

APR 19 1999

**From:** DEAN E. NELSON <den2@Lehigh.EDU>  
**To:** J3.J3(LPFM)  
**Date:** Thu, Jan 28, 1999 4:14 PM  
**Subject:** enthusiastic support

Federal Communications Commission  
Office of Secretary



Dear Chairman Kennard:

I was thrilled to hear of your decision to open the FM airwaves to small power broadcasters. It will provide sorely needed opportunities for local broadcasters to once again make use of PUBLIC airwaves. Please do not back down on this proposal. I will be writing my congressmen urging them to stand behind this new program.

Sincerely,

Dean Nelson  
RD 1 Box 289 B  
Ligonier, PA 15650

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From: Luis Vazquez <luisvazquezelias@yahoo.com>  
To: J3.J3(LPFM)  
Date: Sun, Feb 21, 1999 9:07 PM  
Subject: Low Power FM Radio (In Favor Comment ) NRBCC

Federal Communications Commission  
Office of Secretary

99-25

The National Religious Broadcasters Caribbean Chapter and the PR Evangelical Broadcasters Association, hereby report to be in favor of the proposed licenses for Low Power FM Radio. Puerto Rico is an island divided north and south by mountain ranges that interfere normal communications. There are a large number of isolate communities and neighborhoods in need to have their own radio facilities to cover public services not served by present radio stations with high rates for programs and commercials. Churches, Colleges and other community organizations will be favored. GOD BLESS AMERICA,

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LUIS E. VAZQUEZ-ELIAS, Chairman  
Caribbean Chapter, National Religious Broadcasters

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DO YOU YAHOO!?  
Get your free @yahoo.com address at <http://mail.yahoo.com>

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**From:** <EXPRESITO@aol.com>  
**To:** J3.J3(LPFM)  
**Date:** Thu, Jan 28, 1999 10:58 PM  
**Subject:** PLEASE WE NEED INFORMATION

HI

WE ARE A SMALL PROGRNA IN WNJR 1430 NJ. WE ARE LOOKING TO GET A LPFM STATION. OUT PROGRAM IS FOR COLOMBIAN COMMUNITY AND WE ARE WILLING TO DO WHAT IS NEEDED TO GET OUR OWN STATION .

ALFREDO PADILLA  
FRECUENCIA LATINA ( AQUI COLOMBIA RADIO)  
WJNR 1430 AM & WXMC 1310 AM NJ

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**Federal Communications Commission  
Office of Secretary**

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09-25

From: "Bill Roberts" <kf6djv@jps.net>  
To: J3.J3(LPFM)  
Date: Fri, Jan 29, 1999 12:38 AM  
Subject: Low Power FM (petition to ammend table of allotments)

Federal Communications Commission  
Office of Secretary

Hello,

If the FCC proposes to allocate a new "LPFM" service, how would someone go about filing? Are there any costs associated with filing? And where would the allocation of the frequencies be placed? The recent action and hearings in Washington is just a discussion to look into the possibilites of creating a low power FM service, right? The commission has not yet allocated any frequencies yet, have they?

If someone could email me back, that would be greatly appreciated.

Thanks  
Bill Roberts

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**From:** Melva Levandoski <I2125@midwest.net>  
**To:** J3.J3(LPFM)  
**Date:** Thu, Jan 28, 1999 10:29 PM  
**Subject:** Low Power FM service

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99-25  
**RECEIVED****APR 19 1999****Federal Communications Commission  
Office of Secretary**

Re 'Low Power FM', those of us who live in rural areas and receive their FM transmissions from distant points are against any licensing of additional FM signals at the low end of the FM band. As most Public Radio broadcasting stations are at the lower end of the FM band, these additional signals will only serve to block the stations that we depend upon. As it is, we have a great deal of interference from microwave and cellular towers, airplane traffic and who knows what else. We suffer from loss of quality signals now from the electronic garbage on the airwaves; we do not need more trash. Thank you.

Melva Levandoski  
RR1, Bluford, IL62814  
melvalevandoski@netscape.com

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Federal Communications Commission  
Office of Secretary

As one interested in lpfm,I am gratified that the Fcc has initiated this web site. I hope to be able to obtain a lpfm channel since radio and in particular Ham Radio has been my life.Our community of Burlington,NJ would be well served by a community lpfm outlet.I am encouraged by Fcc Chairman Kennards remarks concerning this much needed outlet. Sincerely yours,Dick Tyler (Wa2ehl).

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Federal Communications Commission  
Office of Secretary

**From:** "Stephen Theiss" <hamxguy@infonline.net>  
**To:** J3.J3(LPFM)  
**Date:** Thu, Jan 28, 1999 9:54 PM  
**Subject:** Support.

I agree with your efforts to open the airwaves to the masses. This will help to disperse access and free speech to more than just a handful of wealthy moguls.  
Thank you very much for this brilliant and forward thinking idea. I sincerely hope this really gets off the ground.

Stephen Theiss  
91 Jefferson Ave.  
Sharon, PA 16146

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**From:** <Dorfeldwg@aol.com>  
**To:** J3.J3(LPFM)  
**Date:** Thu, Mar 11, 1999 7:08 PM  
**Subject:** Comments on Low Powered FM Broadcasting

Federal Communications Commission  
Office of Secretary



I would like to add my comments to proposed changes in rules regarding low powered 'neighborhood' FM broadcast stations. I favor freely granting licences for low powered, limited range stations that serve local interests. The major consideration in granting station licences should be avoiding interference to other commercial broadcast stations, both in terms of frequency allocation and basic RF practice for the broadcasting equipment.

I have been involved in radio communications, both commercial and amateur, for forty years and see low powered broadcasting as an efficient use of spectrum to provide a platform for diverse ideas and interests. The current costs to establish a broadcast station prohibit small, local interest groups from using radio as a communications medium. On the other hand, technically adequate equipment for a 5 watt station can be obtained at a reasonable price. To make spectrum widely available, licensing fees should be limited to costs of maintaining a non-interfering frequency list.

Benefits of widely available broadcast spectrum range from dissemination of emergency information during crises to providing an outlet for less widely held views in our society. Some stations may chose to compete with existing commercial stations in programming content, however, because of the limited coverage I believe there is no threat to high power stations in terms of advertising. Commercial support similar to that used by existing 'public' radio would be appropriate. All existing laws governing obscene and offensive material would naturally apply to low powere stations, because FM receivers are universally available.

Sincerely,

W. G. Dorfeld  
146 West Tenth Street  
Salida, CO 81201

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From: <ARIEL466@aol.com>  
To: J3.J3(LPFM)  
Date: Fri, Jan 22, 1999 1:47 AM  
Subject: Re-LPFM

Federal Communications Commission  
Office of Secretary

I think that the fcc has taken a big step in the lpfm issue. It would be a great idea to have community radio stations that cater to the needs of our cities. Its time for the citizens to be heard and control the monopoly of big corporate broadcasters. thank you for allowing me to express my thoughts on this matter.

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APR 19 1999

From: "Peder Moe" <pmoe@acad.umm.maine.edu>  
To: K1DOM.K1PO1(FCCINFO)  
Date: Wed, Mar 24, 1999 11:22 AM  
Subject: Low Power Radio Stations

Federal Communications Commission  
Office of Secretary



Dear Sir :

I am sending this note in support of low power radio stations. At present the University of Maine at Machias is using a radiating cable system in its residence halls. A low power system (10 watts) would allow us to reach all buildings on campus and the entire town of Machias, Maine. There is plenty of space on the FM band in this area. We can only receive about six top 40 type stations in our area. We would offer an alternative to commercial radio, because we play many unsigned bands on independent lables and discuss local issues. A full-powered station is beyond our means.

Sincerely,  
Peder K. Moe  
Coordinator of Student Activities  
University of Maine at Machias  
9 O'Brien Ave.  
Machias, ME 04654

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(207)255-1245

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**RECEIVED****APR 19 1999**Federal Communications Commission  
Office of Secretary

**From:** <Ender57055@aol.com>  
**To:** K1DOM.K1PO1(FCCINFO)  
**Date:** Fri, Mar 5, 1999 1:26 PM  
**Subject:** Mini-Radio stations

I recent looked at your web page about the small radio station that would travel either 3.5 miles or 8.8 miles. Right now it is only being proposed. I support this motion. If i could i would like to recive more information about this and to know of someone i can talk to about this if i have any more question. Thank you for your time.  
Eric Allen

**DOCKET FILE COPY ORIGINAL**

**From:** <logoi@linkline.com>  
**To:** K1DOM.K1PO1(FCCINFO)  
**Date:** Tue, Mar 30, 1999 6:12 PM  
**Subject:** Microradio

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I urge the Commission to rule in favor of microradio outlets.

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Federal Communications Commission  
Office of Secretary

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From: <BozzBogg@aol.com>  
To: K1DOM.K1PO1(FCCINFO)  
Date: Sun, Mar 21, 1999 1:50 PM  
Subject: RE: Docket 99-25

Federal Communications Commission  
Office of Secretary

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By all means, you must repeal the ban on "Low-Watt FM Stations."  
Also, FCC MUST NOT disqualify former violators from receiving the appropriate licenses.

Its very simple; If the ban is lifted, It would mean that I, and many of my friends would lift our ban on FM radio. We simply do not listen to it because of its turgid content.  
Don't lift the ban, and we'll continue listening solely to our CD's, cassettes and LP's.

Please disregard NAB opposition. Despite what say, they NEED, "Pirate Radio" to continue attracting audiences. I'd like to pose a few questions to NAB. Why the opposition? What is NAB afraid of? What is wrong with competition?

Again FCC, I urge you to lift the ban on, 'Low-Watt Stations.'

Thank you  
BozzBogg@aol.com

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**From:** "Joseph D'Alessandro" <jdman@magpage.com>  
**To:** K1DOM.K1PO1(FCCINFO)  
**Date:** Thu, Mar 11, 1999 8:41 AM  
**Subject:** ?

Federal Communications Commission  
 Office of Secretary

Ethics Committee:

This is a National Agenda LPFM Service FCC Docket MM-99-25

Congressman Billy Tauzin Is a Hypocrite and needs to remove himself from Office Like a real Man Would.

But he Lacks any Guts and is Interested only in Himself, and his Wealth

Where he sits on Committees, is where you will find Big Business they bond together as one.

He scams the American Public, but we will expose him for what he is, a thief of Our Free Speech and Bill Of Rights it will take a Considerable amount of Time But Threw the Internet it will Occur.

**DOCKET FILE COPY ORIGINAL**

As Of 3-10-99

Time 11:30 PM

To The NAB and Ed Fritz:  
 To Congressman Billy Tauzin La.

Re:

Pending Lawsuit For Inflicting Punishment Threw Technical Differences and, Denying Mrs. Olga D'Alessandro Legal Title to NAB Trust Fund:

Impeding My Right To Free Enterprise, Free Speech and Obstruction, Of My Constitutional Rights, As Proposed By The FCC in The Enactment Of NPRM Docket MM-99-25 For LOW POWER Community Radio Service.

Suit Is Based on the Judgments rendered in the Sanders vs. The FCC 1940: This Judgment Sets Justification For My Suit:

The Court Granted a FCC License On Three Main Issues:

A. Free Enterprise, The Basis Of Our Economy:

B. No Exclusive Control of a Commodity or service in a given Market. No Monopoly or Monopolys:

C. To Serve The Needs Of Your and or A Community, The Publics Interest First:

Suit Is Pending Passage Of Docket MM-99-25:

1. From the Bill of Rights: "Congress shall make no law respecting

an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press..."

2. Article 19: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Citizens Alert:

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Mr.D'Alessandro  
94 Angola Estates  
Lewes, Delaware 19958  
302-945-1554

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From: "Joseph D'Alessandro" <jdman@magpage.com>  
To: K1DOM.K1PO1(FCCINFO)  
Date: Fri, Mar 12, 1999 10:00 PM  
Subject: ?

Federal Communications Commission  
Office of Secretary

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I FILE COMPLAINT AGANIST THE NAB:

Dear Honorable Senators and Congressman ,of The great Republic of The United States:  
Date March 12th.1999 the Day of Our Lord:

I Exercise My Freedom Of Expression,and Free Speech,Threw My Bill Of Rights and My Constitution of The Republic Of The United States:

I Charge the NAB As Follows:

- To : The NAB and Ed Fritz:
- To : Congressman Billy Tauzin La:
- To : Chief Counsel Jeff Baumann:

Re: Pending Lawsuit For Inflicting Punishment Threw Technical Differences and,Denying Mrs.Olga D'Alessandro Legal Title to NAB Trust Fund:

Impeding My Right To Free Enterprise, Free Speech and Obstruction,Of My Constitutional Rights,As Proposed By The FCC in The Enactment Of NPRM Docket MM-99-25 For LOW POWER Community Radio Service. Suit Is Based on the Judgments rendered in the Sanders vs. The FCC 1940:This Judgment Sets Justification For My Suit:

The Court Granted a FCC License On Three Main Issues:

- A.Free Enterprise,The Basis Of Our Economy:
- B.No Exclusive Control of a Commodity or service in a given Market.No Monopoly or Monopolys:
- C.To Serve The Needs Of Your and or A Community,The Publics Interest First:

The Communications Act of 1934

The Act Was Intented For Community Service and its Community Members,It was not Intented for Economic Wealth, Which Ed Fritz and The NAB Have Made It Today

The basic landmark agreement between Radio and the people of the United States was established in the Communications Act of 1934 and has become the unifying thread of all telecommunications laws since then. The basic agreement was actually established in the years before.

This important law established basic philosophical principles:

- The airways are public property.
- Commerical broadcasters are liscensed use the airways.
- The main condition for use will be whether the broadcaster served "the public interest, convenience, and necessity."

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The Communications Act's of 1927 and 1934 where Created for the American People,and The Communitys They Reside In:

They NAB With Ed Fritz and His Chief Counsel Baumann Have Inflicted The Following Damages Aganist the Public Airways The American Public Own:

A.Violations Of My Civil Rights,and Civil Liberties:And Bill Of Rights,And My Constitution:

1.To make Distinctions in Treatment: 2.To show Partiality: 3.To show Prejudice: 4.To Discriminate: 5.Dictatorship: 6.Ethnics Violations

The Above Violations are do because The NAB,Has taken the Communications Act's Of 1927 & 1934,Which Where Established for the American People,All The People,not Just The Rich and Wealthy,Radio Conglomerates,The NAB,or Investment Firms.The Act's where created for all people to have an Opportunity,to Compete,on a JUST AND HONEST,PRINCIPAL FOUNDATION.The NAB has Taken the Communications Act's of 1927 & 1934,and used it with Total Disregard Aganist 99.9 % of the Peoples Democracy.

Dear Honorable,Senators,and Congressman: I as a Constituent,Request you to hold Hearings on the NAB for Violations of the Communications act's of 1927 & 1934,in which they have Discriminated Aganist 99.9% of the American People

The Communications Act's stated explicitly,3 LAWS:the NAB has Broken all 3 Laws,AS NOTED:

1.Stop Chaos: Theres more Chaos now then ever when The FCC lets the NAB have power levels of 10,25,50,100,150,and 200 Hundread Thousand Watts of Power,the purpose of the Communications Act's where for,when a American is granted a FCC Broadcast License,he is to Serve his Community's Needs And Concerns.,the Largest Urban City May require Power Levels of 6000 Watts No More,in other Words there Should be No Radio Station in the United States At this Present Moment with power Levels to Exceed 6000 Watts.the NAB,has broken the LAW for the RICH AND WEALTHY .

2.POWER LEVELS TO SERVE A COMMUNITY,with power levels of 10 thousand and up to 300 thousand Watts,they serve no body but the NAB,and keep Woman,Blacks,and Other Minoritys From Competing,in the Broadcast Industry,Thanks to shrinking technology prices, LPFM RADIO at 50 WATTS can generate an FM radio signal with as little as \$500 worth of equipment. But seeking a license from the Federal Communications Commission can require an investment of \$100,000 and or up to \$300,000

3.The FCC will Grant A FCC License Only When The Applicant,will Serve its Community,.this is the Biggest,Crime Aganist the American People and the Communications Act's of 1927 & 1934.They The FCC will not grant a License Below 100 Watts WHY?????????,.there is no REASON Except the NAB Said SO

You As My Elected Official Need To React To This Run Away Radio  
Conglomerate. You Need To, Reveal to the Public, the Crimes For The Last 64  
Years: By the NAB:

Citizens Alert:  
Mr. D'Alessandro  
94 Angola Estates  
Lewes, Delaware 19958  
302-945-1554

From: "Joseph D'Alessandro" <jdman@magpage.com>  
To: K1DOM.K1PO1(FCCINFO)  
Date: Mon, Mar 8, 1999 7:05 AM  
Subject: ?

Tauzin Resign

The Congress of the United States House of Representatives:  
The Congress of the United States House of The Senate:  
Date: March 7, 1999

Honorable Representatives:  
Honorable Senators:

Chairman Kennard of The FCC:  
Commissioners of The FCC:

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APR 19 1999

Federal Communications Commission  
Office of Secretary

Congressman Billy Tauzin Must Resign do to His Attempt with Ed Fritz and the Radio Conglomerates to Overturn the Federal Courts Judgment in Sanders vs.The FCC 1940 Free Enterprise:

Rep. Billy Tauzin of Louisiana said the Federal Communications Commission plan for so-called LPFM Broadcast Service FCC Docket MM-99-25 WOULD REDUCE THE AUDIENCE AND ADVERTISING REVENUE OF CURRENT STATIONS,And Told Chairman Kennard Of The FCC To Stop This NPRM Docket MM-99-25 For Free Enterprise.

The Court also Found Judgement that Impeding Free Enterprise would cause Exclusive Control of a Commodity or service in a given Market.

FN8 SEE SEC. 311, 47 U.S.C. SEC. 311, RELATING TO UNFAIR COMPETITION AND MONOPOLY.

Sanders vs. The FCC Free Enterprise: 1940

Ed Fritz Of The NAB and Rep. Billy Tauzin Want to Impede LPFM Broadcast Community Service as Proposed by the FCC in Docket MM-99-25: There Main Reason is That LPFM Stations will take There Profit Away???,and Interference, The FCC will Control the Interference Integrity,At this Time there is No Problem Except Fritz and Tauzin want to keep there Wallets Full of the American Publics Money: And Impede The American Peoples Free Speech and Free Enterprise,and Constitutional Rights:

From the U.S. Government Printing Office via GPO Access

Case: COMMISSION V. SANDERS <strong>RADIO</strong> STATION

Case #: 309US470

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List A B C D E

NO. 499. ARGUED FEBRUARY 9, 1940. - DECIDED MARCH 25, 1940. - 70 APP.  
D.C. 297 - 106 F.2D 321, REVERSED.

1. A FUNDAMENTAL QUESTION AS TO THE FUNCTION AND POWERS OF THE FEDERAL COMMUNICATIONS COMMISSION WAS RAISED IN THIS CASE AND, ON THE RECORD, IS OPEN HERE. P. 473.

2. RESULTING ECONOMIC INJURY TO A RIVAL STATION IS NOT, IN AND OF ITSELF, AND APART FROM CONSIDERATIONS OF PUBLIC CONVENIENCE, INTEREST, OR NECESSITY, AN ELEMENT WHICH THE FEDERAL COMMUNICATIONS COMMISSION MUST WEIGH, AND AS TO WHICH IT MUST MAKE FINDINGS, IN PASSING ON AN APPLICATION FOR A BROADCASTING LICENSE. P. 473.

3. A LICENSEE OF A BROADCASTING STATION, OVER WHOSE OBJECTION - OF ECONOMIC INJURY TO HIS STATION - THE COMMUNICATIONS COMMISSION GRANTED A PERMIT FOR THE ERECTION OF A RIVAL STATION, IS, UNDER SEC. 402(B)(2) OF THE ACT, A "PERSON AGGRIEVED OR WHOSE INTERESTS ARE ADVERSELY AFFECTED" BY THE DECISION OF THE COMMISSION, AND ENTITLED TO APPEAL THEREFROM. P. 476.

4. AN ORDER OF THE COMMUNICATIONS COMMISSION GRANTING A PERMIT TO ERECT A BROADCASTING STATION HELD SUPPORTED BY THE FINDINGS. P. 477.

5. THE CONCLUSION OF THE APPELLATE COURT THAT THE COMMUNICATIONS COMMISSION HAD NOT USED AS EVIDENCE CERTAIN DATA AND REPORTS IN ITS FILES - WHICH AN INTERVENING PARTY HAD BEEN DENIED AN OPPORTUNITY TO INSPECT - ACCEPTED HERE. P. 478.

FEDERAL COMMUNICATIONS COMMISSION V. SANDERS BROTHERS  
<strong>RADIO</strong> STATION.

CERTIORARI TO THE COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

CERTIORARI, 308 U.S. 546, TO REVIEW A JUDGMENT WHICH SET ASIDE AN ORDER OF THE FEDERAL COMMUNICATIONS COMMISSION GRANTING A PERMIT TO ERECT A BROADCASTING STATION.

MR. JUSTICE ROBERTS DELIVERED THE OPINION OF THE COURT.

WE TOOK THIS CASE TO RESOLVE IMPORTANT ISSUES OF SUBSTANCE AND PROCEDURE ARISING UNDER THE COMMUNICATIONS ACT OF 1934, AS AMENDED.  
FN1

JANUARY 20, 1936, THE TELEGRAPH HERALD, A NEWSPAPER PUBLISHED IN DUBUQUE, IOWA, FILED WITH THE PETITIONER AN APPLICATION FOR A CONSTRUCTION PERMIT TO ERECT A BROADCASTING STATION IN THAT CITY. MAY 14, 1936, THE RESPONDENT, WHO HAD FOR SOME YEARS HELD A BROADCASTING LICENSE FOR, AND HAD OPERATED, STATION WKBB AT EAST DUBUQUE, ILLINOIS, DIRECTLY ACROSS THE MISSISSIPPI RIVER FROM DUBUQUE, IOWA, APPLIED FOR A PERMIT TO MOVE ITS TRANSMITTER AND STUDIOS TO THE LAST NAMED CITY AND INSTAL ITS STATION THERE. AUGUST 18, 1936, RESPONDENT ASKED LEAVE TO INTERVENE IN THE TELEGRAPH HERALD PROCEEDING, ALLEGING IN ITS PETITION, INTER ALIA, THAT THERE WAS AN INSUFFICIENCY OF ADVERTISING REVENUE TO SUPPORT AN ADDITIONAL STATION IN DUBUQUE AND INSUFFICIENT TALENT TO FURNISH PROGRAMS FOR AN ADDITIONAL STATION; THAT ADEQUATE SERVICE WAS

BEING RENDERED TO THE COMMUNITY BY STATION WKBB AND THERE WAS NO NEED FOR ANY ADDITIONAL <strong>RADIO</strong> OUTLET IN DUBUQUE AND THAT THE GRANTING OF THE TELEGRAPH HERALD APPLICATION WOULD NOT SERVE THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY. INTERVENTION WAS PERMITTED AND BOTH APPLICATIONS WERE SET FOR CONSOLIDATED HEARING.

THE RESPONDENT AND THE TELEGRAPH HERALD OFFERED EVIDENCE IN SUPPORT OF THEIR RESPECTIVE APPLICATIONS. THE RESPONDENT'S PROOF SHOWED THAT ITS STATION HAD OPERATED AT A LOSS; THAT THE AREA PROPOSED TO BE SERVED BY THE TELEGRAPH HERALD WAS SUBSTANTIALLY THE SAME AS THAT SERVED BY THE RESPONDENT AND THAT, OF THE ADVERTISERS RELIED ON TO SUPPORT THE TELEGRAPH HERALD STATION, MORE THAN HALF HAD USED THE RESPONDENT'S STATION FOR ADVERTISING.

AN EXAMINER REPORTED THAT THE APPLICATION OF THE TELEGRAPH HERALD SHOULD BE DENIED AND THAT OF THE RESPONDENT GRANTED. ON EXCEPTIONS OF THE TELEGRAPH HERALD, AND AFTER ORAL ARGUMENT, THE BROADCASTING DIVISION OF PETITIONER MADE AN ORDER GRANTING BOTH APPLICATIONS, RECITING THAT "PUBLIC INTEREST, CONVENIENCE, AND NECESSITY WOULD BE SERVED" BY SUCH ACTION. THE DIVISION PROMULGATED A STATEMENT OF THE FACTS AND OF THE GROUNDS OF DECISION, RECITING THAT BOTH APPLICANTS WERE LEGALLY, TECHNICALLY, AND FINANCIALLY QUALIFIED TO UNDERTAKE THE PROPOSED CONSTRUCTION AND OPERATION; THAT THERE WAS NEED IN DUBUQUE AND THE SURROUNDING TERRITORY FOR THE SERVICES OF BOTH STATIONS, AND THAT NO QUESTION OF ELECTRICAL INTERFERENCE BETWEEN THE TWO STATIONS WAS INVOLVED. A REHEARING WAS DENIED AND RESPONDENT APPEALED TO THE COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA. THAT COURT ENTERTAINED THE APPEAL AND HELD THAT ONE OF THE ISSUES WHICH THE COMMISSION SHOULD HAVE TRIED WAS THAT OF ALLEGED ECONOMIC INJURY TO THE RESPONDENT'S STATION BY THE ESTABLISHMENT OF AN ADDITIONAL STATION AND THAT THE COMMISSION HAD ERRED IN FAILING TO MAKE FINDINGS ON THAT ISSUE. IT DECIDED THAT, IN THE ABSENCE OF SUCH FINDINGS, THE COMMISSION'S ACTION IN GRANTING THE TELEGRAPH HERALD PERMIT MUST BE SET ASIDE AS ARBITRARY AND CAPRICIOUS. FN2

THE PETITIONER'S CONTENTIONS ARE THAT UNDER THE COMMUNICATIONS ACT ECONOMIC INJURY TO A COMPETITOR IS NOT A GROUND FOR REFUSING A BROADCASTING LICENSE AND THAT, SINCE THIS IS SO, THE RESPONDENT WAS NOT A PERSON AGGRIEVED, OR WHOSE INTERESTS WERE ADVERSELY AFFECTED, BY THE COMMISSION'S ACTION, WITHIN THE MEANING OF SEC. 402(B) OF THE ACT WHICH AUTHORIZES APPEALS FROM THE COMMISSION'S ORDERS.

THE RESPONDENT ASSERTS THAT THE PETITIONER IN ARGUMENT BELOW CONTENTED ITSELF WITH THE CONTENTION THAT THE RESPONDENT HAD FAILED TO PRODUCE EVIDENCE REQUIRING A FINDING OF PROBABLE ECONOMIC INJURY TO IT. IT IS CONSEQUENTLY INSISTED THAT THE PETITIONER IS NOT IN A POSITION HERE TO DEFEND ITS FAILURE TO MAKE SUCH FINDINGS ON THE GROUND THAT IT IS NOT REQUIRED BY THE ACT TO CONSIDER ANY SUCH ISSUE. BY ITS PETITION FOR REHEARING IN THE COURT BELOW, THE COMMISSION MADE CLEAR ITS POSITION AS NOW ADVANCED. THE DECISION OF THE COURT BELOW, AND THE CHALLENGE MADE IN PETITION FOR REHEARING AND HERE BY THE COMMISSION, RAISE A FUNDAMENTAL QUESTION AS TO THE FUNCTION AND POWERS OF THE COMMISSION AND WE THINK THAT, ON THE RECORD, IT IS OPEN HERE.

FIRST. WE HOLD THAT RESULTING ECONOMIC INJURY TO A RIVAL STATION IS

NOT, IN AND OF ITSELF, AND APART FROM CONSIDERATIONS OF PUBLIC CONVENIENCE, INTEREST, OR NECESSITY, AN ELEMENT THE PETITIONER MUST WEIGH, AND AS TO WHICH IT MUST MAKE FINDINGS, IN PASSING ON AN APPLICATION FOR A BROADCASTING LICENSE.

COMMISSION, IF PUBLIC CONVENIENCE, INTEREST, OR NECESSITY WILL BE SERVED THEREBY, SUBJECT TO THE LIMITATIONS OF THIS ACT, SHALL GRANT TO ANY APPLICANT THEREFOR A STATION LICENSE PROVIDED FOR BY THIS ACT."

THIS MANDATE IS GIVEN MEANING AND CONTOUR BY THE OTHER PROVISIONS OF THE STATUTE AND THE SUBJECT MATTER WITH WHICH IT DEALS. FN3 THE ACT CONTAINS NO EXPRESS COMMAND THAT IN PASSING UPON AN APPLICATION THE COMMISSION MUST CONSIDER THE EFFECT OF COMPETITION WITH AN EXISTING STATION. WHETHER THE COMMISSION SHOULD CONSIDER THE SUBJECT MUST DEPEND UPON THE PURPOSE OF THE ACT AND THE SPECIFIC PROVISIONS INTENDED TO EFFECTUATE THAT PURPOSE.

THE GENESIS OF THE COMMUNICATIONS ACT AND THE NECESSITY FOR THE ADOPTION OF SOME SUCH REGULATORY MEASURE IS A MATTER OF HISTORY. THE NUMBER OF AVAILABLE <strong>RADIO</strong> FREQUENCIES IS LIMITED. THE ATTEMPT BY A BROADCASTER TO USE A GIVEN FREQUENCY IN DISREGARD OF ITS PRIOR USE BY OTHERS, THUS CREATING CONFUSION AND INTERFERENCE, DEPRIVES THE PUBLIC OF THE FULL BENEFIT OF <strong>RADIO</strong> AUDITION. UNLESS CONGRESS HAD EXERCISED ITS POWER OVER INTERSTATE COMMERCE TO BRING ABOUT ALLOCATION OF AVAILABLE FREQUENCIES AND TO REGULATE THE EMPLOYMENT OF TRANSMISSION EQUIPMENT THE RESULT WOULD HAVE BEEN AN IMPAIRMENT OF THE EFFECTIVE USE OF THESE FACILITIES BY ANYONE. THE FUNDAMENTAL PURPOSE OF CONGRESS IN RESPECT OF BROADCASTING WAS THE ALLOCATION AND REGULATION OF THE USE OF <strong>RADIO</strong> FREQUENCIES BY PROHIBITING SUCH USE EXCEPT UNDER LICENSE.

IN CONTRADISTINCTION TO COMMUNICATION BY TELEPHONE AND TELEGRAPH, WHICH THE COMMUNICATIONS ACT RECOGNIZES AS A COMMON CARRIER ACTIVITY AND REGULATES ACCORDINGLY IN ANALOGY TO THE REGULATION OF RAIL AND OTHER CARRIERS BY THE INTERSTATE COMMERCE COMMISSION, FN4 THE ACT RECOGNIZES THAT BROADCASTERS ARE NOT COMMON CARRIERS AND ARE NOT TO BE DEALT WITH AS SUCH. FN5 THUS THE ACT RECOGNIZES THAT THE FIELD OF BROADCASTING IS ONE OF FREE COMPETITION. THE SECTIONS DEALING WITH BROADCASTING DEMONSTRATE THAT CONGRESS HAS NOT, IN ITS REGULATORY SCHEME, ABANDONED THE PRINCIPLE OF FREE COMPETITION, AS IT HAS DONE IN THE CASE OF RAILROADS, FN6 IN RESPECT OF WHICH REGULATION INVOLVES THE SUPPRESSION OF WASTEFUL PRACTICES DUE TO COMPETITION, THE REGULATION OF RATES AND CHARGES, AND OTHER MEASURES WHICH ARE UNNECESSARY IF FREE COMPETITION IS TO BE PERMITTED.

AN IMPORTANT ELEMENT OF PUBLIC INTEREST AND CONVENIENCE AFFECTING THE ISSUE OF A LICENSE IS THE ABILITY OF THE LICENSEE TO RENDER THE BEST PRACTICABLE SERVICE TO THE COMMUNITY REACHED BY HIS BROADCASTS. THAT SUCH ABILITY MAY BE ASSURED THE ACT CONTEMPLATES INQUIRY BY THE COMMISSION, INTER ALIA, INTO AN APPLICANT'S FINANCIAL QUALIFICATIONS TO OPERATE THE PROPOSED STATION. FN7

BUT THE ACT DOES NOT ESSAY TO REGULATE THE BUSINESS OF THE LICENSEE.

THE COMMISSION IS GIVEN NO SUPERVISORY CONTROL OF THE PROGRAMS, OF BUSINESS MANAGEMENT OR OF POLICY. IN SHORT, THE BROADCASTING FIELD IS OPEN TO ANYONE, PROVIDED THERE BE AN AVAILABLE FREQUENCY OVER WHICH HE CAN BROADCAST WITHOUT INTERFERENCE TO OTHERS, IF HE SHOWS HIS COMPETENCY, THE ADEQUACY OF HIS EQUIPMENT, AND FINANCIAL ABILITY TO MAKE GOOD USE OF THE ASSIGNED CHANNEL.

THE POLICY OF THE ACT IS CLEAR THAT NO PERSON IS TO HAVE ANYTHING IN THE NATURE OF A PROPERTY RIGHT AS A RESULT OF THE GRANTING OF A LICENSE. LICENSES ARE LIMITED TO A MAXIMUM OF THREE YEARS' DURATION, MAY BE REVOKED, AND NEED NOT BE RENEWED. THUS THE CHANNELS PRESENTLY OCCUPIED REMAIN FREE FOR A NEW ASSIGNMENT TO ANOTHER LICENSEE IN THE INTEREST OF THE LISTENING PUBLIC.

PLAINLY IT IS NOT THE PURPOSE OF THE ACT TO PROTECT A LICENSEE AGAINST COMPETITION BUT TO PROTECT THE PUBLIC. CONGRESS INTENDED TO LEAVE COMPETITION IN THE BUSINESS OF BROADCASTING WHERE IT FOUND IT, TO PERMIT A LICENSEE WHO WAS NOT INTERFERING ELECTRICALLY WITH OTHER BROADCASTERS TO SURVIVE OR SUCCUMB ACCORDING TO HIS ABILITY TO MAKE HIS PROGRAMS ATTRACTIVE TO THE PUBLIC.

THIS IS NOT TO SAY THAT THE QUESTION OF COMPETITION BETWEEN A PROPOSED STATION AND ONE OPERATING UNDER AN EXISTING LICENSE IS TO BE

ENTIRELY DISREGARDED BY THE COMMISSION, AND, INDEED, THE COMMISSION'S PRACTICE SHOWS THAT IT DOES NOT DISREGARD THAT QUESTION. IT MAY HAVE A VITAL AND IMPORTANT BEARING UPON THE ABILITY OF THE APPLICANT ADEQUATELY TO SERVE HIS PUBLIC; IT MAY INDICATE THAT BOTH STATIONS - THE EXISTING AND THE PROPOSED - WILL GO UNDER, WITH THE RESULT THAT A PORTION OF THE LISTENING PUBLIC WILL BE LEFT WITHOUT ADEQUATE SERVICE; IT MAY INDICATE THAT, BY A DIVISION OF THE FIELD, BOTH STATIONS WILL BE COMPELLED TO RENDER INADEQUATE SERVICE. THESE MATTERS, HOWEVER, ARE DISTINCT FROM THE CONSIDERATION THAT, IF A LICENSE BE GRANTED, COMPETITION BETWEEN THE LICENSEE AND ANY OTHER EXISTING STATION MAY CAUSE ECONOMIC LOSS TO THE LATTER. IF SUCH ECONOMIC LOSS WERE A VALID REASON FOR REFUSING A LICENSE THIS WOULD MEAN THAT THE COMMISSION'S FUNCTION IS TO GRANT A MONOPOLY IN THE FIELD OF BROADCASTING, A RESULT WHICH THE ACT ITSELF EXPRESSLY NEGATIVES, FN8 WHICH CONGRESS WOULD NOT HAVE CONTEMPLATED WITHOUT GRANTING THE COMMISSION POWERS OF CONTROL OVER THE RATES, PROGRAMS, AND OTHER ACTIVITIES OF THE BUSINESS OF BROADCASTING.

WE CONCLUDE THAT ECONOMIC INJURY TO AN EXISTING STATION IS NOT A SEPARATE AND INDEPENDENT ELEMENT TO BE TAKEN INTO CONSIDERATION BY THE COMMISSION IN DETERMINING WHETHER IT SHALL GRANT OR WITHHOLD A LICENSE.

SECOND. IT DOES NOT FOLLOW THAT, BECAUSE THE LICENSEE OF A STATION CANNOT RESIST THE GRANT OF A LICENSE TO ANOTHER, ON THE GROUND THAT THE RESULTING COMPETITION MAY WORK ECONOMIC INJURY TO HIM, HE HAS NO STANDING TO APPEAL FROM AN ORDER OF THE COMMISSION GRANTING THE APPLICATION.

APPEALS OF THE DISTRICT OF COLUMBIA (1) BY AN APPLICANT FOR A LICENSE OR PERMIT, OR (2) "BY ANY OTHER PERSON AGGRIEVED OR WHOSE INTERESTS ARE ADVERSELY AFFECTED BY ANY DECISION OF THE COMMISSION GRANTING OR

REFUSING ANY SUCH APPLICATION."

THE PETITIONER INSISTS THAT AS ECONOMIC INJURY TO THE RESPONDENT WAS NOT A PROPER ISSUE BEFORE THE COMMISSION IT IS IMPOSSIBLE THAT SEC. 402(B) WAS INTENDED TO GIVE THE RESPONDENT STANDING TO APPEAL, SINCE ABSENCE OF RIGHT IMPLIES ABSENCE OF REMEDY. THIS VIEW WOULD DEPRIVE SUBSECTION (2) OF ANY SUBSTANTIAL EFFECT.

CONGRESS HAD SOME PURPOSE IN ENACTING SEC. 402(B)(2). IT MAY HAVE BEEN OF OPINION THAT ONE LIKELY TO BE FINANCIALLY INJURED BY THE ISSUE OF A LICENSE WOULD BE THE ONLY PERSON HAVING A SUFFICIENT INTEREST TO BRING TO THE ATTENTION OF THE APPELLATE COURT ERRORS OF LAW IN THE ACTION OF THE COMMISSION IN GRANTING THE LICENSE. IT IS WITHIN THE POWER OF CONGRESS TO CONFER SUCH STANDING TO PROSECUTE AN APPEAL. FN9

WE HOLD, THEREFORE, THAT THE RESPONDENT HAD THE REQUISITE STANDING TO APPEAL AND TO RAISE, IN THE COURT BELOW, ANY RELEVANT QUESTION OF LAW IN RESPECT OF THE ORDER OF THE COMMISSION.

THIRD. EXAMINATION OF THE FINDINGS AND GROUNDS OF DECISION SET FORTH BY THE COMMISSION DISCLOSES THAT THE FINDINGS WERE SUFFICIENT TO COMPLY WITH THE REQUIREMENTS OF THE ACT IN RESPECT OF THE PUBLIC INTEREST, CONVENIENCE, OR NECESSITY INVOLVED IN THE ISSUE OF THE PERMIT. IN ANY EVENT, IF THE FINDINGS WERE NOT AS DETAILED UPON THIS SUBJECT AS MIGHT BE DESIRABLE, THE ATTACK UPON THEM IS NOT THAT THE PUBLIC INTEREST IS NOT SUFFICIENTLY PROTECTED BUT ONLY THAT THE FINANCIAL INTERESTS OF THE RESPONDENT HAVE NOT BEEN CONSIDERED. WE FIND NO REASON FOR ABROGATING THE COMMISSION'S ORDER FOR LACK OF ADEQUATE FINDINGS.

FOURTH. THE RESPONDENT HERE RENEWS A CONTENTION MADE IN THE COURT OF APPEALS TO THE EFFECT THAT THE COMMISSION USED AS EVIDENCE CERTAIN DATA AND REPORTS IN ITS FILES WITHOUT PERMITTING THE RESPONDENT, AS INTERVENOR BEFORE THE COMMISSION, THE OPPORTUNITY OF INSPECTING THEM. THE COMMISSION DISAVOWS THE USE OF SUCH MATERIAL AS EVIDENCE IN THE CAUSE AND THE COURT OF APPEALS HAS FOUND THE DISAVOWAL VERACIOUS AND SUFFICIENT. WE ARE NOT DISPOSED TO DISTURB ITS CONCLUSION.

THE JUDGMENT OF THE COURT OF APPEALS IS REVERSED.

FN1 ACT OF JUNE 19, 1934, C. 652, 48 STAT. 1064; ACT OF JUNE 5, 1936, C. 511, 49 STAT. 1475; ACT OF MAY 20, 1937, C. 229, 50 STAT. 189, 47 U.S.C. 151, ET SEQ. FN2 SANDERS BROTHERS <strong>RADIO</strong> STATION V. FEDERAL COMMUNICATIONS COMMISSION, 70 APP. D.C. 297; 106 F.2D 321.

FN3 <strong>RADIO</strong> COMMISSION V. NELSON BROS. CO., 289 U.S. 266, 285.

FN4 SEE TITLE II, SECS. 201-221, 47 U.S.C. SECS. 201-221.

FN5 SEE SEC. 3(H), 47 U.S.C. SEC. 153(H).

FN6 COMPARE TEXAS & PACIFIC RY. V. GULF, C. & S.F. RY. CO., 270 U.S. 266, 277; CHICAGO JUNCTION CASE, 264 U.S. 258. FN7 SEE SEC. 308(B), 47 U.S.C. SEC. 308(B).

FN8 SEE SEC. 311, 47 U.S.C. SEC. 311, RELATING TO UNFAIR COMPETITION AND MONOPOLY.

FN9 COMPARE INTERSTATE COMMERCE COMMISSION V. OREGON-WASHINGTON R. CO., 288 U.S. 14, 23-25.

MR. JUSTICE MCREYNOLDS TOOK NO PART IN THE DECISION OF THIS CASE.

Citizens Alert:  
Mr.D'Alessandro  
94 Angola Estates  
Lewes,Delaware 19958  
302-945-1554

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**From:** "Joseph D'Alessandro" <jdman@magpage.com>  
**To:** K1DOM.K1PO1(FCCINFO)  
**Date:** Sat, Mar 6, 1999 2:40 PM  
**Subject:** ?

Federal Communications Commission  
 Office of Secretary



The Congress of the United States House of Representatives:  
 The Congress of the United States House of The Senate:  
 Date: March 6, 1999

Honorable Representatives:  
 Honorable Senators:

**DOCKET FILE COPY ORIGINAL**

To Chairman Kennard:  
 To Commissioners:

This Is Very Serious You Need To Take Action and Investigate Thoroughly, here is Perfect Example of Ed Fritz and The NAB and there support from Billy Tauzin to Establish a Fascist Type Government and Remove or Constitutional Rights, Free Speech, Freedom Of Expression and our Bill Of Rights.

This  
 Needs To Be Addressed, By You Congress, Who Predicates Freedom Of Expression, and Free Speech.

FIRED FOR SHOWING SUPPORT FOR LPFM Docket MM-99-25

Author Topic: Had job, spoke favorably about LPFM, need job...  
 hawkfm<Picture>posted 03-06-99 10:38 GMT/UTC

OK, I asked for this. I have made the mistake of mentioning the fact that I support LPFM (not very vocally, either) at work and, within 24 hours, was sent home. No job, no severance, not even a final paycheck.

In fact, a friend, at work, says that I'm "ending your career by supporting that low power thing... they'll never let you work again!"

Two things: They left me with \$3.00 in my pocket, a wife, two children, rent due, and no paycheck, so I need a job BADLY!

And, if you EVER work for Citadel Communications, Corporation, NEVER EVER even casually mention that you are for LPFM within earshot of their PD's!!!

It's sudden DEATH!

E-Mail Him At: hawkfm@radiolink.net.

Perfect Example of The NAB and its Fascist Type Distinctive Trait and Behavior,  
 to impede our Civil Rights and Freedom of Expression. Evidently This Action is Endorsed by Rep. Billy Tauzin La. As he Supports The NAB in all of its Corrupt Behavior.

Citizens Alert:  
 Mr. D'Alessandro  
 94 Angola Estates  
 Lewes, Delaware 1995  
 1-302-945-1554

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APR 19 1999

**From:** <Spillcaar@aol.com>  
**To:** J3.J3(LPFM)  
**Date:** Fri, Jan 22, 1999 9:17 PM  
**Subject:** Low power broadcasting

Federal Communications Commission  
Office of Secretary

99-25

I would like to express my support for passage of this bill.

Carole A. Spiller

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APR 19 1999

From: Computer Renaissance TB <tb@compren.com>  
To: J3.J3(LPFM)  
Date: Thu, Jan 28, 1999 9:20 PM  
Subject: ?

Federal Communications Commission  
Office of Secretary

I am interested in obtaining licensing information about LPFM. How may I do so in a timely fashion?

Sincerely,

T. Bond  
tb@compren.com

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APR 19 1999

From: "Peter Kardas" <peterk@olywa.net>  
To: K1DOM.K1PO1(FCCINFO)  
Date: Mon, Mar 8, 1999 8:36 PM  
Subject: Low Power FM Radio

Federal Communications Commission  
Office of Secretary

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Federal Communications Commission  
Attn: NPRM # FCC 99-6  
445 12 Street, S.W.  
Washington, D.C. 20554 (202) 418-0260

Re: NPRM # FCC 99-6, MM Docket # 99-25 & #95-25:

I urge you to adopt rules for licensing Low Power FM radio that prioritize the needs of under-served and under-financed communities. Your office has the power and the mandate to ensure that ordinary people can claim a piece of the pie that big corporations have dominated and controlled for years. I am confident you agree that broad citizen access to information and culture is at the heart of a democratic society.

To support this vision, I urge you to legalize microradio with the following concerns in mind:

1. There should be completely non-commercial service. The current radio spectrum is dominated by commercial media. LPFM licenses should go to non-commercial community groups who want to use radio to communicate to the constituents and their neighbors, not to make a profit.
2. Licenses should be held locally, be non-transferable, affordable to all communities, easy to apply for and limited to one per license holder; they should NOT be businesses.
3. Power levels should be up to 100 watts in urban areas and up to 250 watts in rural areas.
4. NO secondary status should be allowed.
5. Microbroadcast pioneers who have suffered government seizure and fines should receive amnesty, have their property returned, and be prioritized for new licenses.
6. Problems, technical or otherwise, should be referred to the local voluntary micropower organization for assistance or mediation (e.g. the Ham radio model). The FCC should be the forum of last resort.
7. LPFM must be included in the future of digital radio.
8. If the FCC intends to license some commercial stations, they must be licensed last. In this instance, there should be a 2 year "headstart" for non-commercial licenses. The right of citizens to communicate is protected by the Constitution and the FCC's mandate. The right to make money through local radio is not a protection under the FCC's mandate.

Thank you for your time and your consideration of these vital issues.

Sincerely,

No. of Copies rec'd 2  
List: ABCDE

Peter Kardas  
Olympia WA

**From:** Nancy K Rost <nrost2@juno.com>  
**To:** K1DOM.K1PO1(FCCINFO)  
**Date:** Sun, Feb 28, 1999 6:19 PM  
**Subject:** ?



**RECEIVED**

**APR 19 1999**

**Federal Communications Commission  
Office of Secretary**

Re: NPRM # FCC 99-6, MM Docket # 99-25 & #95-25:

I urge you to adopt rules for licensing Low Power FM radio that prioritize the needs of under-served and under-financed communities. Your office has the power and the mandate to ensure that ordinary people can claim a piece of the pie that big corporations have dominated and controlled for years. I am confident you agree that broad citizen access to information and culture is at the heart of a democratic society.

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for  
non-commercial licenses. The right of citizens to communicate is  
protected  
by the Constitution and the FCC's mandate. The right to make money  
through  
local radio is not a protection under the FCC's mandate.

Thank you for your time and your consideration of these vital issues.

Sincerely,

Nancy Rost