

**TESTIMONY OF LOWRY MAYS
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**BEFORE THE UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

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Good morning Chairman McCain, Senator Hollings, and Members of the Committee, it is my pleasure and privilege to appear before you today. My name is Lowry Mays, and I am the Chairman and CEO of Clear Channel Communications. I want to thank you for inviting me to discuss the radio business with you, because it has been my passion for over thirty years.

Radio: A Great Story

Far from being a “cautionary tale” of the dangers of deregulation, radio has a great story to tell. The industry is healthier and more robust today than ever before. And that just wouldn’t be true if radio stations across the country weren’t pleasing listeners each and every day. In fact, according to a recent survey, the industry is doing just that. Nearly 3 out of 4 listeners believe radio does a good or very good job providing the music, news and information they want to hear. And 60% said they believe radio is getting even better.

Radio has changed in many ways since Richard Nixon and George McGovern faced off in 1972, and Don McLean’s American Pie was number one on the charts. That was also the year Clear Channel bought its first radio station in San Antonio, Texas. I knew very little about the business then, but I did understand the core principle that makes any radio station a success. You must delight the listener, every hour of every day.

That’s why, in 1975, we made our radio station the first all news format in San Antonio. Listeners were drawn to the local news, weather, and sports we offered. And when we broadcast live from local places of business, listeners would flock to see our on-air talent in person and learn more about the merchant’s goods and services. Everyone benefited, and it was great radio.

Benefits of Deregulation

Radio is, without a doubt, healthier today as a result of deregulation, and the public clearly benefits as a result. Recall for a moment the financial health of radio in the early 1990s, before the passage of the Telecommunications Act of 1996. Competition from cable and broadcast television and hundreds of newly authorized FM stations had forced half of the nation's radio stations into the red. Many others were operating close to it.

In 1989 and 1990 alone, AM station profits plummeted 50 percent, and FM station profits dropped by one-third. Investment capital dried up, causing facilities modernization to grind to a halt, and stations owners who wanted to sell couldn't find buyers. Radio stations struggled to compete with televisions and newspapers, and found it increasingly difficult – if not impossible – to survive periodic downturns in the local economy. Many radio stations resorted to cutting their news budgets or other local programming. Some eliminated local news departments altogether.

All of that began to change with deregulation. With the ability to own more stations, both locally and nationally, radio companies could create economies of scale and benefit from the substantial cost savings that result. An owner of multiple stations in a market could diversify formats and, for the first time since the advent of television, compete successfully in the total market for media advertising dollars.

From 1975 to 1995, for example, radio labored with only about 7 percent of the total advertising pie. Since deregulation, there has been growth in that share, with radio finally moving above 8 percent in 1999 and continuing to increase in 2000. Radio operators can reinvest those savings in their stations, improving technical facilities, increasing the quantity and quality of local programming, and hiring more and better on-air talent.

In Syracuse, New York, for example, Clear Channel saves approximately \$200,000 a year by operating its stations as a unit instead of as standalone properties. We have reinvested much of that savings in the stations, upgrading the WSYR transmitter, acquiring a booster for WPHR, and installing state-of-the-art studio equipment. We increased local news programming on WSYR by one hour a day, and produce the area's only local listener call-in show. WWHT now provides local news, but did not before Clear Channel entered the market.

Deregulation has been good for radio in other significant ways. Today, more stations are owned by minority-owned businesses than in 1996 when the Telecommunications Act was passed. Clear Channel is committed to encouraging diverse media ownership, and I am proud to say that we have been able to make significant contributions toward that worthy goal. In connection with our acquisition of AM/FM a few years ago, we sold more than \$1.5 billion in radio properties to minority buyers. That represented one-third of all the stations we had to divest to obtain regulatory approval of the transaction. In addition, we have committed \$15 million to the Quetzal/Chase Fund, which invests in minority-owned media. And, Mr. Chairman, we strongly support your bill to provide tax incentives to increase media ownership by small businesses and new entrants. We have done all of this not because of any direct benefit to Clear Channel, but because it is the right thing to do.

Deregulation has benefited listeners as well as owners. Study after study, by academics and market analysts, demonstrate that consolidation has led to increases in the diversity of formats available to listeners in local markets, large and small. One recent study by Bear Stearns found that the number of core formats has risen 7 percent since 1996. It's easy to see why this is true. Owners with several stations are better able to diversify their programming to serve the variety of demographics that are present in the market. That is just what we did in Syracuse, which did not have an urban formatted station when we entered the market. By drawing upon our resources, we were able to target this underserved audience and turn WPHR-FM into a successful urban formatted station.

Deregulation: The Bigger Picture

Despite these benefits of deregulation, which are in evidence in local markets of all sizes, some say that deregulation has gone too far. They say the industry is too consolidated. And they contend that Clear Channel, as the nation's largest operator, has too much market power. Let's stop for a moment and put the numbers in perspective. Let's generate some light to accompany the heat.

Radio is by far the least consolidated segment of the media and entertainment industry. The ten largest radio operators account for only 48 percent of the industry's advertising revenues. Compare that to the recording industry, where the top five record companies control 84 percent of all album sales.

It's also interesting to note that in cable television, the ten largest companies account for 89 percent of the revenues. For movie studios it's a whopping 99 percent. And, though the number sounds large, Clear Channel's 1,200 radio stations represent only 9 percent of all the stations in the country. That means that over 90 percent of the nation's radio stations are owned by companies other than Clear Channel.

When these numbers are evaluated objectively, it quickly becomes apparent that radio does not pose a media concentration threat. In fact, the drafters of the 1996 Act made certain of that by limiting any individual company to a maximum of eight stations per market, and only then in markets containing 45 or more radio stations.

Serving Local Listeners

While radio may have changed in many ways over my three decades in the business, the key lessons I learned from that first San Antonio radio station still apply today. Stations must serve the needs and interests of their local communities, listeners and advertisers alike. Radio is inherently a local medium and always will be. That

means Clear Channel – along with nearly 4,000 other owners of radio stations in the U.S. – must continually strive to serve our local communities in the best ways we can.

Some have suggested, however, that the commitment to local listeners has been lost as a result of deregulation – lost in a mad dash of consolidation. Let me assure you nothing could be further from the truth. Listeners want to hear a variety of music, news, local affairs and other entertainment programming that appeals to their individual tastes. And in today's multimedia world, those listeners are very discerning. If they don't like what they hear, they will turn the dial, burn a CD, or download an .mp3 recording that is more to their taste. It's that simple, and that risky to our financial health.

That's why Clear Channel will always be in tune with what local listeners want to hear. One tired song, a commercial that lasts too long, or a failure to provide timely news, weather or traffic, and the listener is gone. After all, radio is the only business I know of where you can lose a customer with the push of a button at 60 miles per hour.

We may have grown from that single AM station in San Antonio into the largest radio operator in the country, but we haven't outgrown our commitment to localism and diversity. Contrary to what some would suggest, our radio play lists are not put together at headquarters, hundreds or even thousands of miles away from the communities in which they are played. Far from it. Our play lists are developed by local station managers, program directors, and on-air talent, and are based on extensive audience research, listener feedback, and our employees' knowledge of local tastes and culture.

While we make sure that our radio stations have access to the highest quality news and information sources, we do not dictate the quantity or content of news and information from our San Antonio headquarters. Our local managers decide how to use the tools we give them to meet the needs of their audience. The result is that over 80% of what airs on Clear Channel stations is produced locally.

We simply couldn't operate any other way. The preferences of listeners vary from market to market, and we must respond to those differences if we are to succeed. That is why a song like "Screaming Infidelities" by Dashboard Confessional received hundreds of spins on our Dallas station last year, but just a handful in Indianapolis and here in Washington, D.C. Standardized play lists just don't exist at Clear Channel.

Committed to Our Local Communities

But we don't just serve our communities by playing the music our listeners want to hear. Clear Channel stations around the country are deeply involved in supporting and promoting a wide variety of local civic and charitable events. Consider just one market – Syracuse, New York – where Clear Channel stations routinely help the community whenever the need arises. For example, last year the State of New York cited the Blodgett Library, located in one of the poorest neighborhoods in the country, as a safety hazard. Clear Channel raised over \$80,000 in a radiothon to help create the "Dream Center," a state-of-the-art library and dynamic learning center at a local elementary school.

Our local news/talk station in Syracuse, WSYR, produced a ten-part series on child abuse and raised money to help create the McMahon/Ryan Child Advocacy Site. The station also raised \$35,000 for the Child Abuse Referral and Evaluation program at University Hospital, and published a guide to help prevent child abuse. The National Association of Broadcasters awarded WSYR its "Service to America" award for this series.

These are just two small examples of the countless number of contributions Clear Channel radio stations make every day to the communities we serve in over 300 U.S. markets. From radiothons to 10K races, our stations help raise money for important charities like breast cancer research, child literacy, and AIDS research, to name a few.

Radio and the Concert Business: Effect on the Artist

I've heard some say that Clear Channel has too much power in the music industry. They say that the combination of our radio stations and our involvement in the live entertainment business, through concert promotion and ownership of concert venues, gives us unprecedented clout. They claim we can leverage those businesses to intimidate artists, force out competing concert promoters, and drive up ticket prices.

Well, I don't know if any of these critics have had the privilege of negotiating a concert deal with Cher. Well, we have – and I can assure you she is not intimidated by us one bit. And the same goes for Madonna, Paul McCartney, and the Rolling Stones. The artists themselves wield monopoly power. After all, there is only one Cher.

The truth is that major artists dictate nearly every aspect of their tours – increasingly large performance fees, choice of venues, tiered ticket pricing, percentage of merchandising, even the color of the roses and brand of bottled water in their dressing rooms. If we can't meet their terms, they won't think twice about signing with any one of the local, regional and national concert promoters that compete with us. And when we do sign to promote a tour, we are often not the exclusive promoter. Many artists split promotion of their tour between Clear Channel and other national or local competitors.

Speaking of our radio stations, let me say clearly, and for the record, that Clear Channel does not use the threat of reduced airplay to force musicians to tour with us or retaliate against competing concert promoters by failing to promote their shows on the air. Anyone who would make such allegations simply doesn't understand our business. The fact is live entertainment accounts for less than 7 percent of Clear Channel's revenue. Radio is the bread and butter of our business, and we simply wouldn't risk the

ratings of any station by refusing to play or promote a popular artist who isn't touring with us, or by overplaying a less popular artist who is.

To cite just one example, Britney Spears actually received 73 percent more airplay on Clear Channel radio stations in 2002, when she was touring with a competing promoter Concerts West, than she got in 2001 when she was touring with us. Why? Because Britney Spears was one of America's most popular music artists in 2002, and our radio stations hardly could ignore her songs and still meet the needs of our listeners. Remember, if we are not playing what people want to hear, they will quickly vote against us by pressing another button on their radio. It couldn't be easier – or more risky to our financial health.

Even when the artist is lesser known, we can not, and would not, take advantage of any perceived change in the negotiating dynamic. It is not in our interest to do so. It happens that Clear Channel Entertainment depends on small and mid-size venues for a substantial portion of its revenue, and so we have a vested interest in booking the up and coming artists that frequent these smaller stages. In fact, in 2001 Clear Channel hosted over 3,100 acts, of which nearly 70 percent were staged at clubs and other smaller venues. Of all these acts, two-thirds were not affiliated with a major record label, and almost one-quarter were not signed to any label at all. Like our radio stations, Clear Channel Entertainment is absolutely committed to promoting new artists and their music.

Developing New Artists

Our commitment to local audiences involves introducing them to new artists and their music. Make no mistake: new artists and music are the lifeblood of many of our radio stations, whether they play country, adult contemporary, rock or hip-hop. Unfortunately, the five major record companies increasingly are failing to take the risks necessary to sign, produce, and promote talented newcomers. Sadly, the result is less new albums each year than listeners (and radio stations) would like. But there is one

thing you can count on: if the public wants to hear a new song, Clear Channel will strive to be first to put it on the air.

That's why Clear Channel has taken great pains to develop new artists on our own. In September 2001, we began an Internet pilot program called the Artist and Repertoire Network, which is dedicated to providing music industry professionals with information about high quality, unsigned artists from around the globe who have great potential to succeed. The "A&R Network" (located at www.anrnetwork.com) provides information such as the type of deal an act is seeking, its biography and discography, tour information, and more. I am proud to say that in just one year since its inception, the A&R Network has played a key role in helping thirteen new artists sign major and/or independent label record deals.

Then, on September 26, 2002, we launched another artist development initiative, a not-for-profit, Internet-based forum for performers, industry professionals, and fans called the New Music Network (located at www.clearchannelnewmusicnetwork.com). This website allows unsigned bands to upload their songs in .mp3 format to the Internet. It is a free way for these artists to reach new audiences, promote their music, and network with recording industry executives. Again, I am proud to say that, even at this early stage, the New Music Network is a phenomenal success. After just four months, we have already registered more than 1,000 promising new musicians in genres as diverse as blues, classical, folk, funk, punk, tejano, and gospel.

Our passion for discovering and developing new artists doesn't stop there. At nearly 60 radio stations in 40 markets across the country, Clear Channel's local managers are devoting airtime to showcase up and coming talent in their local communities. In Detroit, for example, our WJLB-FM plays new music by local artists every night for an hour beginning at 9:05 p.m. Any original music that listeners request can and does end up on the station's regular play lists.

And right here in Washington, D.C., every Sunday night WWDC-FM produces the “DC 101 New Music Mart.” This hour-long program, which has been on the air for eight years, features new music, including releases from smaller labels, which our local managers select by hand. And if the music is popular, it can make all the difference for a new band. For example, Carbonleaf, an unsigned band out of Richmond, Virginia, saw its music move from the Sunday night show to DC 101’s so-called “power rotation,” which includes the station’s most heavily-played songs.

Clear Channel’s new music programs can have a national effect as well. Stu Sobol, of Spivak Sobol Entertainment, gives the DC program credit for breaking the new band The Calling, whose album went on to become multi-platinum. Our radio stations sponsor local new music programs in a host of diverse markets from Anchorage, Alaska to Medford, Oregon to Sioux City, Iowa.

Rising Ticket Prices

A common misperception is that Clear Channel is responsible for the steep rise in concert ticket prices over the past ten years. That presumes that Clear Channel, or any concert promoter, actually controls the price of the ticket. Unfortunately, that is not the case. I say unfortunately because if ticket prices were controlled by us, we’d set them low in the hope of getting more people through the door. That’s because our company makes very little income from ticket sales – rather, our revenue comes primarily from ancillary services at the shows, such as parking, concessions, and sponsorships. In fact, it is not uncommon for us, or any promoter, to receive just 5-10 percent of the “door,” with the rest going to the artist.

The reality is that artists not only establish the ticket price, and do so for all tiers (including the so-called “golden circle”), but also demand a set performance fee or “guarantee” from the promoter. And artists are demanding more money from touring than ever before, presumably due to a marked decrease in album sales. In fact, of the

top twenty touring artists in 2002, 62 percent of their income came from concerts. Compare that to the 22 percent of their income that came from album sales.

[It is interesting to note, by the way, that the *Seattle Times*, in an article dated November 3, 2002, wrote that the escalation of concert ticket prices began “in 1994 when the long-feuding Eagles reunited for their “Hell Freezes Over” tour. That outing launched a tiered system, in which the best seats – commonly dubbed ‘golden circle’ seats – cost more. Ticket prices topped \$100 for the first time.”]

Working Together to Improve Radio

Let me conclude by going back to the beginning. Clear Channel succeeds when our radio stations serve the needs and interests of their local communities. And I am pleased that, according to recent surveys, we are doing just that. In one survey, 74 percent of respondents said radio does a good or very good job of playing the kinds of music they like. 70 percent said radio does a good or very good job of providing the kinds of news and information they want. And almost 60 percent said radio is getting better lately. Yes, I’m pleased by these responses, but I’m not satisfied. There is always more that we can do to improve radio. I look forward, Mr. Chairman, to joining the dialogue that you are beginning here today.