

## Bad Signal

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With a population larger than 60,000, Asheville, North Carolina, isn't exactly a small town. But, from the day it started playing rock and roll in 1994, Asheville's wzls was very much a small-town operation. It was a radio station that still substituted listener requests for preselected, market-tested tunes, a locally owned broadcaster in an era dominated by national conglomerates. "ZLS" stood for "Zeb Lee's Station," and the Lee family, which had operated an Asheville AM station for 47 years before starting wzls, was a staple of the community. In its first few years of broadcasting, wzls raised funds for a van for an Asheville teen paralyzed in an automobile accident and for an orphanage-construction project and produced a local-music compilation album benefiting river-cleanup efforts. As Asheville Citizen-Times scribe Tony Kiss wrote of the new station, "Few stations strike that solid emotional bond with their listeners. But wzls—a genuine, local, mom-and-pop operation—has made that connection. All the announcers are real friends." The friendship, alas, would be short-lived. In 1995 the Federal Communications Commission revoked the Lees' broadcasting-license approval. Four years later—after many rounds of teeter-totter litigation, a grassroots uprising by townsfolk, and an act of Congress—the Lees will apparently be forced to sign off 96.5 FM for good,

giving way to a radio station run by Liberty Productions, a North Carolina firm backed by corporate giant Cumulus Media.

Protecting small, community-based operations was once central to the FCC's mission. But that was before politicians, seeking greater diversity in broadcasting, instructed the commission to give minorities preference in granting broadcast licenses. And, even more importantly, before another group of politicians, seeking to deregulate the telecommunications industry, insisted that broadcast licenses go to the highest bidders. Both groups still prattle on about their devotion to local radio. But, on the ground, they are making it an endangered species.

Zeb Lee, family patriarch, hit the airwaves in 1938. In 1947, he founded WSKY-TV, and, for the next 47 years, he broadcast from the stands of the Asheville High School football stadium on every fall Friday. Zeb met the future Betty Lee when she called in to request a Perry Como tune. When they married, Zeb found he had gained not only a wife but a production manager, too. Zeb and Betty begat Barry and Brian, who grew up behind the microphones. WSKY-TV sponsored minor-league baseball promotions, broadcast lost-pet announcements, and generally maintained a strong presence in the community.

In 1987, when the FCC opened a new FM frequency in Asheville, the Lees were among the handful of petitioners. The guidelines for the commission's decision were clear and long-standing: to serve (as proclaimed in a 1928 statement by the Federal Radio Commission) the "interest, the convenience, and the necessity of the listening public" rather than the interests of broadcasters or advertisers. As a 1950 FCC statement further explained, "It is as if the people of a community should own a station and turn it over to the best man in sight with this injunction: 'Manage this station in our interest.'"

FCC policy explicitly favored owners who were personally involved in their stations' day-to-day business, and it favored broadcasters who owned just one station—as opposed to large conglomerates—on the theory that many small and diverse owners would be better for American culture and democracy. Later, the FCC began giving preference to minority owners—again, in the interest of promoting diversity among broadcasters.

The Lee clan didn't qualify for a minority preference, but they certainly met the rest of the FCC's criteria. In 1990 the commission, citing the family's record of "splendid stewardship," gave them initial approval for a new frequency. Competitors—most of them investment groups rather than broadcasters—appealed, but over the next three years an FCC review board reaffirmed the decision three times. So in 1993 the FCC, following standard practice, granted the Lees a station-construction permit and set a deadline: the station had to be ready for operation by October 30, 1994, or the Lees would forfeit their license. To fulfill the FCC's single-station ownership preference, the Lees had to sell wsky—a sale the commission approved in March 1994. Betty became public service manager of the new station, while Brian oversaw programming and Barry served as operations manager.

Wzls went on the air in July 1994 with a mix of popular contemporary rock, older classics, occasional eclectic numbers, and a heavy dose of listener requests. Listeners donated dusty LPs and favorite CDs to fill gaps in the station's collection. As Asheville's only rock station, wzls was popular from the get-go, and after less than a year on the air the station ranked third in the area's Arbitron rankings. Having fulfilled the requirements of their conditional permit, the Lees applied for a permanent radio license on August 1.

But there would be no permanent license. In 1994, the FCC froze its permanent-licensing procedures in the wake of a 1993 court decision, *Bechtel v. FCC*, that questioned the legitimacy of the agency's criteria for doling out licenses. Meanwhile, in Asheville, appeals for wzls's frequency still loomed from the Biltmore Forest Radio, Inc. (bfri) investment consortium, whose investors included North Carolina Representative Mel Watt and Darcel Grimes, a news anchor for Asheville's wlos-tv. Watt and Grimes are both black, and bfri presented itself as an ethnically diverse enterprise that would bring "diversity and fresh air" into the Asheville market. With permanent-license proceedings still suspended, the FCC ordered the Lees to share time with bfri or get off the air—pending the establishment of new licensing guidelines.

The Lees refused. A legal battle ensued, and on June 2, 1997, the two stations broadcast simultaneously for the day on 96.5 FM—competing, quite literally, for the radios of Asheville. The FCC threatened the Lees with a penalty of \$20,000 per day, and that night wzls signed off, yielding the airwaves to bfri's station, wzrq. Ron McKee, manager of the Asheville Tourists minor-league baseball team, summed it all up: "They gave Zeb a permit, told him to go ahead, and he set out his money in good faith. Then they turned around and said, 'Oops, we changed our mind.' Is that fair?"

In fact, McKee's outrage, though justified, doesn't capture the full irony of the situation. Bfri was supposed to bring diversity—in particular, more racial diversity—to the Asheville radio market. Instead, it subcontracted its air-time to a radio conglomerate called Capstar Broadcasting—which already controlled 82 percent of the local-radio advertising revenue in Asheville and 40 percent of the audience. When Capstar eventually pulled out of the deal, bfri enlisted Style Broadcasting of Panama City, Florida, to program the station full-time.

Style's programming director C.J. Ryan arrived with the latest in "completely self-sufficient" broadcast technology—programmable 21 days in advance with a "well-researched playlist of only the most popular and familiar stuff"; i.e., the same fare you'd find on any mainstream rock station. There was little for wzrq's deejays to do but push buttons and add sporadic commentary. "We didn't really go into this to run a radio station," Watt said later. "We were going to be investors, not managers. "

The citizens of Asheville did not take all this lying down. They flooded congressional offices with phone calls and letters supporting the Lees. North Carolina Senator Jesse Helms—never shy about wielding his influence over the appointments process—threatened to block William Kennard's appointment as FCC chairman. But, Helms's efforts notwithstanding, the Lees' fate was being sealed elsewhere in the Senate chamber. In 1997, Arizona Senator John McCain attached to the Balanced Budget Bill a rider establishing new rules for license allocation. Under the new rules, the FCC would auction all new radio frequencies to the highest bidder, thus eliminating the "speculation" inherent in the proceedings of yore.

The McCain rider epitomized a new approach to the control of broadcasting rights—an approach foreshadowed a year earlier by the passage of the Telecommunications Act, a massive deregulatory bill whose chief aim was to increase industry competition. The McCain rider, like the Telecommunications Act, seemed to define "public interest" as "consumer interest." The newly efficient licensing proceedings would benefit the U.S. Treasury and promote a robust communications industry, thus bringing more options to the consumer—or so the thinking went.

In theory, the FCC could still help small-business broadcasters compete. The commission offers a 25 to 35 percent bidding credit to “entrant bidders”—those applicants with few or no other media properties. But in practice this safeguard rarely worked: there was no real way to prevent small-time operators who qualified for the preferences from winning their licenses and then “flipping” the stations over to national conglomerates—who could serve as silent partners during the bidding process.

So, at a time when the Telecommunications Act was sparking colossal media mergers—Clear Channel Communications Inc. and amfm Inc., MCI WorldCom and Sprint, Viacom and CBS—the McCain rider changed the licensing process to favor bidders with greater financial resources. The result has been, not surprisingly, a rise in media concentration and a fall in local ownership. In Asheville, for example, the only locally based TV station, wlos-tv, is owned by Sinclair Communications of Baltimore—which also controls two of the top ten radio stations in the Asheville market, as well as more than 100 radio and TV stations nationwide. Clear Channel Communications/amfm Inc. owns four of Asheville’s top ten radio stations and 830 stations in all. The area’s cable company, Charter Communications Inc., belongs to Microsoft founder Paul Allen. Even the daily newspaper, the Asheville Citizen-Times, is owned by Gannett, home of USA Today.

Nationwide, small-time TV, cable, and radio operators have been squeezed out—which, in the end, is exactly what happened to the Lees. In December 1997 the U.S. Court of Appeals for the District of Columbia gave the Lee family a brief reprieve, reinstating their interim station license pending an auction for control of the frequency. Then came the auction. The Lee family bid \$643,500; Liberty Productions offered \$1.5 million. Liberty is a small local firm

that, after submitting its license application, accepted financial backing from Cumulus Media. With 261 stations in 48 U.S. cities and the Caribbean, Cumulus is the nation's seventh-largest radio company by revenue and second-largest by number of stations. Betty, Barry, and Brian Lee vow to continue fighting in the spirit of Zeb, who passed away a year ago. Sadly, the federal commitment to protecting broadcasters like Zeb Lee seems to have vanished from the scene as well.

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