

PEDRO R. PIERLUISI
PUERTO RICO

WASHINGTON OFFICE:
1218 LONGWORTH HOUSE OFFICE BUILDING
(202) 226-2616 FAX: (202) 225-2154

SAN JUAN OFFICE:
250 CALLE FORTALEZA
SAN JUAN, PR 00901
(787) 723-6333 FAX: (787) 729-7738

COMMITTEES:
EDUCATION AND LABOR
JUDICIARY
NATURAL RESOURCES

Congress of the United States
House of Representatives
Washington, DC 20515-5401

November 6, 2009

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Implications of Media Ownership Limitations on Puerto Rico Broadcasters

Dear Chairman Genachowski:

I am writing to request your consideration of an issue of considerable importance to radio stations in Puerto Rico. As you are likely aware, the Federal Communications Commission ("FCC") released new local radio multiple-ownership rules in its June 2003 Report and Order (the "Report and Order"). Those rules adopted, where available, the "Metro Survey Area" classifications used by the media research firm Arbitron as the FCC's new definition of the "local radio market." The definition of a radio market is important because no entity may own more than a specific number of radio stations in a particular market (the "ownership rule"). Under Arbitron's definition of market, the entire island of Puerto Rico is classified as one market, in contrast to the classification made by another federal agency. Consequently, individuals in Puerto Rico are treated differently from those on the U.S. mainland, who have the ability to own a greater number of stations because of more appropriate market definitions. I respectfully request that the FCC reconsider its position on the definition of "local radio market" for Puerto Rico and, in the interim, address pending waiver requests of Puerto Rico broadcasters concerning the ownership rule.

Arbitron's and the FCC's classification of Puerto Rico as one market is in direct opposition to the Office of Management and Budget's ("OMB") definition of "Metropolitan Statistical Areas" ("MAS") for Puerto Rico. I understand that, in areas of the United States other than Puerto Rico, Arbitron's definition of "local radio market" is based on OMB's MAS. In the case of Puerto Rico, however, Arbitron has used an alternative metric because, as I understand, using OMB's MAS would have required Arbitron to increase its survey sample size of radio listeners. Thus,

Arbitron uses a separate metric for defining the local radio market in Puerto Rico than it does in all other parts of the United States.

According to the most recent OMB MA list, which incorporates information from the 2000 census, Puerto Rico has eight MAs—not one, as determined by Arbitron. The adverse effects of the application of Arbitron's definition are described in Comments filed by the Puerto Rico Radio Broadcasters Association in a proceeding before the FCC (FCC 03-130, *Definition of Radio Markets for Areas Not Located in an Arbitron Survey Area*) and in a Petition for Reconsideration of the Report and Order filed by Arso Radio Corporation. Simply put, the geography and size of the island of Puerto Rico make it physically impossible to be one "market" for purposes of a radio audience. A listener in San Juan cannot hear a station in Mayaguez and vice versa.

Moreover, adoption of the OMB's definition of "local radio market" for Puerto Rico would further the goal, articulated by then-Chairman Copps at the FCC Diversity Advisory Committee meeting on May 7, 2009, of increasing minority ownership of broadcast facilities. By enabling the minority-owned broadcasters in Puerto Rico to strengthen their business operations and achieve island-wide distribution of their programming, adoption of the OMB definition would facilitate these broadcasters' continued survival in an extremely challenging economy. Alternatively, use of the contour overlap methodology, which allows ownership of a certain number of stations whose signals overlap, would solve the problem posed by the FCC's current ownership rule. Absent implementation of one of these two approaches, there will likely be a decrease in minority ownership of radio stations as broadcasters will be forced to sell their stations.

In the interim, I ask that you address pending waiver requests of the ownership rule as currently defined, as contemplated by the Report and Order, in the same manner as these requests have previously been addressed. Clearly, the circumstances as described above regarding the island of Puerto Rico warrant consideration of such a waiver.

Thank you for your consideration of this important issue.

Sincerely,



Pedro R. Pierluisi
Member of Congress

cc: Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker