

**Statement of Jeff Smulyan
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**Before the
United States House of Representatives
Committee on Energy and Commerce
*Subcommittee on
Communications and Technology***

**Hearing on
“The Future of Audio”**

June 6, 2012

Good morning Chairman Walden, Ranking Member Eshoo, and Subcommittee members, my name is Jeff Smulyan. I am the Chairman, President and CEO of Emmis Communications Corporation, which owns and operates 20 radio stations in six markets in the United States, as well as radio stations in Slovakia and Bulgaria. Emmis also has a publishing division, which publishes the *Texas Monthly* and other city and regional magazines.

Thank you for the opportunity to speak with you today about the valuable services provided by local radio stations like those operated by Emmis. My testimony will focus on the public interest benefits of extending the reach of those services through mobile phone devices. Unlocking the mobile phone market would provide the millions of mobile phone subscribers with greater access to the free news, public affairs and entertainment programming provided by local radio broadcasters. Perhaps most importantly, the inclusion of activated radio chips in mobile phones would expand access to the critical public safety information that Americans have come to expect from their local radio broadcasters during times of emergency.

Local Radio Serves the Public in Many Ways, Particularly During Emergencies

With a growing weekly audience of 241 million listeners age 12 and older,¹ local radio's reach is unparalleled. Radio's strength and popularity benefits recording artists and record labels through free promotion, but more importantly, serves listeners across the country in myriad ways.

¹ *Radio's Audience Continues to Grow*, Arbitron Newsroom (Dec. 5, 2011), available at <http://arbitron.mediaroom.com/index.php?s=43&item=793>.

Radio is the primary audio source for local news and information, political discourse, music and other entertainment. Despite difficult economic conditions, and an increasing number of alternatives for consumers' attention, radio stations produce and provide many hours of live, local programming, including news and information, every day, along with national news and public interest programming. Indeed, studies have shown that those who listened to news and to discussions about campaigns on the radio showed greater interest in political campaigns and were more likely to hold specific opinions on political issues and to be more aware of candidates' positions on policy issues.² And, as the Federal Communications Commission's ("FCC") *Future of Media Report* recognized, the importance of radio to the public discourse has heightened even more in recent years with the rise of all news/talk formats.³

Beyond providing a wide array of programming, radio stations are committed to serving their local communities in other tangible ways. The average radio station airs hundreds of Public Service Announcements each year, the majority of which pertain to local community issues, and provide critical support for the fundraising efforts of local charities, other community organizations and disaster recovery projects.

Moreover, radio broadcasting is, and will continue to be, the optimal audio method for reaching mass audiences during emergencies. America's local radio

² D. Drew and D. Weaver, "Voter Learning in the 2004 Presidential Election: Did the Media Matter?," 83 *Journalism & Mass Communication Quarterly* 25, 38 (Spring 2006); S. Kim, D. Scheufele and J. Shanahan, "Who Cares About the Issues? Issue Voting and the Role of News Media During the 2000 U.S. Presidential Election," *Journal of Communication* 103, 11-12 (March 2005).

³ *The Information Needs of Communities*, Report, Federal Communications Commission, at 66 (July 2011), available at <http://www.fcc.gov/info-needs-communities#download> ("*Future of Media Report*") (noting that news/talk radio serves an important function in a democracy by giving voice to millions who use the medium to express their opinions).

broadcasters provide a powerful combination of nationwide ubiquity and local journalism that has served communities as the primary audio source of information during emergencies and disasters for nearly 100 years. Despite significant advances in communications during that period, local radio remains irreplaceable as a means to inform the public. Through our unique role as the backbone of the Emergency Alert System (“EAS”), as well as the emergency journalism provided by local stations, radio helps protect lives and property during severe weather conditions and other disasters.

We embrace our role as “first informers” during times of emergency. Federal Emergency Management Agency Chief Administrator Craig Fugate recognized this when he instructed Americans to turn to their local radio stations for critical information as Hurricane Irene approached the East Coast last year.⁴ Radio stations took similar measures to aid citizens during the rash of tornadoes that have devastated the nation’s mid-section the past few years, the floods in North Dakota and storms in Massachusetts in 2011, and numerous other emergency situations.⁵ In addition, radio stations helped create and are active partners with law-enforcement agencies in the approximately 120 local, regional and statewide AMBER Plans across the nation. Since the program began in 1997 in the Dallas, Texas area, the AMBER Plan has been credited with successfully returning 584 abducted children.⁶

⁴ See <http://www.cnn.com/video/#/video/bestoftv/2011/08/25/exp.am.craig.fugate.cnn>.

⁵ See Ann Marie Cummings, *Broadcasters: America’s “First Informers,”* National Association of Broadcasters (Jan. 31, 2012), available at <http://nabroadcasters.wordpress.com/2012/01/31/broadcasters-americas-first-informers/>.

⁶ See http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=4319 (last visited May 31, 2012).

The “one-to-many” architecture of broadcasting provides powerful signals that blanket communities. It is the most robust, reliable mode of delivery of information to a mass audience, especially during emergencies, when wireline and wireless networks (including Internet access) can be quickly overwhelmed by a surge in traffic. Radio is infinitely scalable to additional users, and because radio tuners rely on over-the-air signals, there is no risk of network congestion. During a disaster, this superior reliability could be the difference between life and death, and after major disasters, radio signals may be the only connection available to citizens in harm’s way. Also, during major disasters, the electrical grid often goes down, rendering cellular networks useless. However, most broadcasters have back-up emergency generators that allow them to be the only point of connection and information for many Americans.

Access to Broadcast Radio Via Mobile Phones Would Benefit Consumers and Enhance Public Safety

For all the reasons discussed above, it is imperative that Americans be able to access radio service over the most ubiquitous, widely-carried portable device, the mobile phone. The consumer benefits of incorporating radio reception into mobile phones are many and varied. Americans will be able to listen to their favorite local radio stations wherever they are, over their mobile phones. This also means mobile access to local news, entertainment, weather and traffic information, and potentially life-saving information during emergencies.

Let me be clear: despite the continued claims of wireless industry advocates, broadcasters are not seeking a mandate that radio chips be included in mobile devices. Rather, we have worked to educate policymakers on the benefits of expanding the availability of radio-enabled mobile phones. We have also worked for many years to

incentivize wireless operators to expand consumer options for radio-enabled devices. For example, last month Emmis Interactive, iBiquity Digital Corporation and Intel (with financial support from NAB Labs) announced the development of a new energy efficient, affordable, state-of-the-art HD radio chipset. This new technology offers song tagging features and delivers an enhanced, interactive radio experience, for the mutual benefit of wireless carriers and radio stations, as well as their subscribers/listeners and advertisers.⁷ We are in the process of presenting this exciting new opportunity to major wireless carriers.

Given the popularity and value of radio service, access to broadcast radio could be, and should be, an attractive feature in mobile devices. To date, however, wireless operators have declined to produce radio-enabled mobile phones on a scale commensurate with general consumer demand for radio.

Indeed, recent evidence demonstrates the public's strong interest in access to radio via mobile phones. According to a recent Harris Interactive poll, an increasing number of Americans who own a mobile phone would consider paying a small, one-time fee to access their favorite local radio stations on their phone.⁸ Specifically, 81 percent responded positively to this inquiry, compared to 76 percent in 2010. For mobile phone owners with children at home, this figure is 85 percent, up from 79 percent in 2010, and retirees who favor radio chips in mobile devices rose to 76 percent from 66 percent in 2010. The Harris survey documented that 70 percent of mobile phone owners believe

⁷ See Leslie Stimson, *HD Radio, Cell Ecosystem Hailed*, Radio World (Apr. 17, 2012), available at <http://www.nabshowdaily.com/2012/TuesdayEdition/127866>.

⁸ See http://www.nab.org/documents/newsRoom/pdfs/050812_Radio_Chips_Cellphones_Survey.pdf.

that having a radio built into their phones would be “very” or “somewhat” important, and 76 percent of adults and 86 percent of 18-34 year-olds would use a radio built into their mobile phones. Assertions by the wireless industry as to an alleged lack of demand for radio in mobile devices are thus contrary to evidence.

Consumer demand for radio-enabled mobile devices is further demonstrated by looking at the global market. For example, a 2008 study from TNS found that 45 percent of mobile users in Latin America and Asia cite AM/FM radio as one of their top three reasons for purchasing a mobile phone — making it more popular than mobile Internet access, texting and a camera function.⁹ It is estimated that over 800 million radio-enabled mobile phones are available on the global market. Nokia alone has sold more than 700 million mobile devices with radio capability. In the United Kingdom, approximately 56 percent of mobile phone models offered by the two primary wireless carriers include radio as a feature. Compare that to the U.S. market, where a recent survey found that only 21 percent of AT&T, 21 percent of T-Mobile, and seven percent of Verizon’s mobile phone models offer broadcast radio as an available feature.

In the global market, mobile phone carriers generally do not exercise gatekeeper control over which features are included in mobile devices. There, manufacturers create phones with a variety of options, and consumers choose their devices based on which features they value. Consumers separately choose their carrier based largely on price and network reliability.

⁹ *Mobile Reviving Radio Listening: TNS Survey*, IndianTelevision.com (Mar. 5, 2008), available at <http://www.indiantelevision.com/headlines/y2k8/mar/mar50.php>, stating that “in markets like India, a mobile phone without FM radio is difficult to sell.”

In stark contrast, the U.S. mobile phone market is characterized by exclusive contracts between consumer electronics manufacturers and mobile phone carriers. It is incumbent upon manufacturers to conform to the device specifications desired by carriers if they want to meaningfully compete in the market.¹⁰ This is clearly shown by the fact that many of the *same* models of phones include radio capability when sold overseas, but not when sold in this country. In most cases, the radio chip is present in both identical models, but the chip is simply not activated in the United States. As a result, the percentage of mobile phones with radio reception in the United States significantly lags the global market.

Moreover, it is needlessly difficult for consumers to identify the few device models that do include activated radio chips. Radio is not typically featured, or even listed, as an available search option on wireless carriers' phone purchasing websites. Verizon's website, for example, allows consumers to research phones by selecting and searching for any combination of 18 various features; however, Verizon does not include free, over-the-air radio on that long list of features.¹¹ The story is the same at mobile phone retail stores, where radio is rarely indicated as an available feature on the display cards for mobile devices. In-store salespersons and telephone customer service representatives are largely unaware as to which of their own devices are radio-enabled. Indeed, while they are often surprised to learn that a particular phone is

¹⁰ See *Study of the Potential for FM Radio to be a Universal Feature on Cellular Handsets*, Dr. Joseph S. Kraemer, Director, Law and Economics Consulting Group, at 24-25 (May 28, 2008), available at <http://www.nabfastroad.org/Reports/FMRadioFeatureCellularHandsets052808.pdf>.

¹¹ See <http://www.verizonwireless.com/b2c/store/controller?item=phoneFirst&action=viewPhoneOverviewByDevice&deviceCategoryId=1> (last visited June 1, 2012).

equipped to receive free, over-the-air radio, they are clearly aware of, and able to inform consumers about, streaming, data-based radio apps, like Pandora.com.¹² Some industry experts observe that mobile phone providers would rather reap the revenue of data-intensive, fee-based streaming apps than offer consumers a free and local audio alternative.

The control of U.S. wireless carriers over the manufacture of mobile devices ultimately results in consumers being unable to access radio's free, local news, information and entertainment programming via their mobile phones. More seriously, this lack of access could jeopardize the lives and property of Americans by restricting the availability of critical information during emergencies. Including and activating radio chips in mobile phone devices, and making them widely available to consumers, would substantially increase the accessibility of important emergency information, and keep Americans safer.

Both members of Congress and the FCC have recognized this potential. In February, members of the Congressional Black Caucus called on the FCC to hold a hearing to explore the benefits of including activated radio tuners in mobile phones.¹³ Following a rash of severe weather and tornado outbreaks in the summer of 2011, former FCC Commissioner Michael Copps said, "We share a duty to think creatively about how we can arm consumers with additional ways to communicate during

¹² See *Study of FM Radio-Enabled Handsets in the U.S.*, The Insight Research Corporation (Sep. 2010), available at http://www.nabfastroad.org/Reports/FM-Enabled_Cell_Phones_9-16a.pdf.

¹³ Letter from the Honorable Yvette D. Clarke (D-NY), *et al.*, to FCC Chairman Julius Genachowski (Feb. 3, 2012), available at <http://www.radiorocksmyphone.com/ClarkeFMChipLetter-Final2012.pdf>.

disasters. . . I think the time is here for a thorough, calm and reasoned discussion about FM chips in handsets.”¹⁴

I recognize that the wireless industry is deploying a text-based Commercial Mobile Alerting System (“CMAS”) system (also known as “Personal Localized Alerting Plan” and “Wireless Emergency Alerts”). But, the limitations of that system restrict emergency warnings to a 90-character text that lacks the critical details routinely provided by local radio stations during an emergency. Thus, important, lifesaving information, such as the location, path and expected impact of a severe storm or other disaster, and public safety instructions concerning shelter and evacuations typically is not provided on CMAS. Radio stations also are able to provide valuable post-disaster information (e.g., where to obtain emergency provisions or medical care, how to assist in disaster relief, etc.). Thus, radio chips in mobile handsets, in conjunction with CMAS texts, would provide vital emergency warning redundancy, and offer “one-stop shopping” for both initial alerting and the critical, potentially life-saving emergency information that Americans expect from local radio broadcasters.

The FCC has specifically recognized the benefits of a CMAS-radio chip combination in mobile phones. As noted in the FCC’s *Future of Media Report*, “FM chips in mobile devices can provide a number of benefits to consumers.”¹⁵ During emergencies, broadcast chips would greatly assist listeners in obtaining information and, as the *Future of Media Report* noted, could enhance other emergency notification

¹⁴ Remarks of Commissioner Michael J. Copps, Workshop/Webinar on Proposed Extension of Outage Reporting and on Network Reliability and Continuity (Sep. 8, 2011), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-309509A1.pdf.

¹⁵ *Future of Media Report*, at 309.

services. “[A]fter getting a short text about the emergency, [consumers] could tune into radio news broadcast for more information (particularly if congestion on mobile networks or power outages make it hard to get on the Internet).”¹⁶

Conclusion

In the end, this is a matter of consumer access. Americans deserve better choices and should be free to choose mobile phones with activated radio chips. Both the demonstrated demand for radio-enabled mobile phone devices, and local radio’s role as a lifeline service during times of crisis, are considerations that this Subcommittee should take into account as it explores this issue.

Thank you again for the opportunity to speak with you today.

¹⁶ *Id.*