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June 8, 2009

The Honorable Nancy Pelosi
United States Capitol
H-232 Capitol Building
Washington, D.C. 20515

RE: H.R. 848: Performance Royalty – Impact on Minority
Owned and Small Market Rural Radio Stations

Dear Madame Speaker:

We are writing to you with respect to H.R. 848, as ordered reported by the House Committee on the Judiciary on May 13, 2009. You have long been a friend and supporter of diversity in media ownership, and it is in that spirit of friendship that we write to you today in opposition to the legislation.

For a generation, the members of our association, the National Association of Media Brokers (NAMB), have negotiated and closed the sales of most of the radio and television stations sold in the United States. From our experience in dealing with the intricacies of these business transactions, we believe that the imposition of a performance royalty on over-the-air broadcast stations will be crippling to the broadcast industry in general, and be particularly devastating to minority broadcasters and other new entrants to the industry.

One of our members, MMTC Media Brokers, specializes in transactions involving minority owned buyers and sellers. Its parent, the Minority Media and Telecommunications Council (MMTC), has estimated that the passage of H.R. 848 would result in the bankruptcies of about a third of minority owned stations. That seems about right. We believe that the proposed royalty will also have a very significant impact on another important class of stations – small market broadcasters providing vital services to rural communities without the



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economies of scale enjoyed by stations in large markets. We are also very concerned about the impact on other new entrants to the industry – who are already scarce because of the credit crunch and will become even rarer because of the uncertainties imposed by the potential of a performance royalty.

It is our understanding that Chairman Conyers' Managers Amendment was intended to ameliorate the adverse impact this legislation would otherwise have had on small and minority broadcasters. While we appreciate the Chairman's good intentions, the bill as amended will be just as devastating to all broadcasters, including small and minority broadcasters, as the bill was when it was originally introduced. The Managers Amendment adds uncertainty, which investors abhor. Further, it would impose potentially devastating new costs on radio in three years – costs which are simply unknown at this time but which could be, based on Copyright Royalty Board decisions for other services, virtually eliminate the profit potential from the radio industry. The imposition of costs tomorrow will drive debt and equity capital out of broadcasting today.

Madame Speaker, investors are only willing to invest when they see an opportunity for growth and profit. As amended, the bill structures performance royalty payments to increase based on increases in the gross revenues of an individual radio station. In our view, each increase in the payment is a penalty for growth. The final level of \$1,250,000.00 represents a cap on how big a station can grow, because exceeding that amount would trigger a significant increased liability under the legislation – a liability that cannot be quantified at this time but, based on prior Copyright Royalty Board decisions, could sap the profits from the radio industry. Access to capital is the single largest impediment to minorities buying radio stations, and it is the highest hurdle to all other new entrants. Imposing an effective cap on growth will make this already difficult situation far worse. Investors simply will not invest if they do not see an upside to their investment – and the unknown royalty that would apply when a station exceeds \$1.25 million will eliminate that upside.

Due to increased competition from other audio platforms (including other radio stations, satellite radio, iPods and other devices) relatively few investors are willing to invest in a radio business. These provisions of the bill as amended will only accelerate the exodus of capital from this industry, to the detriment of all broadcasters and the communities they serve.

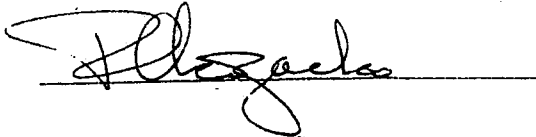
Further, imposing new costs on the radio industry will increase the likelihood of defaults on loans. Advertising is a radio station's only source of revenue, and advertising rates are in a precipitous decline. Compared to 2007, 2008 radio advertising revenues were off 9.0%, according to the Radio Advertising Bureau. This year is going to be much worse. Adding these new costs to businesses that are already facing significant revenue shortfalls will push many of them into bankruptcy.

As professional media brokers, we can assure you that the enactment of H.R. 848 will have a devastating effect on all broadcasters and especially on minority and rural broadcasters and new entrants to the industry. We urge you to await floor action until a hearing is held on these issues, at which minority and rural broadcasters to testify about the impact of this bill

on their ability to remain in business and serve their communities. Further, so that it acts based on full and impartial information, the House should defer consideration of the legislation until it receives a GAO study on the impact of the legislation on the radio industry.

Please feel free to call on us if you have any questions or would like any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Kozacko", is written over a horizontal line.

Richard L. Kozacko
Treasurer, on behalf of NAMB