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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, DC, 20554

STATEMENT IN OPPOSITION TO RM-9242, PROPOSAL FOR CREATION OF THE LOW POWER FM (LPFM) BROADCAST SERVICE.

COMMENTS OF KURT TUCKERMAN, SANDYWORLD INC.

1. MY PERSONAL BACKGROUND

I became interested in broadcast out of the music industry. By carefully following FCC rulemakings, I was able to obtain an FM Translator permit in the early 90's, which I built, operated and sold (W272AT). I used the proceeds to buy a dark Class A FM in a rural area (WMMC), which I rebuilt, now operate, and hope to someday sell as well. After a four-year ordeal of Petitions to Deny, etc., I have just been awarded a CP for another Translator, which I will build, operate, and someday sell as well (W294AH). I augment my income by contract engineering for 2 LPTV stations (W17AI and W13BN, both being displaced by DTV). My reported net income last year was -$773. There are plenty of guys like me out there, who put themselves and their families through Hell because of their dedication to radio and the hope that one day it will all be "worth it". People like me are the ones who will be ruined by any implementation of a new LPFM service, not Media Giants.

2. OVERVIEW OF SKINNER PETITION, RM-9242

I have already filed a Statement in Opposition to the Legget Petition, RM-9208, and will attempt to not repeat myself in this statement, but merely address the four points I've laid out in this overview of Mr. Skinner's Petition. I will only discuss the LPFM-1 portion of Mr. Skinner's Petition since this is probably what the vast majority of applicants will request.

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A. Mr. Skinner does not want to move out of Ft. Lauderdale. He wants to be awarded the equivalent of an "old Class A" FM right there, as "renumeration" for the potential loss of his LPTV Permit.[1]

I ask the Commission to consider two points. First, Mr. Skinner may not lose his LPTV License. Hopefully he is filing for a frequency change on June 1, 1998 along with many other displaced LPTV licensees. However even if he keeps his probably lucrative Ft. Lauderdale LPTV station, he has conveniently excluded all LPTV licensees from obeying the restrictive "weighted preference" portion of his Petition. So even if he gets his new LPTV frequency, he is treated as a non-license holder in the proposed LPFM assignment procedure. [2]

Second, is it equitable to consider a "weighted preference" to a LPTV licensee in a large city, while virtually excluding the licensee of a rural 250 W AM daytimer? The only reason I moved to Marshall, IL was to own WMMC-FM, a 3.3 Kw, 90m Class A. Skinner's LPFM-1 equals or exceeds my signal in reach, and has many non-competitive advantages which shall be discussed next.

[1] RM-9242 paragraph 13, "One should not have to move his/her family to Podunk, Idaho for example, in order to be able to own and operate a radio station."
Radio World, 4/15/98, pp 10, Skinner: Why we need LPFM, "I don't want to move, but I still want to own a radio station."
RM-9242 paragraph 6, "It should be noted that in my petition for reconsideration of the digital rules, I suggest awarding a LPFM license to anyone bumped from their LPTV channel as a form of renumeration that would not cost the government anything."

[2] RM-9242 paragraph 53, "...there should be a weighted preference for applicants that own no other form of mass media, with the exclusion of Low Power Television Holdings, which should not be counted due to the secondary service classification of such licenses."

B. Mr. Skinner wants to achieve the creation of LPFM service by eliminating all current second adjacent, third adjacent, and IF restrictions.[3]

Technically, there are surely plenty of reasons that remaining FCC Engineers can find as to why this won't be feasible, regardless of the compromises awarded existing short-spaced stations of the distant past, exhaustively discussed in Skinner's Petition, paragraphs 28 thru 48.

My Class A FM, WMMC, is located almost exactly as close geographically as is currently allowed to a second adjacent equivalent Class A. I have inspected this station and found the equipment to be excellent. Still, most modern digital receivers will be "captured" within about a 1 mile radius of this tower (most of West Terre Haute, IN). This amounts to a potential loss of listeners equal to my entire City of License. Most listeners don't understand this phenomena, and report my signal "fades out" in this area. This is not a small problem. Of course, Skinner states that all second and third adjacent and IF spacing restrictions are unduly restrictive and unnecessary for the purpose of LPFM. This is true, insofar as LPFM cannot be implemented in large urban areas without the waiver of these rules, as the spectrum is full in these areas. Even Terre Haute, IN, the only Arbitron market my station reaches, has 23 stations. Existing FM Broadcasters are located near their Cities of License, keeping in mind 1st, 2nd, 3rd adjacent and IF restrictions. Many times this location is a compromise of ideal coverage. Mr. Skinner proposes these restrictions be waived for LPFM, but what of existing broadcasters? Even a 250 Watt FM on a water tower in Terre Haute would probably equal or better my signal in the area, with no huge electric bill or costly large transmitter. The same water tower mounted transmitter in my City of License would probably be deemed competitive by listeners. My ad prices start at 77 cents. Maybe the LPFM could undercut me and cause a price war! I am not anti-competitive but Skinner's LPFM Petition would force existing broadcasters, already the caretakers of less than ideally located, unmovable high maintenance infrastructures to compete with ideally located stations that interfere with them in all the right places.

[3] RM-9242 paragraph 36, "It is proposed in this petition that the second and third adjacent channel spacing restrictions currently embodied in the rules be eliminated as unduly restrictive and unnecessary for the purpose of implementing this new LPFM service."
RM-9242 paragraph 34, "Under this plan second-adjacent and third-adjacent, as well as 10.6 MHz and 10.8 MHz intermediate frequency (IF) restrictions are eliminated due to vast improvements in receiver technology since these restrictions were created several decades ago."

C. Mr. Skinner wants all current broadcasters to receive very low odds of obtaining this new class of service except, of course, himself and other current LPTV Licensees.[4]

As discussed, this new service will be superior in execution and coverage to many existing broadcast facilities and will compete directly with them. I would suggest that it would be just as equitable to let existing broadcasters have the first chance to apply for LPFM-1 licenses, and if awarded to them, turn in their lousy current allocations to be given away by lottery to all these concerned petitioners! Actually, I hope that neither of these scenarios happen simply to not demean the blood, sweat, and cold hard cash that existing broadcasters have put into their stations.

D. Mr. Skinner proposes that a single non-current broadcaster or LPTV Licensee be eligible for three LPFM-1 licenses if applied for all at once and the party lives within 50 miles of all three.[5]

This is a great windfall for the non-current broadcaster and goes far beyond "renumeration" for the potential loss of an LPTV permit. Imagine, three "old Class A" equivalent stations, ideally placed, with full protection from current broadcasters, all for a low application fee, possibly as "renumeration" for the potential loss of a secondary LPTV permit.

[4] RM-9242 paragraph 53, "An applicant who owns no other media should be given at least a four-to-one choice of selection over an applicant that owns one or more mass media."

[5] RM-9242 paragraph 59, "One aquiring such stations must still meet the primary residency requirement of 50 miles to each station. Thus a limit of three LPFM stations per MSA per entity is proposed with a cap of three LPFM stations per owner, regardless of MSA."

3. DISCUSSION

I would wager that the majority of LPFM applicants, if awarded permits, would quickly come to grips with the reality that there is truly a small fraction of people that enjoy "alternative" programming, and even fewer businesses that will support it with their advertising dollars. Personally, I like the lunatic fringe in music, but on my station I play what the majority of listeners and sponsors prefer, and this appears to be the role of the commercial broadcaster. As stated in my opposition to RM-9208, this type of "narrowcasting" runs counter to economic reality, and these petitions are ill-timed considering the propagation and popularity of the internet, and internet audio which is ideally suited to such hobbyists. Unless specifically precluded, many LPFM's, due to lack of staff, imagination, or budget would resort to some sort of "network" broadcasting, becoming no more local than current satellite stations, with network commercials and popular programming, or would be sold to someone who would face up to human nature and economic reality. Regardless of local ownership, odds are we would end up with what is popular, practical, and feasible. Non-commercial licenses are still available in most areas besides top markets, free for the asking, and Translators are available to import unusual programming if necessary. These petitions seem to be illustrating a need, but are actually just an easy foothold for the less dedicated to "play radio" or make some quick cash. I would suggest that this Petitioner is riding the crest of popularity for this type of service (similar to the CB craze). However, most of the people who back this petition have probably not read or understood the entire petition, which is self-serving, anti-competitive to remaining small broadcasters in particular, and grossly impractical in general.

Therefore, I ask the Commssion to deny Petition RM-9242.

Respectfully Submitted,

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cc: Roger Skinner