful in policymaking includes: changes in station ownership since 1996; details about Local Marketing Agreements; the number of women or people of color in leadership or ownership roles; the station's primary, secondary and tertiary formats; the amount of a broadcast week dedicated to particular types of programming — and whether that programming is locally generated or from a networked source; whether the station is webcasting or programming HD channels; and its charity work in the community. Having this data would vastly improve the Commission's ability to evaluate the effectiveness of particular rules, to determine which rules should be maintained and which eliminated in our quickly converging media landscape.

Second, the Commission should follow the advice of Phil Napoli and Joe Karaganis and set up an advisory committee that includes academics, broadcast industry representatives, researchers and government officials to implement data collection protocols and periodically review results.

Some in the broadcast industry will react to these proposals by saying that this creates an undue recordkeeping burden, especially on small broadcasters. And it's likely the Paperwork Reduction Act and prior court precedents would influence any initiative. However, we feel like this is an opportunity to build a system that would *reduce* the burden on licensees. Webforms that make a better use of drop down boxes, checkboxes and other preset fields — and that reference other

existing databases — can decrease user input error and streamline the data collection process. And better data in, means the Commission can be a more effective regulator.

Although my remarks focus on FMC's experience researching the radio sector, the data challenges are applicable to almost all of the sectors that the Commission is charged with overseeing. This era presents an incredible opportunity to rethink the traditional means by which government interacts with a converging media marketplace. We've been encouraged to see that the leadership at the FCC has taken important steps to increase transparency. Yet you must go further and adopt new methods of information gathering and public access to information. The Commission is tasked with regulating a highly fluid sector — TV, radio, the internet — that each serve millions of people on a daily basis. We recognize the difficulty of setting rules for an industry this size, but there is no way to effectively do so without better data collection.

In order to better fulfill its goals, the FCC should re-conceptualize its public interest obligations for the digital age. We're heartened that the Commission's leadership has talked about making made data-driven results a priority as it sets about an ambitious agenda to expand broadband service and craft clear and understandable rules for network neutrality. It's our belief that the FCC should extend these same obligations as it begins its media ownership proceedings. On behalf of Future of Music Coalition, I thank you for holding today's workshop and for your efforts to promote localism, competition and diversity in the radio sector and beyond.