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Memorandum

TO: Federal Communications Commission

FROM: Omni Communications, Inc.
J. Douglas Williams

DATE: April 6, 1999

Enclosed are 14 copies of comments to the *Notice of Proposed Rule Making* (NPRM) MM Docket No. 99-25, RM-9208 and RM-9242, regarding *Low Power FM* (LPFM), one copy of which we would request to be file stamped and returned in the enclosed postage paid envelope for our records.

Thank you for your help in this matter.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	MM Docket No. 99-25
Creation of a Low Power Radio Service	)	RM-9208 RM-9242

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Comments of
OMNI COMMUNICATIONS, Inc. d/b/a KWOX-FM,
Woodward, Oklahoma. By owner, J. DOUGLAS WILLIAMS

I am writing to express my objection to the Notice of Proposed Rulemaking that the FCC has begun on the issue of **low-power FM,** which is also known as **microradio.** My objection goes to the entire proposed rule making. I am adamantly opposed to the establishment of any low power radio service.

I am a small market rural Oklahoma FM broadcaster serving northwest Oklahoma and portions of the southwest Kansas, and the Oklahoma and Texas panhandles. There are seven (7) radio stations licensed to this market of 15,000 people. Please do not construe this filing as coming from a broadcaster afraid of additional competition. This objection is not about competition. I am not seeking protection from any broadcast service except those that will cause me signal

interference and those that will interfere with my right to convert to Digital Audio Broadcasting.

The whole idea behind this rule making has a noble and even wholesome ring to it. It sounds like it would assist women, ethnic and cultural minorities in becoming broadcasters. It sounds like it would benefit all forms of the human species to make it possible for them to communicate with their diverse membership.

So, it would seem to me that some limited and unknowing intellect might say that Micro's would be a triumph to public access, and would therefore reason a triumph for diversity of ownership and thought. A worthy and lofty conclusion – until one begins to discuss and examine the **implementation** of this rule making plan as it would play out in a (1) limited broadcast spectrum, and (2) given our experience with Docket 80-90 and (3) within the context of a free enterprise commerce driven society.

WOMEN, MINORITIES, ETHNIC AND CULTURAL CLUSTERS

1. Can the proposed rule making actually reach the so-called **"ethnic and cultural clusters"** that such a rule making is designed to reach? Probably not. Certainly not the majority of diverse groups. As I understand the technical side, the spectrum is now to crowded in large

major markets, like New York, Chicago, Los Angeles. Space does not exist for even limited wattage transmitters. The ethnic and cultural clusters this rule making proposes to serve with diversity of ownership and thought would not be achieved.

THE LEGAL ISSUES

2. While this rule making would like to make the low-powers as "down-home" and "diverse" as possible, it would be impossible to accomplish, let alone police. How would the commission select these "down-home" "diverse" women and minorities as owners? The rule making proposes that auctions be used? Auctions certainly do not offer universal access to the allotments and only the wealthy women and diverse folks would win. So would the FCC return to competitive hearings examining programming ideas as a way of selecting licensees? This would be content regulation and the FCC "content" Police could not and would not keep track.

LEGAL OBSERVATION

3. Once licensed, what regulations would keep the ownership diverse, ethic and/or female in nature and with the proliferation of Micro Stations, who would know? The Commission could not legally stifle commerce or

politically control what was already granted. Free trading would be wide spread. As commerce and value set in, increased power requests would be automatic because the owner would and could claim that its diverse community was not completely served or covered. Of course, the value would go up as the low- power power was increased. Heaven forbid, some Low-power Micro operator/owner might actually suggest that they have an out right fee simple property right to their frequency!

4. The Commission would fail in its attempt to prohibit joint sales management agreements, and similar arrangements. It would seem to me such interference by the FCC to prohibit trading or grouping of Micro's, or similar actions would end up being a restraint of trade violation and Constitutionally flawed. Remember public policy would be driven by commerce here. As the opportunity to go broke became a reality, such buyouts by money companies would happen. Not just broadcasting companies, e.g. Microsoft and others. As a practical matter in a real world, commerce would drive the market as it ultimately has done with the noble and very diversifying docket 80-90.

5. What about Character qualifications? The Commissions intent here is to make it as easy as possible for applicants to apply for these new stations. Electronic filing with virtually automatic granting of license. Candor in

the filing process would be ignored. Especially by "pirates". Is an applicant worthy if he/she or it was a former "pirate". No. Are they worthy of a license? I think not. If a "pirate" believed in operating an illegal radio station not licensed, what would keep the "pirate" from operating a legal radio station at unauthorized or illegal power or height? Why would the Commission expect them to be honest? Better yet, how would the Commission know?

6. Certainly the FCC could stipulate that a license owner be local residents, set ceilings on revenues and require stations to create their own programs instead of relaying others. But these confinements are all subjective and would require checks, inspections and review, and could ultimately be determined at the whim of three (3) of the five- (5) commissioners. How many checkers would it take to check on this nonsense...on 4,000 plus low power radio stations?

TECHNICAL PROPOSALS

7. Imagine the FCC in the world of 4000 plus low-powered transmitters. The Portals would not be large enough to house the people-power required to regulate micros. Even worse, there likely would be no supervision, checking, review, inspections, regulation or control at all. Micro's would

proliferate and deteriorate existing full power signals. The FCC is charged with duty to ensure that broadcast and other services are maintained in as **interference-free** environment. A Cluster-frequency-screw would be the logical result. In the end, broadcasting as we know it would lose. Listeners, tired of a CB type congested FM dial, would turn to other clearer forms of communication and entertainment.

8. Technically Digital service maybe the most important reason to abandon this rule making. The Commission must consider the Micro's effect on Digital Audio Broadcasting. Any change in the adjacent second and third channel separation would create hazardous interference. Again frequency congestion would interfere with and deteriorate this new digital media.

Conclusion

9. To any knowledgeable economist, experienced communications investment banker, or seasoned broadcaster, the end result of this rule making would be the further destruction of our present free and universal radio broadcasting service. Not only would the cost to the FCC and the Federal Government be enormous, and the bureaucracy burdensome, but the rule making would be difficult to reconcile under the Telecommunications Act of 1996 or the Balanced Budget Act of 1997.

Mr. Chairman, I urge you and your fellow commissioners to seriously consider stopping any action on LPFM's or MICRO'S until and unless the practical problems, legal and technical issues that I have raised in my comments can be resolved.

Thank you for your consideration of my views.

Respectfully Submitted,

J. Douglas Williams
President/General Manager
Omni Communications, Inc.