BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of 2018 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 22 of The Telecommunications Act of 1996, **MB Docket No. 18-349**

To: The Commission

REPLY COMMENT ON THE LOCAL RADIO OWNERSHIP RULE BY:

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The FCC should maintain the current Local Radio Ownership Rule in order to preserve viewpoint diversity in music. Loosening the AM/FM ownership caps would pave the way for powerful broadcasting corporations to significantly reduce competition in geographic markets, shutting out smaller entities and assuming greater editorial control of media. The result of that would be greater homogeneity and the exclusion of music and of musicians that represent diverse communities, cultural traditions, and points of view. Precedent demonstrates that consolidated media ownership has far-reaching consequences for women and minorities and is frequently misaligned with consumer interests. Several examples of the dangers of viewpoint homogeneity arising from ownership concentration follow.

Gender bias in country music radio broadcasting is a longstanding problem. In 2015, country radio consultant Keith Hill was quoted in Country Aircheck Weekly saying

> *"If you want to make ratings in Country radio, take females out. The reason is mainstream Country radio generates more quarter hours from female listeners at the rate of 70 to 75%, and women like male artists. I'm basing that not only on music tests from over the years, but more than 300 client radio stations. The expectation is we're principally a male format with a smaller female component. I've got about 40 music databases in front of me and the percentage of females in the one with the most is 19%. Trust me, I play great female records and we've got some right now; they're just not the lettuce in our salad. The lettuce is Luke Bryan and Blake Shelton, Keith Urban and artists like that. The tomatoes of our salad are the females."*

More recently, Hill posited that the prevalence of male artists on the rosters of country music labels is the result of the "free market" and not gender bias, and he invited female artists and producers to form women-only country music labels. But he himself went on to note that such a strategy won't work if broadcast ownership is already concentrated—there are fewer outlets by which such diverse viewpoints might actually be heard by the public. Adducing the unwillingness of radio stations to play female artists to the bias of listenership is neither empirically correct nor legally defensible. And allowing powerful broadcasters to control an even greater share of the radio market poses a dual problem: an existential threat to artists seeking success through traditional channels but who do not meet the cookie-cutter expectations of the corporate establishment, and raising the bar for independent distribution to enter the fray. Artists contorting their work to be banal and acceptable so corporate gatekeepers will permit them entry is not anything like a "free market."

Take the example of Kacey Musgraves, a country artist who, despite critical acclaim, has been shut out of the Nashville country music elite, likely because of her pro-gay, marijuana-friendly lyrical content. According to *Billboard* magazine:

> *"Sparked by her wins at the 61st Grammy Awards (Feb. 10), Kacey Musgraves' album of the year winner Golden Hour returns to No. 1 on the Top Country Albums chart (dated Feb. 23)... On the all-genre Billboard 200, Golden re-enters at No. 9. The set became Musgraves' third Top Country Albums leader when it arrived atop the chart dated April 14, 2018 (with 49,000 units), its lone prior week at No. 1...While Musgraves has garnered impressive career success, country radio support has been modest, as she boasts one Country Airplay top 10, her breakthrough single, "Merry Go 'Round," which hit No. 10 in 2013.*

Relaxing radio ownership caps is likely only to worsen this problem with gender diversity in the country music industry.

Another example of the negative effect of ownership concentration on viewpoint diversity in music relates to Janet Jackson. Recent reporting from The Huffington Post revealed that CBS CEO Les Moonves personally sought to punish Jackson for her performance at the 2004 Super Bowl by blacklisting Jackson' music from Viacom properties, including Vh1, MTV, and all Viacom-affiliated radio stations. Rolling Stone reported that the blacklisting spread to non-Viacom properties as well, with many stations participating in the blacklist of Jackson's record. Collusion between stations and ownership groups harmed consumers and indicated Viacom's concentrated market power. The blacklisting had a severe effect on sales of Jackson's 2004 record, "Damita Jo". The record eventually sold a million copies, but its sales fell far below RIAA platinum certified preceding records "All For You" and "The Velvet Rope". Without a Grammy performance or airplay to promote Damita Jo's singles, fans were shut out from exposure to Jackson's work. This effect sets a dangerous cultural precedent: if boycotts can be dictated by single shareholders or executives, then musicians and labels have no choice but to play to their tastes and not the public's. Such examples are clear instances in which economic power is translated directly into political, social, and cultural power.

The increase of corporate editorial control has also threatened the success of newer, groundbreaking artists, like gay pop singer Troye Sivan. Sivan is the latest example of the widening gap between digital streaming and radio exposure between artists, and how consolidated commercial radio's values are not responsive to consumer demand. In a recent piece on Sivan, Pitchfork reports that Sivan's 2015 song "Youth" went platinum with over 100 million views on Youtube. For his follow-up record, 2018's Bloom, Sivan appeared on the cover of Billboard, received coverage in outlets such as The New York Times, and his single "My

My My!" received airplay on all 184 Top 40 stations. Regardless, "My My My!" went no higher than No. 80 on the ultimate arbiter of pop success, Billboard's Hot 100." Pitchfork goes on to report that Sivan's single "Bloom", a song about gay sex, was not promoted on radio altogether, despite performances on The Today Show and a feature story in Dazed magazine. In the current market, radio promotion of explicitly gay music fails to match exposure and popularity on Youtube and on streaming services. Increased consolidation in geographic markets would make it even more difficult for diverse artists to receive exposure and rank on Billboard charts. The FCC has an obligation to ensure a plurality of voices, including that those representing marginalized communities can reach both their own audience and a broader one. Artistic expression cannot be subverted under corporate judgment dominated by a single trend, and lifting sub-caps threatens female and minority broadcasting.

Previous examples demonstrate the importance of diverse ownership, but deregulating ownership caps threatens the existence of independent and diverse owned stations. If the Local Radio Ownership Rule is eliminated, powerful entities will be primed to rapidly expand via merger. Powerful entities can offer preferential ad rates over smaller stations, which could lead to a "tipping point" in which independent stations will no longer be competitive.

Altogether, the loosening of restrictions on concentrated ownership throughout the media landscape, including the regulated industries under the FCC's purview, has led to a marked diminution of creative opportunities outside the walled gardens erected by powerful telecommunications oligopolists--exactly the outcome those restrictions were put in place to prevent. The FCC should learn from this decades-long policy failure: far from restraining entry and protecting incumbents, regulations like concentrated ownership caps ameliorate the power that incumbents wield over the dissemination of knowledge and cultural production.

Respectfully submitted,

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