FCC approves Ackerley sale

The FCC has given its blessing to Clear Channel's (N-CCU) $800M acquisition of The Ackerley Group (N-AK). The 5/29 order gives Clear Channel 12 months to spin off excess stations to comply with the radio TV cross-ownership limits in the Binghamton, NY, Rochester, NY, Syracuse, NY, Utica, NY and Santa Maria, CA markets.

In response to complaints by Buckley Broadcasting and Rep. Sam Farr (D-CA) that Ackerley (and Clear Channel post-closing) had an attributable interest in a second TV station in the Monterey-Salinas, CA market, the FCC said that Ackerley had been in compliance with conditions previously imposed by the FCC staff regarding the joint sales agreement and LMA of less than 15% of the station's daily programming. However, the FCC said its staff had not gone far enough and required further modifications to limit the JSA to apply only to revenues provided by programming under the LMA. The Commission didn't penalize Ackerley, since it had complied with the FCC staff's previous interpretation of the attribution rule.

Commissioner Michael Copps (D) dissented from approving the transfers in the five markets where the temporary waivers were granted. "The television markets in which Clear Channel will acquire stations violate in our local ownership restrictions are not among the largest or most diverse in the nation. Indeed, they range from Syracuse, NY, the 71st largest market, to Utica, the 169th largest. Our ownership rules, as well as the statute on which those rules are based, permit ownership of multiple stations in a direct relationship to the size of the market - the larger the market, the more stations one owner may own. Congress and the Commission set those limits to ensure diversity in those markets. I do not see where a waiver of those limits served the public interest," Copps said.

RBR observation: Although the Ackerley merger creates numerous TV-radio combinations, the FCC has allowed the new owner to acquire stations in the markets in which the commission has set limits to ensure diversity. Commissioners dissenting from the order noted that the FCC had failed to take a "complete accounting" of the effects of the proposed deal on diversity.

Honig blasts broadcasters on EOE

The Minority Media and Telecommunications Council and a host of civil rights groups have charged at the FCC that broadcasters are blatantly shirking their Equal Opportunity Employer responsibilities. In reply comments on whether the FCC should restate some sort of equal employment rules for broadcasters (after two previous attempts were shot down by the courts), MMTC Executive Director David Honig said the group's research found that broadcasters aren't taking seriously their claim to hire without regard to race, sex or ethnicity.

"Probably the biggest surprise is our finding that of the 827 job listings on the 35 state broadcasters' websites, 346 (42%) did not have EOE notices. For over 30 years, virtually all broadcasters held out to the public that they were equal opportunity employers by putting 'EOE' or a comparable tag at the end of their help wanted ads. Now, however, a very substantial number of broadcasters have actually gone to the trouble to take down their self-identifications as equal opportunity employers. In our view, this pretty much demolishes the argument of the NAB and the state broadcasters associations that broadcasters would abide by nondiscrimination requirements even without FCC oversight," Honig said.

KROQ fine upheld

The FCC has upheld a $2K fine for indecency against Infinity's KROQ-FM Los Angeles, even though the complaining listener was unable to provide a tape or transcript of the allegedly indecent broadcast. Infinity had said it was doubtful that an unedited version of the song "You Suck" was broadcast at 9:10 pm on 3/28/97, the listener insisted that he heard the unedited version, not the edited -for -radio version that was in the station's normal rotation. Infinity had appealed the FCC staff's decision to accept the listener's claim, although there was no evidence to corroborate her memory. For its part, the station did not maintain a tape of the broadcast and could not produce high quality versions of the aircheck. In an order issued Friday (5/24), the four Commissioners voted unanimously to uphold the FCC staff and affirmed the $2K fine.

As far as Commissioner Kathleen Abernathy (D) is concerned, it doesn't really matter which version aired. "Futhermore, I would have been inclined to impose a forfeiture even if we found the station aired the edited version. Since the parties in the proceeding were not put on notice of this issue, the order does not speak to the edited version. If it had, I would have had hard pressed to find that the edited version does not also contain indecent material that describes sexual activity in patently offensive terms," she said.

Commissioner Michael Copps used the occasion to renew his call for all broadcasters to maintain tapes of all broadcasts, insisting that the FCC had "clarified" its position - that tapes or transcripts were never required for indecency complainants, but that asking for them was merely "a procedural practice" that's no longer being adhered to in all cases. "This step should help prevent and bring to light erroneous views that without tapes they cannot be found liable on an indecency complaint and that the retention of tapes can only serve to buttress claims against them," Copps said. "This case also makes clear that the retention of tapes would be a valuable tool in determining what was broadcast and when, information essential to the Commission's enforcement of the indecency law. I am very pleased to see the Commission begins to respond to the increasingly clear call of the American people for more responsive enforcement of the indecency laws. Today's decision should serve as a wake-up call for those who have been fueling programming's disturbing race to the bottom."

RBR observation: What's the FCC's indecency policy this week? Who knows? This is hardly the first time that the Commission has retrospectively changed its rules on indecency without either a public rulemaking or a court order, and probably won't be the last. Small wonder that the FCC always cuts and runs whenever it faces the prospect of actually having to defend one of its decisions in court."
Radio Business Report

June 3, 2002

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Radio Business Report

Saxton gets to the Point as CEO

Point Broadcasting LLC has named Miles Saxton CEO, putting him in charge of day-to-day operations at 11 stations in two California markets. Point, which operates as Gold Coast Broadcasting and High Desert Broadcast, manages six stations in Orchard Ventura and five in Palmade-Lancaster.

Saxton previously had been GM of McDonald Media Group's stations in Orchard Ventura and Santa Barbara.-JM

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30 injured at "HFStival" in DC

30 people were injured 5/26 at Infinity's "HFStival" in DC at the Robert F. Kennedy Memorial Stadium. One person suffered a cardiac arrest, in fact, as members of the tightly packed audience rushed the stage during a performance by Eminem. Most of the injured suffered cuts, bumps or bruises and were at the scene. Five were taken to hospitals. The all-day concert featured a plush pit, and 20 rows of people, wedged closely against each other who had been pushing forward and swaying from side to side in anticipation of Eminem's appearance. When the artist came onstage, nearly 100 concertgoers lost footing near a barrier placed a few feet in front of the stage. A man who was critically injured was found there, in an apparent cardiac arrest. He survived after a rescue team shocked his heart back to life. —CM

Peter King joins CBS Radio News

CBS Radio News announced 5/28 award-winning journalist Peter King is the most recent "full-time" addition to its broadcast team. King will cover the southeastern United States as a correspondent. For the past eight years he has provided CBS Radio News with freelance coverage of the latest NASA missions, the Florida presidential vote recount, hurricanes and natural disasters in the southeast. —CM

Traffic Pulse signs ABC Radio-Dallas

Traffic Pulse Networks (TPN) announced 5/28 it will begin providing traffic information to three ABC Radio stations in Dallas beginning 6/24. WHAP AM, KSOS FM and KMPO-FM. TPN reports traffic incidents, events, aliens and traveler advisories from its Dallas ops center TPN, a unit of Mobility Technologies, provides Internet-delivered reports that producers and announcers read as needed. —CM

New Jersey price is $8.3M

Greater Media has filed its purchase contract for WJRE-FM Manahawkin, NJ with the FCC, revealing that the price for the previously announced purchase (RRB.com 5/7) is $8,305,850. The station has been LMA'd as part of Greater Media's Monmouth-Ocean and Monmouth cluster since 4/26. Although this is Greater Media's fifth station in the two adjacent Arbitron markets, the FCC filing indicates that WJRE has no city-grade contour overlap with any other Greater Media station.—JM

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Internet ad revenues totaled $1.78 in Q4 '01

According to the Interactive Advertising Bureau (IAB), Internet advertising revenue in the U.S. declined 7.5% in Q4 '01, totaling $1.71. Internet advertising for all of 2001 totaled $7.2B, down 12% versus '00. The IAB sponsors the Internet Ad Revenue report, which is conducted independently by the New Media Group of PricewaterhouseCoopers.

The IAB says the overall weak revenue results were not unexpected, and continues to mirror the experience of the entire advertising environment. The IAB and PwC also announced they will now issue a "top line" report covering the first and third quarters, followed by detailed findings provided in the semi-annual full reports. The 2002 first quarter findings will be announced at the end of May 2002. —CM

FCC levies record fine of $3.6M

No broadcasters were involved, but the sheer size of this fine makes it newsworthy for any industry subject to the FCC's jurisdiction. The Commission announced that SNC Communications (SNC)—a Baby Bells based in San Antonio—had agreed to pay a record fine of $3.6M for submitting false information to the FCC. SNC had insisted that it never intentionally submitted false data to win approval of its applications to provide long distance service in Texas and Mississippi, nor intentionally deceived the FCC about the information it made available to competing phone companies about local availability of lines available to competing phone companies about local availability of lines. (ie. Clear Channel and CC Enterprises). The FCC is conducting an examination of the way vertical integration of ownership in broadcasting, concert promotion companies and venues decreases fair market competition for artists, clubs and promotion companies.

2. We request an investigation of the impact of recent unprecendented increases in radio ownership consolidation on citizens and the music community.

3. We request that policies that protect non-commercial space in the radio bandwidth and in the emerging webcasting models be enacted, securing the benefits of programming diversity for the music community and citizens.

The LA Times quotes Clear Channel Radio CEO Randy Michaels' response: "Clearly, the record labels are in trouble these days, but it's not our fault. We didn't create the independent promotion system. They did. We're just dealing with the animal that exists. For us to be cast as the bad guy here is ridiculous. The fact is we've done more than anyone else in this business to try to clean up what everyone knows was an ugly and corrupt system."

Also included in the LA Times article are statements from Rep. Howard Berman (D-CA): "What's happening here is a process that the record labels once thought helped facilitate getting radio airplay has now become so coercive and expensive that they've finally decided to come forward publicly to expose a practice they participated in for a long time." —CM

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RBR Industry Chatter

Q: Do you know the difference between your neighborhood McDonald's and a Clear Channel radio station?

A: The voice behind the microphone at the McDonald's is live and local.

Randy Michaels' response to the joke "Superize it!"

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Case study: Buying and planning working together from separate agencies

While the age-old discussion about whether planning and buying should be under one roof goes on, we took a look at one example, one case study if you will, and found they definitely don’t need to be, especially when the client finds the right agencies and people. Red Lobster is the example, with Zenith Media’s VP/Manager, Radio, National Broadcast Matt Feinberg on the buying side and Jennifer Devens, Account Director MPG Media (formerly Tatham) for the planning side. While Feinberg resides in NY and Devens in Chicago, the two have diligently worked the account for five years and found when buying and planning work together for months and months ahead of the buy—the end result is something to really be proud of.

We also spoke with Ken Thewes, Red Lobster’s Director of Marketing.

Whether or not there’s a trend of buying and planning being unbundled, Devens definitely sees a trend in separating the media functions itself. The challenge of having planning and buying at different agencies and locations, whether it be Chicago or NY or down the block is you have to be very committed, she adds. “You should try and be as in-sync as humanly possible for that client. We never want our client to feel, even though they made the decision to go with two different agencies—one buying and one planning—the end result of that should not feel like there’s two separate entities at work for the client. It should feel like a united front to the client. The planning group is typically with the creative (Tatham handles both research planning and creative for Red Lobster), and the buyer works with the research planners. So as long as I’m in control of the creative and the planning process, working with MPG: ‘We look at how the buy delivers nationally, how it delivers locally, how it delivers in tandem with radio; what are the synergies that we can bring to the table to meet our specific strategic objectives. And I’ve had more than one client say, ‘Wow, I think we have one of the best synergy team-working relationships of anybody in the business. Feinberg continues. ‘And it doesn’t matter if it’s under one roof or at separate agencies. When the planning and buying people work together, I firmly believe you should have experience in the other’s realm. I have some planning experience and some of the planners I work with have some buying experience. So we feel empathy for what each other do. At MPG/Tatham, I work on their plans with them, they help me with the buy. We’re in constant email—weekly—it’s a great sounding board for me. Strategically, logistically, how we’re going to approach things. By the time we get to the marketplace, we’ve been talking for six months—just about the buy we’re about to do. We’ve researched it, we’ve talked it out.’

Thewes tells RBR how MPG and Zenith brought radio to the table and convinced the client to give it a shot. “We’re in the media because we feel it meets our needs. There’s some confidential stuff that I don’t really want to get into, but we tested it and we feel like it’s a great supplement to our national media plan, which consists of TV and radio for the most part (there are other media vehicles that we use tactically when there’s a need). MPG really came to us and challenged us, got us to test it and see the results. And the way or solving the problem, the media team had built the house. And when we test it, we know that it’s effective.”

By working together, working out and addressing the wrinkles and kinks throughout the months of discussions, there are no surprises with what is delivered to the client. “Strategists and planners working in a silo for nine or ten months and literally just going into the upfront right for us.”

Devens explains. “The sellers’ side of the table has come to recognize that the strategists, meaning the planners, are as important as the buyer is. It’s no longer about just having contact with the buyer and what the rate is going to be. In our case, because we work together so well, I think that our radio partners know that it’s not just about the CPM or the CPP, it’s about the properties that they bring to the table to meet our specific strategic objectives. And I’ve had more than one of our partners say that they really truly and truly have pushed them to work at a different and a higher level, in terms of servicing the piece handling us. We always talk about how we feel about, say, ten second networks, traffic, and added value. At the end of the day, here’s what I’ve got all along the process. And as I’m looking at the buy, I’m like, ‘What do you guys think? And they ask the same of me. So they don’t plan something that’s absurd, and I don’t buy something that they’re not expecting. It’s a real team effort.”

“I don’t know if I would use sophisticated to describe it as much as I would say that it’s been an educational process for all involved. Especially the folks from the sellers’ point of view,” explains Devens. “The sellers’ side of the table has come to recognize that the strategists, meaning the planners, are as important as the buyer is. It’s no longer about just having contact with the buyer and what the rate is going to be. In our case, because we work together so well, I think that our radio partners know that it’s not just about the CPM or the CPP, it’s about the properties that they bring to the table to meet our specific strategic objectives. And I’ve had more than one of our partners say that they really truly and truly have pushed them to work at a different and a higher level, in terms of servicing the piece handling us. We always talk about how we feel about, say, ten second networks, traffic, and added value. At the end of the day, here’s what I’ve got all along the process. And as I’m looking at the buy, I’m like, ‘What do you guys think?’ And they ask the same of me. So they don’t plan something that’s absurd, and I don’t buy something that they’re not expecting. It’s a real team effort.”

Jennifer Devens

As Devens mentioned, in the case of Red Lobster, the sellers/vendors are smart to stay in contact with her, as well as Feinberg. “I think we would all agree that it is as important to get in to see you and the planning group as it is to see the buyers,” she explains. “I have meetings—we’re just going into the upfront right now for our radio plans—with all of the radio partners selling. We have two-day meetings in New York, face-to-face. The client comes in, we go in, Matt Feinberg is there, and we have two days of just, ‘come in and let’s talk.’ Let’s talk strategy, let’s talk about what we want to deliver for the client. And then on an ongoing basis, our reps here in Chicago (they obviously have NY counterparts) make sure that I am covered off on everything as well.”

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6/3/02
Cumulus adds Kentucky rimshotter

Cumulus Media (O:CMLS) has a $770K deal to add a sixth station to its Lexington, KY supergroup-WCNY-FM (95.9) and WLTH-AM (1310), both of which Cumulus acquired earlier this year from Altra Financial. WCNY is the seventh station to be added to Cumulus' Lexington cluster in the past year, with the furthest addition being WLTH-AM, which is 110 miles away from WCNY-FM. The addition of WCNY-FM will allow Cumulus to move the transmitter for WLCX-FM to Kentucky, which will allow Cumulus to move the transmitter for WLTH-AM. The deal is expected to close in the third quarter of this year.

Henson acquires Macon

Dave Keister's Mid-America Communications (O:MACM) has announced its intention to acquire WJTN-AM & FM (960/98.1) in Macon, GA. The seller, WCYN Radio Inc., will retain WJTN-FM (960), but it will be sold to a new entity that will be majority-owned by the seller, WCYN Radio Inc. The deal is expected to close in the second quarter of this year.

Media One is back in radio

James Embrescia, who has previously been involved in the radio industry, has reactivated his Media One Group LLC to buy a combo in the Jamestown, NY market. He is paying $650K for the sale, which includes WJTN-AM & FM (960/98.1) and WBNR-AM (1240), both of which are currently owned by Henson Media. The deal is expected to close in the second quarter of this year.

Swaggart buys Mississippi FM

Jay and Teresa Bunyard are creating a duo with a partner in acquisitions in Jackson, MS. In his latest deal, Swaggart is buying WTGQ-FM (91.7) and WXXX-FM (95.5) in Jackson, MS, for $300K. From Tommy Darby's Charleston Broadcasting Company Inc. for $400K. The latter will create a duopoly with the current FM station, WJTH-FM (92.5), which is owned by WDTI-AM (1290). The deal is expected to close in the second quarter of this year.
FCC delays auction; Paxson won't appeal

In an order issued after-hours (5-24) as the Commission closed for the Memorial Day weekend, the FCC postponed until next January 14 part of the spectrum auction that had been scheduled for June 19. The auction delay affects TV Channels 66-69. However, the auction of Channels 52-59 will still take place June 19 as planned. All four commissioners voted for the delay. However, Commissioner Kevin Martin (R) dissented from going ahead with the partial auction on June 19. He wanted the entire thing delayed.

The Commission said the delay would give Congress time to decide what it wants to do. Although the House of Representatives passed a bill which would have forced the FCC to delay the auction indefinitely and study its spectrum management procedures, the legislation faced an uncertain future in the Senate. The Bush Administration had also called for the auction to be put on hold.

Although the FCC is more than two years past the deadline set in law for holding the Channels 52-59 auction, Bud Paxson told TVBR that Paxson Communications (APAX) and the Spectrum Clearing Alliance won't be going to court over the FCC's latest delay. "We're not about it, for all the obvious reasons, but the other side of the coin is you've gotta know when to hold 'em and when to fold 'em," he said. Even if the broadcasters were to go to court and win a suit of mandamus, Paxson said the earliest the auction could probably take place would be around November—nearly as long as a delay as the 1/14/03 date the FCC has set for the auction if there's no new law forthcoming from Capitol Hill. "We've taken it away from the FCC and put it back in the hands of Congress," Paxson said of the auction issue. "We'll have to wait and see what the Senate does."

Under the FCC's 5-24 order, the auction of the spectrum now occupied by UHF Channels 52-59 will still take place 6/19, but there's less at stake for TV broadcasters than there would be with the delayed auctions for Channels 60-69. "There can be no band-clearing in that one (52-59)—there's over 500 and some odd stations," Paxson noted. He said the bidders, including some broadcasters who have signed up for the auction, "will sit and wait for years if it's to be cleared."

The FCC had said that allowing the Channel 52-59 auction to go forward would benefit some rural areas, which would receive new communications services, but it's unclear whether it will be viable to actually build such scattered telecommunications systems. Paxson, whose company has 19 analog stations on Channels 60-69, and other members of the Spectrum Clearing Alliance, had hoped to be paid by the winning bidders for that spectrum to clear out their 98 analog stations and 30-some digital allocations. Univision (UNUV), with eight stations (but in larger markets than Paxson's 19), stood to be the other big payoff recipient in any spectrum-clearing operation, but many other broadcasters with a station or two in the Channel 60-69 band had teamed up with the two in the Spectrum Clearing Alliance to press for the auction to take place this Summer. But they were opposed by the Cellular Telecommunications and Internet Association (CTIA), which wants to avoid paying anything to the broadcasters by putting off the auction until there's a clear date when the analog stations will have to surrender their licenses under the DTV conversion. "They had a better lobbyist group than we did, that's all," Paxson said of CTIA's successful effort to delay the auction.

Liberty TV stations to provide free air time to candidates

The Liberty Corporation (NL), announced 5/20 that its 15-station television group, all of its network affiliates, will provide free air time to federal political candidates for the purpose of establishing open forum to discuss the issues important to the electorate. The negotiations between the stations will provide up to 30 minutes of airtime per week in key dayparts during the 30 days prior to the general election, in the form of interviews, debates, forums, town hall meetings and phone-in view interviews where the viewers have the opportunity to ask the key questions.

Hollings latest to request consolidation investigation

Only days after the news surfaced that Senate Commerce Committee Chairman Daniel Inouye (D-HI) was looking into a possible anti-consolidation bill to reform industry practices (JBR 5-24), Senate Commerce Committee Chairman Ernest Hollings (D-SC) wrote to FCC Chairman Michael Powell 5/24 asking him to examine if consolidation, especially in the television industry, has made programming less diverse.

From the letter: "The effort to promote diverse voices and promote greater diversity in programming in the broadcasting and cable industry must continue. Although resultant efforts by the Commission to delay the spectrum auction, at least for the second half of the auction, was laudable, there is a assertNotNull need for further actions by the Commission to delay the auction. The Commission should take action to delay the auction. The Commission should take action to delay the auction..."

Cox Communications sues by EOC

The US Equal Employment Opportunity Commission (EOC) announced 5/20 that it had filed a lawsuit against Cox Communications (N:COX), accusing the company of creating a "hostile working environment" for Hispanic employees in its Georgetown, TX operation. The lawsuit also charged that the cable company failed to take appropriate corrective action and didn't halt retaliation against employees who filed the EEOC complaint.

Cox Communications is controlled by Cox Enterprises, which also owns TV and newspaper properties and a controlling interest in Cox Radio (N:CRO)—JM

NBC sweeps the sweeps

NBC claimed victory in the May ratings sweeps, which ended last week. "Friends" drew 35MM viewers for its episode of the birth of Rachel's baby. It's the first time the show finished TV's most popular series. CBS finished second with "CSI: Crime Scene Investigation," also the second most popular show behind "Friends." ABC lost 23% of its audience this season, and Fox also declined, from 9.6M to 9.2M. The top four networks saw ratings decline by 7%.

During the week that ended 5/19, the last full week of the season, NBC averaged 14.5M viewers (9.5 rating, 16 share), CBS averaged 14.1M (8.8, 15), ABC 9.6M (6.1, 10), Fox 7.6M (5.9, 14).

UPN and FOX to switch affiliates in Minneapolis

KMSF UPN 9 and WFTC FOX 29 will switch network affiliations 9/8 to become KFCC FOX 9 and WFTC UPN 29. The announcement was made after UPN and FOX signed a deal with Carol Ruppel. "This change aligns the best of both UPN and FOX with two strong TV stations to provide distinct options for viewers in the Twin Cities, through innovative programming and an on-going commitment to local news and sports programming.

The affiliation switch comes as KMSF and UPN prepare to combine operations at KMSF's newly-remodeled facilities. —CM