



Michigan Association of Broadcasters
819 N. Washington Ave. Lansing MI 48906
517/484-7444 www.michmab.com

Testimony in Opposition to HB 5750

Karole L. White

President and CEO - Michigan Association of Broadcasters

Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to express the position of the Michigan Association of Broadcasters concerning our opposition to House Bill 5750. My name is Karole White. I am the President and CEO of the Michigan Association of Broadcasters, representing 389 radio and television stations, employing nearly 4,000 individuals in the Michigan broadcasting industry.

Special legislation targeting only the broadcast industry

This legislation singles-out broadcasters when many businesses routinely use non-competition agreements. It also unfairly singles-out the broadcasting industry without cause or justification and strips it of a basic contractual right. This issue not only has a number of negative implications for the important broadcasting industry, it also sets a dangerous precedent going forward. This is a significant act of policy-making and deserves reasonable debate, and should not be rushed through the process.

All Contract Provisions are Negotiable

A non-competition provision of a contract is only one of the many items in any employment agreement. Proponents of this bill give the impression that this is a "take-it or leave-it" situation. They do not identify other areas such as health insurance, vacation or salary as non-negotiable. The employee has the same leverage with non-compete clauses as they do with others. In fact the more a station wants to acquire a certain talent, the more negotiable all aspects of a contract become.

Competition demands exclusivity

Our industry has always been highly competitive, and with all of today's varying platforms of entertainment delivery, competition is at an all-time high. Michigan's local television and radio stations provide unrivaled entertainment, news and community service programming at no cost to the consumer. Most notably, broadcasters supply in-depth emergency information, severe weather bulletins, and

Amber Alerts. Area broadcasters are the principal news authority with their on-air personalities as the voice and persona of the station. Personalities build station identity in the minds of the audience. Familiarity with and trust in local on-air talent are two of the predominant factors why viewers turn to one station over the another.

It takes time and money to build recognition and trust

Earning a communities confidence does not happen by accident. Local broadcasters invest large sums of money each year in branding and promoting on-air personalities in an effort to ensure the viewing public is familiar with those responsible for disseminating vital news and information. Personalities are the brand identity of a station. When Howard Stern left over the terrestrial radio for satellite radio, many of his followers left with him. So to say that there is no impact on radio and television when a personality leaves is simply false. In a top ten radio market there can be a ratings shift of 3-4 ratings points. Additionally, in Detroit, up to 10% of a station's revenue is derived from personality endorsements and appearances.

In broadcasting it is about the identity viewers and listeners have with the station. It is quantifiable. Ratings are based on how well the audience identifies with a particular station and that is all about the personality brand. A station should have the right to protect the investment they make in the on-air talent by having the option to utilize reasonable non-compete agreements.

Government interference in private contract negotiations

Existing statute contains contractual restrictions that address employment agreements. Legal representation is readily available to employees subjecting them to an unreasonable non-compete agreement. Often employers negotiate an exit plan rather than go to court to protect their non-compete contract.

Conclusion

Government should not interfere with the terms of private contract agreements. It will have serious consequences and its effects on Michigan's broadcast industry would be devastating. This is why the MAB strongly opposes House Bill 5750, as it seeks to destroy private, mutually agreed upon contract arrangements. Without the non-compete protection, the time, resources and money invested in developing an on-air personality as a station brand would be jeopardized.