

*Before the*  
Federal Communications Commission  
Washington D.C. 20554

In the Matter of  
2010 Quadrennial Regulatory Review –  
Review of the Commission’s Broadcast  
Ownership Rules and Other Rules Adopted  
Pursuant to Section 202 of the  
Telecommunications Act of 1996

MB Docket No. 09-182

### **Reply Comments of the American Association of Independent Music (“A2IM”)**

The American Association of Independent Music (“A2IM,” [www.a2im.org](http://www.a2im.org)) respectfully submits the following reply comments to The Federal Communications Commission (FCC) in its Notice of Inquiry regarding the 2010 quadrennial media ownership rules review.

A2IM is a 501(c)(6) not-for-profit trade organization representing the independent music label community. Based upon music master ownership, this sector represents more than 90 percent of annual new releases of recorded music. According to Nielsen/SoundScan reports, and despite historic market barriers to entry, independent music represents more than 30 percent of annual U.S. recorded music sales, including over 38 percent of digital music sales.

A2IM was established five years ago to protect the rights of the American independent music label community. Our core mission is to expand access to the media marketplace and foster tangible economic gains for our label members and their artists. This mission is actualized through advocacy, commerce opportunities and other member services, including education.

A2IM’s membership comprises a geographically and genre diverse range of independent music labels that have banded together to form a central voice in advocating for the health of our sector. Our membership includes such independent music label leaders as Beggars/Matador/4AD/XL, Concord Music Group, Curb Records, Sub Pop Records, Razor & Tie, Roadrunner, Windup and many more.

It should be noted A2IM’s membership also includes artist-owned labels, such as Alison Brown and Garry West of Nashville, Burning Spear of Brooklyn, Brett Gurewitz of Epitaph/Anti/Hellcat in L.A., the Hanson brothers in Tulsa, Joan Jett in NYC, Carol King in Idaho, moe. in Buffalo and the Skaggs Family and Gillian Welch in Nashville. Our membership stretches from coast to coast, and reflects the tremendous diversity in American musical culture. In addition to labels located in traditional music hubs like New York, Nashville and Southern California, A2IM includes imprints such as Mountain Apple in Hawaii, Barsuk in Seattle, Kill Rock Stars in Portland, Six Degrees in San Francisco, Basin Street in New Orleans, Saddle Creek In Omaha, RhymeSayers in Minneapolis, Red House in St. Paul, Ghostly in Ann Arbor, Alligator in Chicago,

Righteous Babe in Buffalo, YepRoc in Haw River, NC and Tropisounds in Miami. Many of these labels are musical brands in their own rights, like Alligator is for blues. In addition to our label members, A2IM has associate members, including those who work with, depend upon, or simply support Independent music. All of our label members have one thing in common: they are small business people who are passionate about music and are trying to make a living doing what they love.

A2IM applauds the FCC's quadrennial review of media ownership rules as they relate to the worthy goals of competition, localism and diversity. As may be expected, we're very concerned with the radio marketplace, because achieving airplay at traditional terrestrial AM/FM radio has always been an issue for A2IM members and their artists. Even with newer media platforms like satellite radio and the internet, AM/FM continues to play a crucial primary role in music discovery. This is borne out by public research studies conducted by such companies as Arbitron/Edison Media Research, whose findings indicate that radio discovery and listening is a key driver for those who purchase music.

A2IM read with interest the comments submitted by the National Association Broadcasters and would like to take the time to respond to just a few of their assertions.

The NAB notes that further media consolidation would help them to be competitive and would serve the public interest. This claim doesn't seem to hold up to scrutiny. Since the Telecommunications Act of 1996 and the resulting consolidation of radio station ownership, major broadcasting groups have chosen not to re-invest in their local stations — including on-air talent, programming personnel or community engagement — but instead pursued increased profits, which in some cases resulted in leveraged buyouts by entities outside the broadcasting sector. This in turn has resulted in reduced spending on programming and staff. An example of these reductions includes the expansion of "voice-tracking," where pre-recorded DJs and central programming replace local broadcasters and more diverse playlists.

In October 2008, A2IM, in cooperation with the Future of Music Coalition, produced a study called "More Static,"<sup>1</sup> which surveyed our label members about current relationships between the independent music community and commercial broadcasters. Specifically, we sought feedback on market conditions since the FCC radio Consent Decrees of April 2007, in which four major radio groups — CBS Radio, Clear Channel, Entercom and Citadel — adopted voluntary "Rules of Engagement" with A2IM meant to end structural payola and open up the airwaves to more independent and local music content.

The survey group — diverse in genre, geography, and label size — noted that they, in fact, had *less* access to radio programmers — therefore fewer chances for their music to be heard on the air — as a result of consolidation. Our membership gave first hand accounts of restrictive genre formats and tighter playlists with fewer songs played more frequently.

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<sup>1</sup> <http://futureofmusic.org/sites/default/files/A2IMradiosurveyreport.pdf>

When asked what the biggest impediments were to getting airplay, the label representatives cited a number of factors, but two turned up more than any others: access to music and program directors, and commercial radio's aversion to risk.

Some label representatives reported commercial stations schedule fewer visitation days for indie labels than commercial labels, and music directors and program directors rarely returned calls, although many said this was a problem for major labels as well.

"It's tough: Everyone is feeling the pinch," said the CEO of a midsized folk/alternative label. "Radio stations don't have the staff they used to. A lot of time there's not staff to handle the volume of calls, or the program director doesn't have an assistant."

The indie label representatives also commented on the lack of local control over programming decisions. "The biggest problem is program directors and music directors all having to conform to whatever guidelines their corporations lay down," said another indie label leader. "Even if you do have a great programmer willing to take a chance, their hands are usually tied by someone that doesn't even live in their city, or work in their office."

Some label representatives said commercial radio chains should be encouraged to give more control back to local programmers.

"For me, I feel commercial radio station should take chances and program for their market!" wrote the head of promotions for a large heavy metal label in his survey. "All so often they are looking for national numbers (chart stories) and research. Many stations are also relying on consultants who are telling them to 'play the hits'."

Subsequent member conversations have confirmed these conditions to be an ongoing trend. As noted in their comments in this docket, Future of Music Coalition conducted an analysis of playlists, released in April 2009, called "Same Old Song,"<sup>2</sup> which confirmed the anecdotal evidence with specific playlist data, The playlist data analysis underscored how radio's long-standing relationships with major labels, its status quo programming practices and the permissive regulatory structure all work together to create an environment in which songs from major label artists continue to dominate.

A2IM's members and their artists depend on local support to launch their careers. As previously mentioned, our members also release an incredible variety of music from every conceivable genre. The diversity reflected by independent music labels and their artists could clearly be seen at the most recent Grammy awards. This year, independently owned music labels scored a total of 43 out of 109 awards, in everything from Pop, Rock, Alternative, Country, New Age, Jazz, Gospel, Tropical Latin, Tejano, Norteno, Bando, Americana, Bluegrass, Blues, Folk, Hawaiian, Native American, Zydeco/Cajun, World, Spoken Word, Comedy, Surround Sound and Classical categories — including the Album of the Year.

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<sup>2</sup> <http://www.futureofmusic.org/article/research/same-old-song>

A2IM members share the core conviction that the independent music community plays a vital role in the continued advancement of cultural diversity and innovation in music at home and abroad. We do, however, need your help in ensuring that independent music labels and their artists can achieve their creative and commercial goals. Unfortunately, marketplace rewards have not always followed critical success — largely due to difficulties in achieving access to radio. The strong show of diversity at the Grammy's and at Internet radio (where independents account for approximately 40 percent of audience impressions according to SoundExchange data) is stark in comparison with the lack of airplay independents receive at broadcast radio. One conclusion that could be drawn to independents' success everywhere except for AM/FM radio could be that the consolidation of radio ownership and the resultant lack of market competition (with one corporate group often owning all or almost all of the music stations in a single market) is reflected in homogenized and narrow radio playlists that are constructed not locally but by single national programming executives.

As the Commission evaluates the current media ownership rules, we recommend that it take into account radio's unique place in our broadcasting landscape, as well as the power broadcast radio has to reach and shape the opinions and ideas of a large audience. By numerous measures it has been shown that the deregulation of radio ownership has concentrated this power into the hands of very few corporate giants. The effect this has had on music has been to close doors to all but a handful of superstar artists at the near total exclusion of independent and local artists.

**Respectfully Submitted:**

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