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July 20, 1998

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Magalie Roman Salas, Esq.
Secretary, Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

Dear Secretary Salas:

You will find enclosed five copies of my comments with regard to proposed rule-making in the Microstation Radio Broadcast Service, RM 9204, 9242 and 9246.

Thank you for distributing this to Commission staff as appropriate. I look forward to a bright future for this new service.

Sincerely yours,

W. E. Dunning

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Before The Federal Communications Commission

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In the Matter of:

Microstation Radio Broadcast Service Petition for Rule Making	) })	JAN 22 1998 RECEIVED	RM No. 9208, 9242, 9246

Comments submitted by: William E. Dunning
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I. Qualifications of respondent

William E. Dunning holds the FCC General Radio Telephone Operator License, converted from a First Class Radio Telephone Operator License. His experience in broadcasting, since 1948, includes working as announcer, engineer, salesman, chief engineer, program director, music director and general manager of stations ranging from Part 15 campus "wired-wireless" to AM and FM commercial and FM non-commercial broadcast stations. He is currently retired and self-employed as a consultant.

II. Scope of comments

The following comments suggest general principles the respondent urges the Commission to consider in preparing Rules and Regulations to govern a proposed Microstation Radio Broadcast Service. They cover suggestions for technical specifications, programming and ownership policies based on half a century of experience in all phases of radio broadcasting. These proposals assume that the proposed service intends to benefit the largest possible number of interested rank and file citizens, and that it will operate in the FM broadcast band. Respondent hopes that these ideas will be integrated with others, modified, and combined to produce suitable rules overall. Respondent has grouped specific suggestions under Engineering, Ownership and transfer, and finally Program and commercial practices. This comment consists of five (5) pages.

III. Introduction

Unlicensed "pirate radio stations" or "micropower broadcasters" are a recent phenomenon on the American broadcasting horizon. They follow an honorable historical tradition, however, and are the product of circumstances, not some wave of wicked lawlessness that has gripped the country.

Our nation exists, in fact, because of illegal underground personalities. If radio had existed in 1775, for example, no royal government would have licensed Paul Revere to broadcast "The British are coming!"

Trafficking in broadcast licenses has been a principal cause of the current problems in the industry. Radio and television stations, bought as speculative investments, have become worth more than they can earn. Competition works to keep the income generated by advertising rates from matching the costs of stations. The only way an investor can recoup his purchase expense is to sell to the next buyer for more than he paid. The needs of the public interest, convenience and

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necessity are lost in the welter of more and more mediocrity as each station pursues the perceived majority audience. Minority views and cultures are lost in the process.

Respondent respectfully suggests that while the Commission has a reasonable duty to safeguard invested capital, it also has a responsibility to preserve broadcasting as a service that meets the public's need for convenience, necessity and the general welfare, insofar as practicable.

The courts have held, in *Red Lion* and elsewhere, that because radio spectrum space is scarce, freedom of speech is not an absolute right in broadcasting. In essense, A.J. Liebling's observation that "freedom of the press is only guaranteed to the man who owns one" applies to radio. The practical limitation on spectrum space is the basic reason for this view — not some philosophical mandate to limit the expression of points of view. Ideally, if more stations were available, the problem would diminish. The "pirates" could become legitimate, as many say they wish to.

The Microstation Radio Broadcast Service offers a way out of this dilemma, far more satisfactory to all than continued limitation. Higher food production is a better solution to hunger than selective starvation, in other words. Respondent warmly commends the Commission for undertaking this approach and opening up increased freedom of expression to the people.

The Interstate highway system is an appropriate analogy. When the number of automobiles approached the finite limit of roadways available, it became an obligation to build more roads. The alternative, rationing travel and restricting automobile ownership, would have bred a fleet of bootleg automobiles and a law-enforcement and safety headache.

In an ideal America, a citizen should be able to broadcast to his fellow citizens without an eight-figure bankroll and a taste for mediocrity. Radio needs diversity, not only in quantifiable minority measures, but for intellectual and spiritual merit as well.

IV. Engineering

The Microstation Radio Broadcast Service should make many licenses and channels available. Short-spaced low power, shared time, use of presently vacant frequencies, a quasi-cable system, something along the direction of so-called "wireless cable," or even multiplexing on a grand scale may be possible. Compatibility to present receivers is, of course, absolutely paramount. Without a ready audience, this proposed service will die at birth. The problem of spectrum space and location is indeed crucial, but respondent sincerely believes that the Commission has the technical resources to find the answer.

One recent response to the growing public demand for more airwave opportunity was a proposal to license only one new AM and one new FM station in each community. The folly of this is painfully obvious. Having a single new channel in each city negates the entire principle of wide-spread grass-roots participation. The new channel in town would quickly become a prized and expensive commodity, the same as all the others, to be bought by the richest applicant and then plunged into the sameness of so much radio today. The public will lose again, and broadcast speculators will win. The proposed new service, respondent urges, should counter this trend, not exacerbate it and generate more "pirate radio" scofflaws.

A possible model for administering the new service exists, at least partially, in Citizens' Band Radio, established several decades ago for point-to-point communication between private individuals and small businesses — the same public which microstations will serve. Some aspects of CB were negative in retrospect, but the concept of freedom in communications is one that deserves preservation and resonates with the Constitution and traditions of this country.

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This Microstation Radio Broadcast Service will, of course, be subject to more regulation that CB. The principle of minimal regulation consistent with technical non-interference and standards of decency on the public airwaves is one which respondent commends to the Commission.

The model of the amateur radio service, however, is not one which respondent recommends to the Commission with regard to engineering. Neither CB nor microstations should duplicate the experimental engineering aspects of "ham" radio. Rather, the new service should be regulated in a simplified manner drawn from the broadcast service and citizens' band philosophies, but not duplicating either. Frequencies must be carefully allocated. The experimentation this service will encourage is in new ways of expression, new sonic art, and greater variety of broadcasts, not technical engineering. In terms of its self-regulation, however, the amateur service is an excellent paradigm.

As in the present broadcast services, the Commission should require type-approved transmitter equipment; this will help ensure that on-air signals are clean and reduce interference and poor service. Adequate equipment meeting reasonable specifications is already on the market, in the form of FM exciters, low power antennas, and related equipment.

A simplified version of the broadcast proof of performance, perhaps coincident with renewal every three or five years, would certainly be in order. A contract engineer may conduct such tests, as many do today at broadcast stations, if the station owner is not qualified to do so. Respondent recommends that this proof include both the microphone channel and the channels devoted to the principal source of audio, probably recorded music.

Current reliability of equipment is such that frequency monitors and power-level monitors can be minimized or eliminated without compromising necessary control of improper emissions.

Limited power and closer spacing, perhaps with a laddered system, could solve the spectrum problem in part. For example, in cities of over one million population, all transmitters in the proposed service would be limited to, say, 10 watts. In cities of less than one million population, but more than, say 250,000, transmitters would be allowed up to perhaps 50 watts, and in rural areas or cities below that level, 75 or100 watts maximum. The rationale here is that the population of smaller cities tends to spread geographically, while larger cities tend to be more dense. The figures cited are suggested examples.

Similarly, antenna heights above local ground level (rather than the complex height above average terrain) can be graduated according to this estimated density of the population. Clearly, higher antennas are possible in dense cities where tall buildings offer locations, so this will compensate for lower power ratings.

Circular antenna polarization and stereo should be the normal standard, with a tolerant allowance for optional monaural broadcasting.

Unattended operation would be absolutely vital to the service, and should be subject to regulations similar to those in other broadcast services. A simplified EAS could handle automatic emergency shut-down procedures. Simplified logging would be in order, though it would be wise not to burden owners with the cost of required automatic loggers.

The principle of eliminating operator licenses inaugurated in the broadcast service should extend to this new service, along with the requirement that the station owner and operator is responsible for technical competence. Similarly, contract engineers or technically qualified owners should have responsibility for installing equipment properly and inspecting the station, without requiring that Commission personnel inspect.

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V. Ownership and transfer

Limit application for stations in the proposed service to individuals, family or small business partners, or non-profit associations, including local churches and religious communities. A special case may need to be made for governmental organizations to prevent their monopolizing the market; perhaps governments can be allowed to contribute a limited proportion of programming to stations owned by individuals. However, if a relatively generous number of licenses is provided in each community and only one local government license is permitted in each city or county, the problem will solve itself.

Do not allow an owner or part-owner of any other broadcast station, including any other station in this service or applicant for one, to apply for a license in this Microstation Radio Broadcast Service. Respondent urges the Commission to close this service to large corporations and communications empires, either commercial or nominally non-commercial. For example, a local church or senior citizens' organization might apply, but its national organization may not own directly more than one station. This would insure that this remains a citizens' broadcast service. The existing broadcast service is not diminished by microstations, so there is still plenty of opportunity for the big players in that field, leaving the "little leagues" to the "little people."

License fees should be minimal, with applications and renewals simplified as much as possible consistent with reasonable measures for public interest, convenience and necessity.

An important provision would be to prohibit the outright sale of stations in this service. If a station owner goes bankrupt or decides for other reasons to go off the air, the license is vacated after, say, six months or a year unless it returns to the air within that time. The owner would be required to notify the Commission or its field office within, say, 48 hours of going dark voluntarily or for technical reasons; this message would trigger a follow-up six or twelve months later. Respondent commends the Commission for moving to electronic mail (e-mail) as equally valid with telegrams and surface mail for such notices.

Allow the owner of a dark or bankrupt station to sell the equipment, as he could any other goods, but require the purchaser apply and qualify for a station license just as anyone else, before putting a new station on the air. However, the rules should allow inheritance and transfers within the family or small association, perhaps with a provision that the person who becomes the new owner of record must have served a minimum of a year (or since the station was first licensed, whichever is less) connected to the station in some capacity, in order to qualify for ownership transfer.

VI. Program and commercial practices

Prohibit or limit network connections in favor of local productions (e.g., no more than, say, 25 percent of air hours may be produced outside the community, either recorded or network satellite-delivered); alternatively, the service could prohibit real-time network affiliations, rebroadcasts or satellite delivery of any kind, but permit limited pre-recorded programming supplied by others. Restrictions should prevent large commercial firms monopolizing the airtime of microstations with commercial or quasi-commercial pre-recorded programming.

Allow curtailed hours and time-sharing, although nominal 24-hour broadcasting should be the standard; this is quite feasible with current technology for unattended programming.

Business is part of the American way of life, and respondent urges that the Microstation Radio Broadcast Service bridge the gap between the present commercial and public radio services. To prohibit all commercial operation would be to make it economically impossible for many to operate such a station. The aim should be to allow enough income to support the "hobby," but

not so much that microstations are a profitable investment. Existing broadcast services already fill that role. Some form of time-brokering, with severe limitations, may be in order, however, and so might a "classified-ad" exemption.

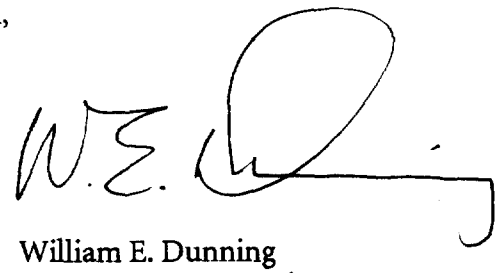
The service could limit commercial time, say, to 10 or 20 percent of total air time in any hour and reinstitute minimum public service time requirements to increase that component of the new service. Something similar to the limitations on public radio underwriter credits may be needed as well. While market forces may eventually control the number of spots per hour, some legal limitation should set the standard.

VII. Conclusion

The result of the Commission's thoughtful consideration of rule-making for the Microstation Radio Broadcast Service can be a peaceful revolution in broadcasting. Ordinary people can have their say while present commercial and non-commercial broadcasters remain on the air as they have. Broadcasting, like that other great American pastime, baseball, will have its major and minor leagues, where everyone who want to play can step up and take a swing at the ball.

Respondent again commends the Commission for undertaking to make the Microstation Radio Broadcast Service a broadcasting service of the people, by the people, and for the people, and welcomes the opportunity to contribute ideas to this effort.

Respectfully submitted,



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