



**Hearing on
“Breaking the News – Journalism, Competition, and the Effects of Market
Power on a Free Press”**

United States Senate Committee on the Judiciary

*Subcommittee on Competition Policy,
Antitrust, and Consumer Rights*

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Introduction

Good afternoon Chairwoman Klobuchar, Ranking Member Lee and members of the subcommittee. My name is Joel Oxley and I am the senior vice president and general manager of the all-news radio station WTOP-FM, WTOP.com and FederalNewsNetwork.com, which are all owned by Hubbard Broadcasting. Hubbard Broadcasting is a St. Paul, Minnesota, family-owned-and-operated broadcasting company with 13 television stations located in Minnesota, New York and New Mexico, and 50 radio stations located in Minnesota, Illinois, Missouri, Ohio, Arizona, Washington, Florida and Washington, D.C. In the decades since receiving its first FCC license in 1923, Hubbard stations have earned numerous NAB Marconi, Murrow, DuPont and Peabody broadcasting industry awards, as well as multiple NAB Crystal Radio Awards for outstanding community service. In 2019 alone, WTOP received the National Edward R. Murrow Award for Overall Excellence by the Radio Television Digital News Association (RTDNA), 14 Chesapeake Associated Press Broadcasters Association (CAPBA) Awards, 10 Regional Edward R. Murrow Awards by the RTDNA and five Virginia Associated Press Broadcasters Association (VAPBA) Awards.

I appreciate the opportunity to testify on behalf of the National Association of Broadcasters, and its more than 6,600 free and local television and radio station members that provide uniquely valuable service to all of our hometowns.

Local journalists and the communities we serve face an existential threat whose fate increasingly rests in the hands of a few dominant digital platforms. We applaud this subcommittee's attention to this challenge, and your continued work in examining the digital marketplace for news and journalism. Legislative action, including swift passage of the Journalism Competition and Preservation Act (JCPA), is needed to preserve this essential cornerstone of our democracy in a

digital marketplace that is otherwise distorted by the anticompetitive conduct of certain tech platforms.

Local Broadcasters: Providing Trusted, Unbiased Journalism

The nation's broadcasters represent one of the last bastions of truly local, unbiased journalism – information that is still respected by Americans around the country, regardless of political persuasion, wealth, race, background or creed. These are your constituents, and they continue to turn to their local reporters and anchors for voices they trust to keep them informed about their communities and the nation. Prior to the pandemic, Pew Research found that from 2008 to 2019, radio and television broadcasting comprised an increasing portion of all newsroom employees.¹ Combined, the broadcasting industry accounted for nearly a third of all newsroom employees in 2019, nearly the same amount as the newspaper industry.²

The pandemic has shown that when needed most, local television and radio stations provided the civic bond for the communities we serve, doing incredible work in the face of our own enormous challenges. More importantly, we continue to be the primary source of the community-focused information on which your constituents have relied during this pandemic, from health and vaccine resources to vital information about schools and local businesses. Local broadcasters remain a touchstone for the truth, and our commitment to fact-checking, locally-based reporting and the public interest explain why local television and radio stations are the most trusted sources of information across all segments of the American

¹ <https://www.pewresearch.org/fact-tank/2020/04/20/u-s-newsroom-employment-has-dropped-by-a-quarter-since-2008/>

² *Id.*

population. According to a study conducted by Poynter in 2018, 76% of Americans across all political parties trusted the news on their local television station.³

I am proud that Hubbard's stations exemplify the commitment to local communities that is the hallmark of local broadcasting. Broadcasters' enduring commitment to local communities has driven extraordinary levels of public service. Here are a few examples from Hubbard stations:

- For more than a decade during the holiday season, WTMX in Chicago has raised an average of \$3 million a year for St. Jude's Hospital.
- For the last nine years, KSTP-FM in Minneapolis/St. Paul has raised millions of dollars and brought thousands together for their "Clouds Concert" at the Mall of America to benefit the Zach Sobiech Osteosarcoma Fund.
- In Brainerd, Minnesota, population 13,373, WJJY-FM and KUAL-FM raised \$95,000 last year by teaming with other organizations with their 28th annual radio-thon to raise funds for child abuse prevention. That would be equal to raising \$42 million in Washington, D.C., which is big money, even for this area.
- In 2020, WDIO-TV in Duluth, Minnesota, with the help of 84 volunteers, helped 800 people in need file 1,900 tax returns, resulting in \$2.5 million in refunds. WDIO also worked with Second Harvest Northern Lakes to provide 3.8 million meals to families, kids and seniors facing hunger issues.
- For the last 13 years, WNYT-TV in Albany, New York has collected for Toys for Tots, a program run by the United States Marine Corps Reserve. Last year they collected 237,000 toys.
- In Albuquerque, New Mexico, KOB-TV has been working with the Roadrunner Food Bank for the last 25 years, and last year raised \$2.2

³ <https://www.poynter.org/ethics-trust/2018/finally-some-good-news-trust-in-news-is-up-especially-for-local-media/>. Additional research shows that local news plays a key role in political and civic engagement. <https://knightfoundation.org/reports/american-views-2020-trust-media-and-democracy/>

million, collected 11 million pounds of food, and served 100,000 meals.

- And here in Washington, D.C., WTOP raised well into six figures to renovate the Metropolitan Boys and Girls Clubhouse #2 to help kids in need in the neighborhood of Sorsum Corda. Clubhouse #2 is located just one mile from where we sit today.

Helping our communities and local charities is part of what we do and have done for decades. We want to be able to have a fair business environment that will let us continue this vital work for years to come.

Quality Local Journalism Is Costly

I've been in the news business since college when I wrote for the school newspaper, and was a sportscaster at the radio station. I worked with *Scripps Howard* and *The Chicago Tribune* before joining WTOP three decades ago, where I have worked my way up in sales and sales management before becoming general manager in 1998. I am proud to say that at WTOP, we have a saying that our job is to defend the middle. We receive tons of complaints from all sides of the political spectrum, and I think that means we are doing our job.

In my position, I understand the business challenges of producing the type of hard-hitting, informative journalism the communities we serve demand and deserve. And, I am keenly aware of the significant financial resources needed to run a station and invest in the type of equipment necessary to serve the public day in and day out, 365 days a year. It is very expensive. I should know. It costs us more than \$12 million each year to run our newsrooms. More than a third of that expense goes to running our digital operation. Our recent move out of a building we had been in for over 30 years cost in excess of \$10 million. Not all local radio stations have been able to keep producing news like we have. The RTDNA recently reported that the number of stations reporting a loss on radio news in the

past year went up in every market size and was particularly pronounced in major markets.⁴ Eight percent of surveyed radio stations had canceled their local news programming in response to economic repercussions of the COVID pandemic.⁵ Running local radio and serving communities is expensive. But believe me, it's a drop in the bucket compared to what it costs many local TV stations to operate.

From 2013 to 2018, NAB found that TV stations spent nearly a quarter of their budgets on news costs, averaging over \$3 million per year.⁶ In the 10 largest markets, local news operating costs were \$9.7 million annually per station, and approximately \$15.8 million for affiliates of the major broadcast networks.⁷ In addition to these operating costs are significant capital investments for things like satellite trucks, state-of-the-art cameras and, in some cases, specialized equipment such as news helicopters.

Dominant Online Platforms' Anticompetitive Behavior Threatens Local Journalism

Despite the tremendous cost of bringing world-class news and journalism to local communities around the country, one of the greatest sources of personal pride for broadcasters is the simple but fundamental principle upon which local broadcasting is based – that television and radio stations serve the public interest and what we do matters by making all of our valuable content available to American viewers and listeners over the airwaves, completely free of charge. Free of charge. That's a key point. If not for us, how are people going to get their local

⁴ RTDNA/Newhouse School at Syracuse University Survey, The Business of Radio News, 2021.

⁵ RTDNA/Newhouse School at Syracuse University Survey, The Profound Effects of Coronavirus on TV and Radio Newsrooms, 2021.

⁶ See NAB Television Financial Reports 2004 to 2019.

⁷ *Id.*

news? For your constituents who may be unable to pay for quality, vetted local news, radio broadcasters help ensure that they are not left behind.

This free service does not exist in a vacuum. It has been made possible over many decades through the advertising revenues generated from businesses of all sizes, national and local. However, these revenues have experienced a free-fall in recent years, due almost exclusively to the rapid expansion of the dominant online platforms who have devoured advertising market share in the digital marketplace and devised anticompetitive practices to protect it.

The market power of the tech platforms undermines the online advertising model for local broadcast journalism in two significant ways. First, the tech platforms' role as content gatekeepers stifles our ability to generate user traffic independent of their services. Second, anticompetitive terms of service and a "take it or leave it" approach leave local broadcasters with a below-market sliver of those advertising revenues that are derived through their products. For local broadcasters and our viewers and listeners who rely on quality journalism, this is a lose-lose proposition: To attract online user traffic, we must be accessible through the major platforms, yet the terms of access dictated by the online platforms devalue our product. This is a catch-22 that local television and radio broadcasters cannot avoid and it will ultimately undermine our ability to invest in locally-focused journalism.

Consider the big storm that just blew through the Northeast over the weekend – a nor'easter and blizzard conditions. Tons of work at a lot of cost and time for local broadcasters to cover it for millions of people. But not for Facebook, Google and the like. They simply take our coverage and profit from it, and virtually nothing comes back to us. If we don't find a way to monetize our content better by having true partnerships with the big platforms we will not be around – and neither will our coverage. And without local news, my guess is a lot of people

would have not evacuated places like Cape Cod last weekend, and lives would have been risked. We just can't have that.

I read almost all of our emails from listeners and readers of our website. These people count on us whether it's for news updates to be in the know at work, for traffic to get home quicker, or weather reports that sometimes are a lifesaver. Like a nor'easter.

It truly is very concerning the degree to which certain platforms commoditize news content with little regard for the quality and veracity of the story. This puts vetted, fact-based reporting like ours on par with unsubstantiated click-bait as we fight for user eyeballs in both platform news feeds and search results. The consequence is that local journalists may become increasingly tempted to focus on catchy headlines and stories to generate user interest rather than quality journalism. This is a dangerous trend.

As our viewers and listeners change their media consumption habits, the need for local broadcasters to be fairly compensated in the digital ecosystem is acute. According to BIA estimates, ad revenue for local television stations fell by over 40% in real terms between 2000–2018, while radio ad revenues fell by nearly 45% in real terms over the same time period.⁸ This decline in ad revenue worsened significantly during the pandemic. At the height of the pandemic, many local broadcasters saw their advertising revenue decline more than 50% compared to the same time a year before, and some even saw their advertising cancellations approach 90%.

⁸ BIA Advisory Services, *The Economic Irrationality of the Top-4 Restriction*, at 16 and Fig. 10 (Mar. 15, 2019) (BIA TV Study); BIA Advisory Services, *Local Radio Station Viability in the New Media Marketplace*, at 10-11 and Fig. 7 (Apr. 19, 2019) (BIA Radio Study).

Meanwhile, the dominant online platforms have flourished, siphoning off huge amounts of advertising revenues that are the lifeblood of free, local journalism. A recent report by BIA Advisory Services focusing on Google Search and Facebook News Feed found that local broadcasters lose an estimated \$1.873 billion annually by providing their content to these platforms.⁹ As Sen. Maria Cantwell noted in a report she issued in October 2020, Google and Facebook control an estimated 77% of locally-focused digital advertising.¹⁰

This market transformation is not accidental. It has been exacerbated by deliberate decisions on the part of the tech platforms to put technological and systemic roadblocks in the way of broadcasters trying to gain access to, and compensation from, these platforms for the use of broadcast content. The barriers to entry erected by the major platforms take on many forms, from decisions about which content will be prioritized by algorithms that often favor sensationalism over hard journalism, to unilateral mandates about which content is eligible to be monetized and what share of revenue the big platforms will retain.

Make no mistake, Hubbard, and local broadcasters throughout the country, embrace the opportunities afforded to us by new technologies to reach our audiences and enhance the service we provide to our viewers and listeners. Further, broadcasters, in many instances, value the partnerships we have with large online platforms that are the subject of this hearing, which provide television and radio stations the ability to reach a different audience than they would through traditional media. Without access to these platforms, broadcasters would lose the ability to reach hundreds of millions of viewers and listeners.

⁹ BIA Advisory Services, Economic Impact of Big Tech Platforms on the Viability of Local Broadcast News, at iii (2021).

¹⁰ https://www.cantwell.senate.gov/imo/media/doc/Local%20Journalism%20Report%2010.26.20_430pm.pdf.

To be clear, I am not against news aggregation. WTOP negotiates with other providers and local news organizations for mutually agreeable compensation agreements. But the partnerships we have with the digital platforms like Facebook and Google are different. For all of the reasons stated above, the vast market power of these platforms ensures that broadcasters must simply accept whatever terms are handed to them, regardless of whether they represent a fair or appropriate approximation of the value local broadcast content offers these platforms and the American consumers who use them. For example, not only is WTOP not being compensated by Facebook and Google for its content, WTOP is actually *paying* to make sure its content is being accessed on their platforms.

Potential Legislative Solutions Provide Hope for Local Journalism

One significant step toward curing the harms caused by the anticompetitive behavior of the giant online platforms would be the passage of the JCPA, recently reintroduced by Chairwoman Klobuchar and Sen. Kennedy. NAB commends Chairwoman Klobuchar and Sen. Kennedy for their thoughtful approach to the competitive challenges facing local journalists around the country, and strongly supports this targeted, commonsense proposal. The JCPA would level the playing field by creating a temporary safe harbor for broadcasters and certain digital publications to jointly negotiate with dominant online platforms regarding the terms and conditions by which their content may be accessed online. Broadcasters support efforts to further strengthen the JCPA by requiring covered platforms and broadcasters to negotiate in good faith and extend reasonable offers as part of a joint negotiation, as well as prohibit discrimination against a broadcaster wanting to participate based on its size or views expressed within its content.

Conclusion

Radio and television stations depend on ad revenue to produce local news, which gives the community its voice. Without someone to shine a spotlight on local government, health care, education, environment and business development, there is less accountability in communities and a less informed electorate. This has been proven to decrease voter turnout and civic engagement. Broadcast radio and television stations are the last bastion of local and investigative journalism in many communities. Yet, without action by policymakers, these stations may face the same future as other local media and be forced to cut back or even eliminate their investment in local news.

In order to ensure that broadcasters not only survive, but continue to thrive and serve their communities, broadcasters support the JCPA and urge its swift passage to address the overwhelming market power of Big Tech gatekeepers. The JCPA would level the playing field to allow broadcasters and other journalists the ability to seek adequate compensation for the tremendous value they provide these platforms and the millions of Americans who use them.

Thank you again for the opportunity to discuss this issue, which is critical to America's broadcasters and the communities we serve. I look forward to your questions.