

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Broadcast Localism

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MM Docket No. 04-233
FCC 07-218

TO: THE COMMISSION

**Comments of Gun Owners of America Regarding the
Report on Broadcast Localism and Notice of Proposed Rulemaking**

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The FCC's "Report on Broadcast Localism and Notice of Proposed Rulemaking" 73 FR 8255 (February 13, 2008) represents an ill-considered effort to silence certain kinds of free speech on America's airwaves.

I. Background

Supporters of the Second Amendment's guarantee of the right of the people to bear arms are all too aware that the mere existence of talk radio precludes our opponents from enjoying a monolithic media position in favor of every gun control proposal ever made.

It is a rule of thumb that in the days before any significant vote on gun control in Congress, there will be anti-gun editorials in the *New York Times* and the *Washington Post* as well as one-sided news stories aired by ABC, CBS, NBC and CNN.

In particular, the years 1993 to 1994 were full of extensive national debate on gun control policy which led Congress to pass both a national waiting period and a ban on certain rifles and shotguns it termed "assault weapons."

Because of talk radio, the American public received balanced information in a timely way which enabled them to make their feeling known about these gun control issues. All this free speech and petitioning the government for redress of grievances was too much for groups like the Political Research Association, which complained: "Chuck Baker, who follows Limbaugh for three hours on KVOR Radio in Colorado Springs" inspired "scores of ... listeners [to call] a local congressional office in August to oppose a ban on assault weapons."¹

The year 1993 also included the fiery conclusion of the government's attack on the Waco, Texas, home of David Koresh and his followers ostensibly for technical violations of federal gun laws. Even the *New Yorker* commended talk radio for ensuring that the horrific deaths of men, women and children in Waco were not forgotten:

The F.B.I. pumped tear gas into the compound periodically during the first hours of the assault--until the supply of gas was exhausted. Then agents sent to Houston for more, and exhausted that supply, too. Was the Attorney General informed that the gas put children at the risk of, as Dr. Alan Stone discovered on his own, "fulminating chemical pneumonia and death?" Or that infants do not have the lung capacity to use gas masks?

Was Reno aware, in approving the plan to save the children, that gas packets, fired from a grenade launcher, could penetrate wooden doors

¹ <http://www.publiceye.org/eyes/gunsammo.html>

and explode inside? Did Reno really mean to present the Davidians with the choice of surrendering or watching their children die?

The plan that Reno is alleged to have approved was to have been “passive”; that is, the agents were to have inserted gas into a portion of the compound and then retreated and awaited evacuees before approaching again. This restrained approach was supposed to have been followed for as long as three days, but it lasted just twelve minutes. The operation then escalated: walls were breached and the door was knocked down. Was the deviation from the plan warranted? Or was it an overreaction? ...

Although the mainstream media quickly forgot Waco, the event was kept alive in the eddies outside the mainstream--the fax networks, talk radio, C-SPAN call-in shows, and the Internet.²

Public outrage was also fanned by the shooting death of Randy Weaver’s wife and son, once again because of a technical violation of federal gun laws. Many people, including radio talk show hosts, were justifiably afraid of a government that seemed so obsessed with enforcing its interpretation of firearms laws that it was routinely employing deadly force against innocent bystanders.

Talk show hosts coverage of these events drove the Clinton Administration to distraction:

By the off-year elections of 1994, President Clinton was feeling less liberated than agitated, as talk radio and its principal exemplar, Rush Limbaugh, played a major role in ushering in the so-called Gingrich revolution. Clinton complained about “Rush Limbaugh and all this right-wing extremist media just pouring venom at us every day.” He told KMOX-AM:

Look at how much of talk radio is a constant, unremitting drumbeat of negativism and cynicism. . . . After I get off the radio with you today, Rush Limbaugh will have three hours to say whatever he wants, and I won't have any opportunity to respond, and there's no truth detector.³

President Clinton had a White staff full of press operatives and the ability to go on national television virtually on demand, yet he bitterly complained about the mere existence of three hours of Rush Limbaugh’s radio show.

² Peter Boyer, “The Children of Waco,” *The New Yorker*, May 15, 1995.

³ Neil Hickey, “The Good, the Bad, the Insidious, the Dangerous, and the Appallingly Banal,” *Columbia Journalism Review*, March/April 1996.

Clinton upped the ante in the wake of the 1995 terrorist bombing in Oklahoma City, when he called radio talk show hosts “purveyors of hate and division” who “leave the impression, by their very words, that violence is acceptable”.⁴

A then-yet to be famous radio talk show host, Alan Colmes, agreed:

When you have moneyed lobbyists acting as if their Second Amendment rights are somehow compromised by sensible gun control legislation; when you have an array of agenda-driven, right-wing hate-mongers dominating the airwaves; when you have the head of the Senate Foreign Relations Committee joking about taking out the President, you have a poisonous atmosphere that helps set the table for disaster. And it gives the cowards and the malcontents all the permission they need to do what they do best: hate.⁵

Astonishingly, a media critic for the *Washington Post*, a newspaper with vast national influence, devoted a book to complaining that talk radio was far too influential in America.⁶ A reviewer for the *Columbia Journalism Review* said of Kurtz’s book:

America is “awash” in loud, angry, raunchy, smug, ill-informed, rumor-mongering, and cacophonous talk. This talk emits from television and radio hacks and hucksters, experts, frauds, pundits, charlatans, mountebanks, and bigots; and also from millions of American citizens who daily telephone their opinions and their queries to scores of emotionally charged TV and radio chat programs. No effort is expended to achieve balance, objectivity, or even truth.

As the talk culture has burgeoned, Kurtz argues, the national discourse has been “coarsened, cheapened, reduced to name-calling and finger-pointing and bumper-sticker sloganeering,” and all of this adds up to a “profound cultural shift in the nature of communication.”⁷

⁴ <http://www.fair.org/index.php?page=1316>.

⁵ John Tierney, “The Nation: Way More Than 2 Cent’s Worth,” *New York Times*, April 30, 1995. Neal Boortz, host of a show on WSB in Atlanta, felt differently: “When a conservative complains about the government, it’s called hate. When a liberal complains, it’s called commentary.” *Id.*

⁶ The Bible story of a wealthy king who owned a large number of sheep and cattle choosing to kill the beloved ewe lamb of a poor man leaps to mind. See 2 Samuel 12: 1-7.

⁷ Hickey, *supra*, note 3.

Kurtz also complained that “[n]o formal training, advanced degree, or lengthy apprenticeship is required [to host a radio show]. It is a tower of babble, the rawest form of media democracy.”⁸

In addition to efforts to shut down talk radio, the anti-gun lobby initiated efforts to insert its propaganda into movies and television programs.

The Center to Prevent Handgun Violence and its Entertainment Resources Department, incorporated in 1989, once shared a Washington D.C. office with Handgun Control, as well as an office of its own in Los Angeles, California. The Center was ready to: “conduct research, assist in developing project-specific handgun violence prevention story themes, review scripts for factual accuracy, hold briefings on-site for studios and production companies and recommend gun violence experts.”⁹

Their efforts were fruitful:

(A) An episode of the popular television program “Head of the Class” showed a kid purchasing an illegal “Saturday Night Special” in New York City for just \$25.00. (Never mind that legal guns are seldom so cheap and illegal guns are usually sold for more than they are worth). A storekeeper afraid of crime was sold an AK-47 by a gun dealer in an episode of “MacGyver.”

(B) The movie *Predator 2* opened with scenes of drug dealers endlessly shooting at police officers with Steyer Aug and UZI “assault weapons” that never need reloading while being spray fired in full automatic modes.

(C) Bruce Willis's character in *Die Hard 2* identifies the bad guys in a Washington, D.C. airport, because one carried a “Glock 7,” the [nonexistent] “all-ceramic pistol used by terrorists.”

II. Community Advisory Boards: Who watches the watchmen?

Gun Owners of America is particularly concerned with the implications of one particular portion of the FCC’s NPRM on page 8256:

Community Advisory Boards. The Commission seeks comment on its tentative conclusion that, to determine significant community needs and issues, licensees should convene and periodically consult with permanent advisory boards made up of officials and other leaders from the

⁸ *Id.* Formal training is not required to become a journalist, even though there are formal training programs available.

⁹ Center to Prevent Handgun Violence, *Yes, Entertainment Can Help Save Real Lives*, undated flier on file at Gun Owners of America.

community of each broadcast station. The Commission believes that such community advisory boards will promote both localism and diversity and, as such, should be an integral component of the Commission's localism efforts.

Gun Owners of America notes that no procedures are given for how positions on these proposed “permanent advisory boards” are to be filled, nor with what issues they are to concern themselves.

As of this writing, the Brady Center to Prevent Gun Violence boasts of “a national network of 75 Chapters [sic] around the U.S. that work locally.”¹⁰

Must every one of these chapters be represented on every permanent advisory board of every radio and television station in their region? Is a failure to include a representative of the organization a violation of localism?

The Brady Center is merely the best known of a multitude of anti-Second Amendment organizations. The Violence Policy Center, as well as the umbrella group Third Way (which has absorbed Americans for Gun Safety), can easily take an interest in censoring the content of radio talk shows.

In addition, there are numerous state and local organizations every one of which is obsessed with restricting the Second Amendment rights of the American people.

III. The Power of Complaint

The eagerness of the NPRM to generate frequent community complaints will result in less debate, not more. This is because radio station employees are necessarily risk-adverse about risking their jobs.

If a given subject might generate complaints to the FCC, most station managers will choose to avoid it.

This tendency to risk avoidance means that, over time, the FCC's localism proposal will become essentially a new version of the Fairness Doctrine, only a Fairness Doctrine directly enforced by radio station managers themselves, rather than the FCC.

The Fairness Doctrine kept controversy off the airwaves by requiring equal time be granted to opposing views. Localism will keep controversy off the airwaves by not allowing such programs to air in the first place.

The Report on Broadcast Localism and Notice of Proposed Rulemaking should be withdrawn.

¹⁰ <http://www.bradycenter.org/about/>

Respectfully submitted,

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