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UNITED STATES OF AMERICA

Before The

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC

In The Matter Of)
A Terrestrial Digital)
Radio Service)

Docket No. RM-9395

WRITTEN COMMENTS OF THE AMHERST ALLIANCE

THE AMHERST ALLIANCE is an organization of individuals and groups who seek expanded access to the airwaves for everyday Americans. The Alliance was founded on September 17, 1998 in Amherst, Massachusetts.

All of our Members are also Signatories of THE AMHERST DECLARATION: a broad statement of basic principles which calls for re-legalization of the small radio stations that once flourished across this country. Such small stations are known in various quarters as "microradio" OR as "Low Power radio" AND/OR as "Low Power Broadcasting" (LPBC). This last phrase is a newer, more inclusive term -- embracing BOTH of the preceding terms.

THE AMHERST DECLARATION further states that LPBC licenses, set at financially sustainable power levels, should be made for available for BOTH commercial-free AND commercial-airing stations.

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RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page TWO

THE AMHERST DECLARATION has been ATTACHED as an Appendix.

In the three months since THE AMHERST ALLIANCE was founded, THE AMHERST DECLARATION has gained more than 160 Signatories from 35 States. The Alliance has organized 18 active local chapters (from Florida to Alaska), established several Committees and held several CyberMeetings of the Amherst Coordinators (who are equivalent to a Board of Directors).

These Written Comments are the first formal filing by THE AMHERST ALLIANCE with the FCC. They will NOT be the last such filing.

In submitting these Written Comments, we must acknowledge a debt -- an INFORMATIONAL debt -- to certain individuals who are particularly knowledgeable about IBOC & Digitalization. Three of these people are Members of THE AMHERST ALLIANCE: Tom Desmond of Texas, Chairperson of the Amherst Task Force on IBOC & Digitalization; Christopher Bydalek of Alaska, who is also Amherst Coordinator for Alaska; and Scott Hicks of Michigan. In addition, we have received important informational assistance from a knowledgeable man who is NOT a Member of Amherst: Stephen Provizer of Massachusetts, an activist with The Citizens' Media Corps.

RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page THREE

IBOC DIGITALIZATION

The Commission should NOT implement IBOC Digitalization until and unless:

(a) ALL Digitalization alternatives to IBOC, notably including Eureka-147, have been CAREFULLY considered;

AND

(b) implementation of IBOC, or ANY OTHER Digitalization technology that might be selected, has been structured in a manner which MINIMIZES disruption of the spectrum and ASSURES that new LPBC stations will not be displaced.

IN SUPPORT of these recommendations, we make the following points:

1. Implementation of IBOC, at least as contemplated by IBOC's current champions, would place LPBC frequencies in great jeopardy of displacement. Since the Commission is now proceeding -- wisely! -- toward re-legalization of LPBC radio stations, the FCC might be "giving with one hand and taking with the other" if it approves IBOC. This prospect seems neither just nor logical.

RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page FOUR

2. Newly licensed LPBC stations would not be the only radio stations in peril. If IBOC (or ANY OTHER Digitalization technology) is overly sensitive to 2nd Adjacent Channel interference, then "Rim Shot" conventional radio stations -- located on the peripheries of metropolitan areas -- could be fatally undercut economically. Signals from such stations might not be displaced physically -- BUT crucial markets could be eroded. Since many of the "rim shot" stations are independently owned, while the stations which might vanquish them are not, it is clear that concentrations of ownership in the radio industry would increase: a result that is directly COUNTER to the Commission's stated objectives for the radio industry.

3. This is emphatically NOT a case of "IBOC Implementation Or Nothing."
There ARE alternatives to IBOC.

The PRIMARY alternative is the Eureka-147 system, which has reportedly been adopted in ALL of the nations that are proceeding with Digitalization at this time. Further, the Eureka-147 system has been endorsed by both the World Administrative Radio Conference (WARC) and the World DAB Congress.

RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page FIVE

The United States is the ONLY country in the world that is currently considering implementation of an IBOC system.

We acknowledge that there MAY BE good reasons for the United States to walk its own path on this matter. Nevertheless, we believe that a CAREFUL COMPARISON of all competing technologies, and ESPECIALLY a careful comparison of IBOC with Eureka-147, is in order.

We urge the Commission to pay PARTICULARLY CLOSE ATTENTION to the comparative impact of IBOC and Eureka-147 on spectrum availability, AND on marketing prospects, for the TWO kinds of radio stations that are under the heaviest fire today: LPBC radio stations, which are now on the verge of being licensed, and CONVENTIONAL radio stations that are NOT owned by megacorporations (yet).

In particular, the Commission needs to remember that Eureka-147 CREATES additional room for new broadcasters. The IBOC technology tends to SHRINK the spectrum available for new broadcasters (or even force the displacement of some ESTABLISHED broadcasters).

RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page SIX

On the other hand, the Commission ALSO needs to remember that the current problems posed by IBOC MAY BE "FIXABLE" -- through relaxation of adjacent channel spacing restrictions and/or other corrective action(s) by the Commission.

In short, the Commission must take a MUCH longer look before it leaps.

FURTHER, in TAKING that long look, the Commission needs to assure that future LPBC broadcasters, current independent broadcasters AND members of the general public will have meaningful opportunities to participate in every stage of the review, evaluation, approval AND implementation process.

Technological "experts", in the employ of megacorporations, should not be the ONLY people whose words are weighed by the Commission.

4. We know the National Association of Broadcasters (NAB) and its members have invested considerable sums in Research & Development (R&D) for IBOC Digitalization technology. If IBOC is not implemented, these sums may never be recovered -- or at least they may never earn a profit for the institutions involved.

RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page SEVEN

We will take a moment to savor the irony of institutions which loudly proclaim the need for a "laissez-faire" economy, with minimal government regulation, while looking to government for recoupment of a potentially bad investment.

Then, having savored the irony, we will acknowledge that it may SOMETIMES be appropriate for government to encourage CORPORATE R&D IN THE FUURE by easing the "downside risks" from unsuccessful, but well-intentioned, R&D investments in the past.

We do NOT know whether such fiscal relief would be justified if the Commission ultimately chooses to reject IBOC Implementation. A decision of this nature could be made wisely ONLY after careful review and consideration of the IBOC developers' actions, expectations, motivations AND probable future behavior.

We DO know this much, however:

IF the Commission ultimately chooses to help the IBOC developers recoup their R&D investment, in whole or in part, THEN the Commission should develop some form of DIRECT, TARGETED ASSISTANCE. It should a fashion a policy that does NOT disrupt the rest of the broadcasting community.

RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page EIGHT

Imposing IBOC as A FORM OF CHARITY FOR LARGE CORPORATIONS, with the charity coming at the expense of smaller corporations AND individual citizens, would be an unjust and inefficient way to address the basic problem. We urge the Commission to avoid such a pitfall.

CONCLUSION

For the reasons set forth, we urge the Federal Communications Commission to refrain from proceeding with IBOC Digitalization Implementation until and unless:

(a) ALL reasonable alternatives to IBOC (notably including the Eureka-147 system) have been carefully considered; AND (b) steps have been taken to minimize disruption of the spectrum and prevent displacement of newly licensed LPBC stations.

RM-9395
THE AMHERST ALLIANCE
December 22, 1998
Page NINE

Respectfully submitted,

A handwritten signature in cursive script that reads "Don Schellhardt". The signature is written in black ink and extends across the width of the page.

Don Schellhardt
For THE AMHERST ALLIANCE

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Dated: December 22, 1998

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Representative...Hand it out as a flyer
at rock concerts ... Send a copy to your favorite DJs...USE YOUR
IMAGINATION.

THE AMHERST DECLARATION



ADOPTED SEPTEMBER 17, 1998
IN AMHERST, MASSACHUSETTS, UNITED STATES OF AMERICA

We are current broadcasters, future broadcasters and simply concerned citizens. We stand for the proposition that the airwaves of America should reflect the breadth of American life -- not simply the boardrooms of less than a dozen megacorporations.

We believe that the fruits of broadened airwaves access will include:

- Greater diversity in radio ownership;
- Greater diversity in radio programming;
- Increased innovation, in the arts and sciences alike;
- Expanded opportunity for upward mobility;
- Larger pools of skilled, trained broadcasting personnel;
- More locally based, locally owned radio stations, offering more coverage of community affairs;

AND

A step toward restoration of the letter and spirit of the

United States Constitution.

We are not of one mind on every issue, but we are united in our determination to open the airwaves to small companies, small non-profit organizations and individual citizens.

Whatever our other differences may be, these are the core principles which we firmly stand behind:

FIRST, small radio stations, which broadcast at 100 watts or less, were legal until banned by the Federal Communications Commission in 1978. Similar small stations must be made legal again -- in both commercial and non-commercial forms. This should be done with the greatest speed that is reasonably possible.

SECOND, such stations must be reserved solely for small businesses, small non-profits and individual citizens. Licenses for such radio stations should not be awarded automatically to the highest bidders: instead, whether this is done through Commission or Congressional action, such stations should be exempt from any otherwise applicable mandate for radio license auctions. In addition, the law should state clearly that only small businesses, small non-profit organizations and individual citizens are eligible by law to establish or acquire these radio stations.

THIRD, whatever wattage and tower height limitations are applied to such radio stations, these power ceilings must be high enough to permit the attraction of a meaningful audience. Full time stations, whether their revenues come from advertisements, donations or a mixture of the two, require and deserve power ceilings which provide a clear opportunity to become financially self-sustaining. Part time stations, if authorized, require and deserve power ceilings which permit effective community service to an urban neighborhood, a small town, a small suburb or the rural population equivalent.

FOURTH, room must be left, in this corner of the radio spectrum, for:

Totally commercial radio stations;

Non-profit radio stations, including stations at educational institutions, which air commercials solely to cover costs;

AND

Totally non-commercial stations, including stations at educational institutions.

All three of these groups have contributions to make, albeit in different ways. We support, unequivocally, the availability of radio station licenses for members of all three groups. We oppose, unequivocally, all efforts to limit licensing to only one or two of these groups.

In addition to the core principles we have related, we call for suspension of the current prosecutions of unlicensed broadcasters, except in cases where a knowing refusal to remediate interference problems can be demonstrated. We also call for retroactive amnesty, except in cases of demonstrable and knowing interference, when radio stations of this nature are re-legalized.

For our part, we may or may not choose, as individuals, to conduct unlicensed broadcasting from the privacy of our own homes and/or facilities. However, we will not engage in public acts of civil disobedience, or other confrontational behavior, for as long as the Federal Communications Commission is progressing with reasonable speed toward a meaningful, viable and sustainable expansion of access to the public airwaves.

The battles for liberty, opportunity and justice, in America and elsewhere, are not limited to the wars or crises of the past. Each generation must invoke again -- in the terms, symbols and context which it finds meaningful -- the

same spirit that has established America, maintained America and protected America, along with much of the world, from the designs of madmen and tyrants.

The time has come to stand again, respectfully but firmly, for the values which make America America.

We urge all who agree with us to stand with us.

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