

TESTIMONY OF  
DON HENLEY  
RECORDING ARTISTS' COALITION

Before the

SENATE COMMERCE, SCIENCE, AND  
TRANSPORTATION COMMITTEE

Hearing on

MEDIA OWNERSHIP: RADIO INDUSTRY

January 30, 2003

Recording Artists' Coalition  
[www.recordingartistscoalition.com](http://www.recordingartistscoalition.com)

Recording Artists' Coalition – Founded in 1999 by Don Henley & Sheryl Crow  
Contact: [www.recordingartistscoalition.com](http://www.recordingartistscoalition.com)  
Membership Roster:

**Recording Artists'  
Coalition**

Bryan Adams	Don Henley	No Doubt
Christina Aguilera	The Estate of Woody Herman	The Offspring
Gregg Allman	Hootie & The Blowfish	Ozomatli
Beck	Bruce Hornsby	Patti Page
Bee Gees	Janis Ian	Pearl Jam
Clint Black	Enrique Iglesias	Michael Penn
Ruben Blades	Jimmie's Chicken Shack	Tom Petty
Michelle Branch	Billy Joel	Puddle of Mudd
Kathleen Brennan	Elton John	Bonnie Raitt
Jonatha Brooke	Tom Jones	REM
Jackson Browne	Wynonna Judd	Kenny Rogers
Lindsey Buckingham	Jurassic 5	Roy Rogers
Jimmy Buffett	Toby Keith	Linda Ronstadt
Solomon Burke	Kenna	Joe Sample
Mary Chapin Carpenter	Carole King	David Sanborn
Lester Chambers	Denny Laine	Boz Scaggs
Eric Clapton	Frankie Laine	Timothy B. Schmit
Chris Cornell	Linkin Park	Seal
David Crosby	Lisa Loeb	Shea Seger
Crosby Stills & Nash	Jeff Lynne	Social Distortion
Sheryl Crow	Madonna	Ronnie Spector
Dave Matthews Band	Aimee Mann	Bruce Springsteen
Neil Diamond	Tony Martin	Staind
Dixie Chicks	matchbox twenty	Static-X
Howie Dorough (Backstreet Boys)	Brian May	Sting
Fred Durst	Martina McBride	Stone Temple Pilots
John Fogerty	Reba McEntire	Donna Summer
Glenn Frey	Tim McGraw	Matthew Sweet
Godsmack	John Mellencamp	Steven Tyler
The Estate of Benny Goodman	Joni Mitchell	Tom Waits
Robert Goulet	Sam Moore	Joe Walsh
Nanci Griffith	Alanis Morissette	Roger Waters
Hanson	Randy Newman	Dar Williams
Emmylou Harris	Nickelback	Trisha Yearwood
Sophie B. Hawkins	Stevie Nicks	Dwight Yoakam

Statement of Don Henley  
On behalf of the Recording Artists' Coalition  
Before the Commerce Committee  
United States Senate

January 30, 2003

Mr. Chairman and Members of the Committee,

I am honored to be here and I thank you for the opportunity to speak today on behalf of recording artists and the Recording Artists' Coalition (RAC).

It is often said that radio airplay determines whether a recording artist will succeed or fail. Even with the ascendancy of the Internet, radio airplay is still the most important factor in an artist's career, and this is especially true for new and younger artists. Getting on the radio, in one way or another, is the holy grail of our business. In a perfect world, merit would determine which records get played on radio. But this is far from a perfect world.

When I started in this business, radio, especially FM radio, offered a wide variety of stations, each presenting an interesting array of musical genres. A listener could tune in to a single FM station and hear rock music, rhythm and blues music, folk music, soul music, pop music and everything in between. The breadth of music on the airwaves was varied and exciting and genres were not compartmentalized and put into little boxes. Listeners were encouraged to explore different styles and to stretch the boundaries of their tastes. The idea was not to fragment society into what is now called demographics, but rather to bring people together. The benefit to the public, our culture and our economy was enormous. Artists could spread their wings, reach audiences never reached before, and create self-sustaining careers on an unprecedented scale.

But slowly the radio world, and along with it the music industry, changed. As local and independent radio stations were purchased by larger corporations, radio playlists started to contract and become much more uniform. In an effort to gain more control over the music industry, radio conglomerates started to narrow playlists and centralize the radio programming function that had traditionally been done independently by each individual station. Radio consolidation made it increasingly more difficult for an artist to get radio airplay. Radio network programmers became more powerful and demanding. And not only did they erode the vitality of American music, they placed themselves in a singularly powerful position to extract additional concessions from the labels and the artists.

As a result of this unprecedented consolidation, record labels must now hire independent promoters on an even grander scale to help convince radio networks and stations to play certain records. The unspoken rule is that some form of special promotional or marketing consideration must be provided by the

independent promoters to the radio station. The more consideration, the better chance a record has of being represented by the independent promoter and getting airplay. So, we all accept with great sadness the fact that merit plays only a small part in the equation, if it plays any part at all. A recording artist has a much better chance of getting radio airplay if the promotional budget for a record is large, than if the record is good. And then adding insult to injury, the promotional fees paid to the independent promoters are recouped either in whole or in part, against the artist's royalties. So essentially, the artist is still paying for radio airplay -- and paying more than ever.

The 1996 Telecommunications Act strengthened the conglomerates position tenfold when it loosened the restrictions even further. The consideration sought for radio airplay increased because there was less competition among radio stations and networks - the more powerful the radio network, the greater the pressure on artists and labels to spend independent promotion money. These days, many radio stations are now demanding exclusive promotional concerts from certain artists who are on their way up the ladder of success. When these up and coming artists refuse, there can be negative repercussions as evidenced in some of the materials that I have provided -- or will be providing -- to Committee staff.

In recent years, the problem has escalated unimaginably because some of the same conglomerates that are buying radio stations at an unprecedented pace have also embarked on a buying spree of venues, agencies, and concert promotion companies. So, the company determining whether or not a record is played on the air may be the same company owning the venue and booking the tour.

This institutionalized conflict of interest places the artist in a vastly uncompetitive and weak position. What happens when an artist refuses to perform in venues that are owned by the radio network, or chooses to go on tour with a promotion company not owned by the same company that owns the radio network? Will the artist's records be played on that network or will the company reduce or eliminate radio airplay? Most artists cannot afford to find out.

This unprecedented control over the music industry by the conglomerates is hurting the music business and the culture. It is preventing talented, new artists from emerging and is generally casting a pall over a business that has already been decimated by peer to peer sharing, a faltering economy and fierce competition from other entertainment industries.

Artists, managers and record labels are not the only ones speaking out. William Safire, one of the most well-known, conservative columnists in the country, has strongly condemned the unbridled consolidation of the radio industry in a recent New York Times editorial. Mr. Safire persuasively makes the case that further deregulation will hasten the demise of diversity and competition on the airwaves.

Because of the 1996 Act, and subsequent FCC deregulation, the two largest radio chains in 1996 owned 115 stations. Today, those two own more than 1,400. The top five radio chains used to generate only 20% of industry revenue; now they generate 55% of all money spent on local radio. The number of station owners has plummeted by a third. As a result, "the great cacophony of different sounds and voices on the radio is being amalgamated and homogenized." As Mr. Safire points out, the radio airwaves are loaned by the public to the radio station owners for the benefit of the public, as well as to foster economic growth. When radio station owners engage in unbridled, unregulated consolidation, clearly the public interest is not served, and the industry as a whole stagnates. Deregulation in this regard is not pro-business, it is anti-competitive, and like Teddy Roosevelt before him, Mr. Safire's conservative, economic religion is founded on the rock of competition, and endless consolidation harms competition. Regulation does not always have to be anti-business.

The problem of radio consolidation will only get worse if the FCC is allowed to remove the last limitations on ownership. The RAC not only strongly opposes the proposed FCC action, we strongly advocate for a reexamination of the effect of the 1996 Telecommunications Act, and with that reexamination, propose the implementation of new restrictions on the conglomerates. Artists can no longer stand for the exorbitant radio promotion costs nor can we tolerate the overt or covert threats posed by companies owning radio stations, venues and agencies. The public interest is only served when the airwaves provide diverse and exciting programming – our culture benefits and the economy is strengthened. This will only be possible when artists are free to compete in an open marketplace, not shackled by the anti-competitive practices of the conglomerates. Congress must address these issues as quickly as possible. The future of musical creativity and artistic expression in this nation depends upon your action.

I thank you again for this opportunity to discuss these important issues with the Committee.

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