

**Testimony of James F. Goodman  
Before the  
Federal Communications Commission  
Hearing on Localism In Broadcasting  
Charlotte, North Carolina  
October 22, 2003**

My name is Jim Goodman, President & CEO of Capitol Broadcasting Company with stations in Charlotte, Raleigh-Durham and Wilmington. I applaud the efforts of the Commission to focus on localism in broadcasting, and look forward to working with the Chairman, the Commissioners, and the members of the Localism Task Force.

Localism remains the cornerstone of our free broadcasting system in America.

It is what differentiates us from one another *and* from cable and satellite.

And, most importantly, localism is our mandate.

As licensees, not owners, we are accountable to our local communities.

Every broadcaster I know, myself included, believes they are following the FCC rules and doing a good job of serving their local communities. But, there is always room for improvement. Each of us on this panel today serves our communities in different ways – whether it is having a large news operation as we do at our stations in Raleigh-Durham or whether it is running over 15,000 public services announcements, as we have in Charlotte in the past 12 months.

The problem as I see it is that we are an industry with few standards...either mandatory or voluntary...and with only a few exceptions, we don't really know what is expected of us. That was the conclusion of the Presidential Commission on Public Interest Standards for Digital Television Stations. Some participants of that Commission, better known as the Gore Commission, felt broadcasters were doing a good job of fulfilling the public interest. No regulation...they felt...was needed. But a closer look at

the present reporting system does not provide much information...so we really don't know how well stations are doing. So the Gore Commission, in 1998, recommended an improved, or more thorough, reporting system for stations and a minimum set of public interest standards for digital television.

My main reason for being here today is to encourage you to move ahead the two rulemakings already before you on detailed quarterly reporting procedures...and on setting minimum public interest standards for all broadcasters. It will make clear to all stakeholders of the public airwaves what is expected. Will many broadcasters do more than the minimum? Yes, I think we will. But over the course of the last few months the public – our viewers or potential viewers – have become increasingly aware that the airwaves belong to them and that we, as broadcasters, are accountable. Standardized reporting and defined minimum standards will at least give them and us a way to begin measuring how well we are doing.

Stations should be required to develop methods for determining or ascertaining the primary issues, needs and interests in the community. Public input should be invited on a regular basis through postal and electronic services. This input would then serve as the guideline for the stations to address those community interests through news, public service announcements, and public affairs programming. And then, on a quarterly basis, operators would report to the FCC and the public on how ascertained needs are being served through local programming.

An important part of the ascertainment process would be detailed minimum standards for broadcasters to meet. These requirements should be specific and easily measurable and reported to the FCC in a quarterly report and shared with the public

through broadcast and Internet. The report to the FCC would include quantitative and qualitative information on PSAs, news and public affairs and children's programming.

Other recommendations from the Gore Commission report spoke to the heart of localism and meeting the public's needs and interests. As a member of the Commission, I was honored to chair a subcommittee that made recommendations to the broad committee on suggested public interest obligations. I am attaching those more detailed recommendations in that report to this testimony. (See Attachments)

It is imperative that all of us...broadcasters, lawmakers, and you, as regulators...work together to insure the public's interests are protected.

Thank you for allowing me to express my views.

:Attachments

# MINIMUM PUBLIC INTEREST REQUIREMENTS FOR DIGITAL TELEVISION STATIONS

Submitted by  
Working Group on Minimum Public Interest Standards

## I. Mandated Minimum Requirements

A. Community Outreach. Stations should be required to develop a method for determining or “ascertaining” a community’s needs and interests. This process of reaching out and involving the community should serve as the station’s road map for addressing those needs through news, public affairs programming, and public service announcements. Further public input should be invited on a regular basis through regular postal and electronic mail services. The call for requests for public input should be closed captioned. On a quarterly basis, the stations should report to the Federal Communications Commission and the public on how ascertained needs determined management decisions on developing public interest programming.

B. Accountability. Whether or not there are required minimums, stations should report quarterly to the FCC and the public on their public interest efforts. This report would include quantitative and qualitative information about PSAs, public affairs programming, news programs, children’s programs, ascertainment, etc. These quarterly reports should be broadcast by the station and also provided through an on-line internet service. In addition, we believe the NAB Public Interest Report provided valuable information to this Committee and others and we would encourage the NAB to offer this report on an annual basis. Standardized Quarterly Reports from the stations would aid the NAB in this effort. (Another subcommittee has been assigned the task of preparing a proposed quarterly checklist for stations to place in their public files.)

The station’s public file documents would be made available by mail or posted through an on-line service to the community. “Electronic filing” opportunities for stations should be explored by the FCC.

C. Public Service Announcements. A minimum number of public service announcements should be required with an emphasis placed on locally-produced PSAs addressing the community’s local needs. A certain percentage of those PSAs should be mandated to run in prime time and other day parts. (See Attachment A for a suggested range of required numbers for PSAs and for a suggested phase-in period.)

D. Public Affairs Programming. Each broadcast station also should be required to devote a minimum amount of time to public affairs programming, again with an emphasis on local issues and needs. Highly visible time periods should also be spelled out for these important programs. Segments within a regularly scheduled newscast should not be counted toward the minimum time requirements for public affairs programming. (See Attachment A for suggested minimum requirements and a suggested phase-in period.)

E. Free Political Programming. Programming time should be set aside for key political races. One of two methods could be selected for this requirement:

(1) Broadcasters should provide at least five minutes of free political discourse each evening for the thirty nights prior to a primary or general election of candidate-centered races. Those programs should air between 6 p.m. and 11:30 p.m. In no case, would the minimum length of these political blocks be less than two minutes.

(2) Broadcasters would offer at least four hours of free political program time in the 60 days preceding primaries or general elections. One-half of this programming should be broadcast between 6 p.m. and 11:30 p.m. (For example, stations could program one-half hour per week for eight weeks prior to the election.) Station management could make the decision on how to block the time.

In either selection made above, news interviews of candidates would not count toward the total requirements of time.

Large political races often pose problems for broadcasters because of the sheer number of offices and candidates available. Local broadcasters should be encouraged to work together to provide outlets for as many candidates as possible. As an example, stations could work together to divide the offices and candidates among themselves.

F. Closed Captioning. A broadcast station should be required to provide closed captioning of all PSAs, public affairs programming, and political programming. A station should provide one fourth of such captioning by the close of the first year of its digital transmission, and increase the amount of such captioning by one fourth over each subsequent year. Because most stations will begin digital transmissions after 2002, this schedule will be consistent with the captioning schedule imposed by

recent FCC rules that require most new programming to be captioned by 2006.

- G. Lowest Unit Charge. The current “lowest unit charge” system used by stations for political advertising is very complex and difficult for stations and candidates to administer. Further, because of a change in industry sales policies to more of an “auction” selling system, the current “lowest unit charge” plan is confusing. For purposes of simplification and to provide a preferred rate to candidates, the current “lowest unit charge” used by stations shall be replaced by a “bonus rate” plan whereby one bonus political spot would be provided for every three spots paid for by the candidate. These “bonus rates” would apply only in commercials where the candidate appears and voices 75 percent of the total commercial spot.
- H. Issue Advertising. Recent years have seen a sharp expansion of television advertising close to elections that qualifies as “issue advocacy,” falling outside the legal definition of political advertising but is obviously purchased by groups with names like “Citizens for Good Government,” that disguise from viewers the sponsor or founder of the message. To preserve the principle of disclosure to the public, stations should require purchasers of issue advertising, who use the name or likeness of a candidate for office within the viewing area of the station, to provide full information about the sponsor and officers of organizations funding the advertising within sixty days of an election, which the station should in turn make public before the election.
- I. Multi-casting. Digital television offers opportunities for broadcasters to carry programming on multiple channels. And while the committee has discussed many alternatives for providing public interest requirements for these additional channel opportunities, it is the subcommittee’s recommendation that a station’s primary channel must meet all the public interest minimum requirements outlined in this document. The larger committee should have some latitude in developing requirements for these additional channels but in no case should a broadcaster be allowed an opportunity to pay a fee rather than meet these requirements on any channel unless that channel is a designated “ancillary” channel under FCC rules and a government imposed fee is charged.
- J. Diversity in Employment. The committee recognizes that Equal Opportunity Rules implemented by the FCC resulted in significant improvements in diversity of employment in the broadcast industry. Realizing the courts have, at this time, invalidated those rules, the committee encourages the FCC to look for other opportunities to establish employment standards that meet the legal criteria and ensure non-discrimination in employment practices. If this is not possible,

individual broadcasters should be encouraged to develop non-discriminatory policies for employment under a voluntary code.

## **II. Digital Must Carry**

To ensure that public interest programming is made available to the local community, “must carry” requirements by cable are critical to the success of this committee’s efforts. Since almost 70 percent of homes receive their television programming by cable, cable operators must be required to carry the new digital signals. A reasonable plan to phase in this “must carry” requirement would ease the burden for cable operators and, at the same time, protect the public interest. As an example, broadcasters could be required to give local cable systems 12-month notification of their intentions to begin digital transmissions and the cable operators could be given an additional 18 months to begin carrying the station’s digital signal. And further, since public interest programming could occur in different format schemes, cable operators should be required to carry the full spectrum offered by the broadcast station.

## **III. Voluntary Code**

- A. We fully support the recommendations of the full committee that a voluntary code of ethics should be a part of any public interest package. This code of conduct should be adopted by the National Association of Broadcasters to set standards beyond the minimum requirements outlined above. If the NAB is unable to endorse a code, then the Federal Communications Commission should implement a code of conduct for broadcasters in addition to the required minimums.
  
- B. In addition, it is our recommendation that national associations for all multi-channel video providers (cable, satellite, wireless, telephony, etc.) be encouraged to adopt voluntary codes to provide public interest programming to their customers on a regular basis. Emphasis by these groups should be aimed at developing methods to meet local community needs.

## ATTACHMENT "A"

### These are Proposed Ranges and Phase-In Periods for PSAs and Public Affairs Programming Requirements

#### Public Service Announcements.

- 1) **These are proposed ranges.** The suggested range for the number of public service announcements is from 110 to 150 per week for each station or channel. The suggested breakout by time period follows:

|                        |         |
|------------------------|---------|
| 6:00 a.m. -- 4:00 p.m. | 40 – 60 |
| 4:00 p.m. – 11:30 p.m. | 30 – 40 |
| 11:30 p.m. – 6:00 a.m. | 40 – 50 |
- 2) **Local Emphasis.** At least one half of the spots should be locally produced and directed toward local issues.
- 3) **Phase In Period.** PSAs would be phased in with approximately one-third of the number of PSAs in the first year of digital transmission, one third in the second year, and all numerical requirements met in the third year.

**Proposed Public Affairs Programming.** We suggest that broadcasters carry at least two hours of local programming each week, a suggested phase-in period might allow the following:

|            |  |
|------------|--|
| Year one   | Weekly, one-half hour, locally produced public affairs programming |
| Year two   | Weekly, one hour or two half hours of programming                  |
| Year three | Weekly, two hours of public affairs programming                    |

The first one-half hour of programming should be carried between the hours of six p.m. and midnight.

In year two and thereafter, one-half of all public affairs programming should be broadcast between six p.m. and midnight.

In year two and thereafter, one half of all public affairs programming should be locally produced and aimed at local community needs and interests.

**Free Political Programming.** Political programming should not be phased in. Minimum requirements should be met following the beginning of digital transmissions by the station.



**A.**  
Public  
Interest  
Programming  
and  
Community  
Service  
Certification  
Form

**PUBLIC INTEREST PROGRAMMING AND COMMUNITY SERVICE CERTIFICATION FORM**

| LICENSEE  |             | NETWORK AFFILIATION  | NIELSEN DMA | HOME PAGE ADDRESS (IF ANY) |        |          |
|---|-------------|----------------------|-------------|----------------------------|--------|----------|
| CALL SIGN   | CHANNEL NO. | COMMUNITY OF LICENSE |             | STATE                      | COUNTY | ZIP CODE |
|   |             |                      |             |                            |        |          |
| <b>NEWCASTS</b>   |             |                      |             |                            |        |          |
| 1. The licensee typically airs ____ hours of newscasts per week.  |             |                      |             |                            |        |          |
| 2. Of these hours, _____ are typically devoted to local newscasts.  |             |                      |             |                            |        |          |
| <b>PUBLIC AFFAIRS</b>   |             |                      |             |                            |        |          |
| 3. The licensee has aired at least [ ] hours* per week of programming addressing national or local public affairs during the past three months. <input type="checkbox"/> YES <input type="checkbox"/> NO  |             |                      |             |                            |        |          |
| 4. The licensee has aired programming addressing national or local public affairs during the past three months that exceeds (by at least one hour) the weekly minimum listed in question 3. <input type="checkbox"/> YES <input type="checkbox"/> NO  |             |                      |             |                            |        |          |
| 5. List in Exhibit A a representative sample of programs and/or segments aired during the past three months that addressed national or local public affairs, the day and time each aired, and what issue(s) each addressed.   |             |                      |             |                            |        |          |
| <b>POLITICAL/CIVIC DISCOURSE</b>  |             |                      |             |                            |        |          |
| 6. The licensee has provided at least five (5) minutes per day, at no charge, for federal, state, or local candidate-centered discourse (e.g., debates, interviews, candidate "uses" as defined in 47 U.S.C. §315(a)) in the 30 days before a general election. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT APPLICABLE THIS QUARTER |             |                      |             |                            |        |          |
| 7. The licensee has aired at least _____ (minutes/hours) of programming during the past three months (not including candidate-centered discourse in question 6 or paid advertising) addressing election- or ballot referendum-related matters in the 30 days before a general election.   |             |                      |             |                            |        |          |
| 8. List in Exhibit B a representative sample of programs and/or segments that aired during the past three months (not including paid advertising) that addressed candidates, elections and/or ballot referendums, the day and time each aired, and what candidates/elections or ballot referendums each addressed.  |             |                      |             |                            |        |          |
| 9. As a matter of policy, the licensee does not sell advertising to state or local candidates in the 30 days before a general election. <input type="checkbox"/> YES <input type="checkbox"/> NO  |             |                      |             |                            |        |          |
| <b>UNDERSERVED COMMUNITIES</b>  |             |                      |             |                            |        |          |
| 10. The licensee has aired at least _____ (minutes/hours) of programming during the past three months to meet the needs of underserved communities, i.e., demographic segments of the community of license to whom little or no programming is directed, for example, people of color, the elderly, gays, and lesbians.   |             |                      |             |                            |        |          |
| 11. List in Exhibit C a representative sample of programs and/or segments that aired during the past three months that met the needs of an underserved community, the day and time each aired, and the underserved audience segment each addressed.   |             |                      |             |                            |        |          |
| <b>LOCAL PROGRAMMING (NOT LISTED ELSEWHERE IN THIS REPORT)</b>  |             |                      |             |                            |        |          |
| 12. The licensee has aired at least _____ (minutes/hours) of locally originated or locally oriented programming, programming primarily devoted to coverage of local issues and/or programming providing opportunity for local self-expression (not listed elsewhere in this report) during the past three months.   |             |                      |             |                            |        |          |
| 13. List in Exhibit D a representative sample of programs and/or segments aired during the past three months that were locally originated or locally oriented, addressed local issues, and/or provided opportunity for local self-expression (not listed elsewhere in this report), the program length, the day and time each aired, and what local issue(s) each addressed.  |             |                      |             |                            |        |          |

**PUBLIC SERVICE ANNOUNCEMENTS**

14. The licensee airs at least [ ]\* locally originated public service announcements during a three-month period.  YES  NO
15. At least [ ]\* of these public service announcements are aired between 6 a.m. and midnight.  YES  NO
16. The licensee airs at least [ ]\* other public service announcements during a three-month period.  YES  NO
17. At least [ ]\* of these public service announcements are aired between 6 a.m. and midnight.  YES  NO
18. List in Exhibit E a representative sample of no fewer than five local and five national issues addressed by public service announcements during the past three months.

**ASCERTAINMENT**

19. The licensee undertakes efforts to ascertain the programming needs of various segments of their communities.  YES  NO
20. List in Exhibit F a representative sample of these efforts.

**COMMUNITY SERVICE**

21. List in Exhibit G any community service programs, community outreach, or other similar non-broadcast activities directed to serving the community of license undertaken during the past three months.

**LOCAL MARKETING AGREEMENTS AND EXTENDED TIME BROKERAGE AGREEMENTS**

22. The licensee leases or sells three hours or more per day to an entity other than the licensee pursuant to a local marketing agreement or time brokerage agreement.  YES  NO
23. The licensee retains editorial control over all political programming which does not constitute candidate "uses" as defined in 47 U.S.C. §315(a), retains control over the station's political broadcasting files, and has taken steps to ensure that no political programming decisions are made by entities other than the licensee.  YES  NO
24. If the answer to any part of question 22 is no, please explain in Exhibit H.

**CERTIFICATION**

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE TITLE 47, SECTION 312(a)(1), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements in this certification are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name of Licensee \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

\*Minimums as determined by the Federal Communications Commission.