

June 7, 1999

Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington, DC 20554

RE: Docket No. MM 99-25 (Low Power Radio)

Dear Commissioners and Commission Staff:

Enclosed are 15 copies, plus an original, of Additional Comments by THE AMHERST ALLIANCE in Docket MM 99-25 (aka Dockets RM-9208 & RM-9242).

Since May 28, we have been trying, without success, to file these Additional Comments ELECTRONICALLY. We suspect the problem is the last Appendix (Appendix 5), which is printed text that must be "scanned in". Today, I directed John R. Benjamin, our Communications Director, to attempt electronic filing WITHOUT Appendix 5. However, these PHYSICAL copies DO have Appendix 5.

The PRIMARY purpose of these Additional Comments is to supplement the details in our previous Comments. In the first 40 pages of this filing, we present these details with a more THEMATIC development: one which demonstrates more clearly the logic and philosophies which gave birth to these details. In presenting this overall context, we endeavor to weave together the intertwining threads of hope, fear and aspiration within the Low Power Radio movement.

We have also added a SPECIAL Section, beginning on page 41, which is entitled "The Commission's Proposed Rule: Pulling Out Into Traffic". In THIS Section, we speculate about THE COMMISSION'S motivations and objectives -- pointing out areas where the Commission's Rule, as currently proposed, would either SERVE OR UNDERCUT the Commission's goals. Further, we are adding new factual information To The Record through various Appendices -- including a response to recent remarks by Senator John McCain (Republican of Arizona).

As before, we commend the FCC heartily for taking action to create the LPRS.

Sincerely,

Don Schellhardt
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OF
THE AMHERST ALLIANCE
ON
CREATION OF A LOW POWER RADIO SERVICE

FCC Docket MM 99-25 (aka RM-9208 & RM-9242)

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APPENDIX 5

**“ECONOMICS As If Values Mattered”
by Charles Mattei,
Community Development Practitioner**

(First Appeared In SOJOURNERS Magazine)

UNITED STATES OF AMERICA

Before The
FEDERAL COMMUNICATIONS COMMISSION

The Portals
445 Twelfth Street S.W.
Washington, DC 20554

In The Matter Of:)	Docket MM 99-25
Creation Of A)	Docket RM-9208
Low Power Radio Service)	Docket RM-9242

ADDITIONAL COMMENTS OF THE AMHERST ALLIANCE

THE AMHERST ALLIANCE is a nationwide organization, composed of groups and individuals who support greater diversity in media ownership and media programming. We were founded on September 17, 1998 in Amherst, Massachusetts, and we see our movement as a defense of democracy.

At the moment, our highest priority is the establishment of a meaningful, and workable, Low Power Radio Service -- but we ALSO support the divestiture of certain radio stations, as recently proposed by the FCC Staff, AND repeal of mandatory license auctions. We may address other issues in the future.

THE REASONS FOR THESE ADDITIONAL COMMENTS

These Additional Comments are a supplement to our basic Written Comments, which THE AMHERST ALLIANCE has already filed separately.

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Since they address 35 separate issues, while offering 4 Appendices with original research, our basic Comments (dated April 28, 1999) are quite detailed.

In these ADDITIONAL Comments, we balance our basic Comments with a less detailed, more thematic OVERVIEW of our reasoning in making the policy recommendations we have. We suggest the Commission view these Additional Comments as a broad articulation of what we seek in the LPRS -- and WHY. Our basic Comments can be seen as a kind of "reference book": an indexed encyclopedia of Amherst opinions and information. An outline of our 35 specific recommendations, in our basic Comments, is found in APPENDIX 1.

We have ALSO added a special Attachment: "A Response To Senator McCain". In this document, APPENDIX 2, we answer the Senator's claim that the FCC's concerns about "outlet and viewpoint scarcity" are "anachronistic".

Before we begin our substantive exposition, we note that these Additional

Comments were developed with input from Amherst's LPRS Task Force. The Task Force is composed of Don Schellhardt of Connecticut, the Chairperson (and also Amherst's National Coordinator); Bill Doerner of Texas (who is also Coordinator for the Southern & Mid-Continent Region); Adrian Kohn of Washington, DC (who is also Coordinator for the Northeast Corridor & Upper South Region, as well as Chairperson of our Legislative Action Committee); and Nick Leggett of Virginia. A draft of these Additional Comments was reviewed by the remaining Amherst Coordinators, Officers and Coordinators EMERITI: Wesle Annemarie Dymoke of Rhode Island, "Bill T." of New York, John Robert

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Benjamin of Pennsylvania, Maryjane "Mj" Honner of Michigan, Kevin Lange of Indiana, Claude Stevens of Missouri, Scott A. Todd of Minnesota, Christopher Bydalek of Alaska, Matthew Hayes of California and Joseph D'Alessandro of Delaware. Then a revised draft was reviewed by the full Amherst Membership.

Thus, these Comments reflect points of broad consensus within Amherst.

OUR HOPES FOR LOW POWER RADIO

Many of Amherst's positions on specific issues can be traced back directly to our hopes for what Low Power Radio can become -- and our fears about how it might be corrupted, exploited and/or rendered irrelevant.

We begin with our hopes: the seeds from which all else grows.

The motivations of LPRS advocates are as individual as the individuals

themselves. However, dialogues within Amherst suggest that ALL Amherst Members are motivated by AT LEAST ONE of the following goals:

1(a). COMMUNITY REVITALIZATION. To many of us, America seems less connected than it was before.

In our large cities, some neighborhoods seem so abandoned by the American mainstream that residents who visit the suburbs, and suburbanites who

visit the neighborhood, often feel as if they have entered a different country.

In small cities, small towns and rural areas, community ties and family ties may be stronger, but the communities themselves have been abandoned

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by much of the national infrastructure: first by the airlines, then by the Federal Government's farm programs and now by the radio industry.

Even in our suburbs, well-connected as most of them are to the nation's infrastructure, there is often a sense of rootlessness -- and loneliness. In Northern Virginia, for example, unincorporated communities like Annandale and Merrifield are subsumed into the mass called "Fairfax County". For many in these unincorporated aggregations of people, there truly is "no there there": no community to cling to, no neighbors sharing a specific commitment to the specific place they live, no media or "grapevines" that carry community news.

Nick Leggett -- one of the RM-9208 Petitioners and a Member of THE AMHERST ALLIANCE -- recently prepared a list of 25 different community

services that a “community-sized” LPRS station could provide. The list, which is far from exhaustive, has been attached to this document as APPENDIX 3.

We hasten to add that NONE of the activities mentioned by Nick should be

MANDATORY -- but ALL of them seem to be feasible if a station wishes.

1(b). RELATED POLICY RECOMMENDATIONS. The need to strengthen compact communities is one reason we consider it VITAL to include LP-10 stations in the Low Power Radio Service -- AND to protect them from being “bumped” by other, larger stations. In larger cities, and in many of their suburbs, the population density is so high that an LP-100 will cover far more than a single urban neighborhood or a single suburban community.

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Often, only LP-10s will be “sized for the mission”.

In small towns and rural areas, and in some small cities as well, the problem is reversed. There, a station “capped” at 100 watts may not reach far enough to draw widely scattered groups of people together. This is one of the reasons why we accept the proposed LP-1000s -- IF they are “contained” where population density is 1,000 people per square mile or less. LP-250s, if any, should be restricted to areas with 1,500 people per square mile or less.

Actually, down to a few hundred people per square mile, LP-250s could achieve the same objective as LP-1000s. This is one reason we see LP-250 as

a “Transitional” Tier between LP-100 and LP-1000. Still, we will not ask the FCC

to drop LP-1000s completely -- so long as they stay out of densely populated areas. (See Appendices A, B, C and D of our basic Written Comments.)

We can also accept the approach favored by REC Networks: a flat ban on LP-1000s in The Top 50 Media Markets (since raised by REC to The Top 100) AND on LP-250s in The Top 40 (since raised by REC to The Top 50).

We could also accept wattage/height limits based on the amount of spectrum available: for example, banning LP-1000s in areas where 80% of the spectrum -- or more -- is already being used by Primary Service stations.

We also stress that it is CRUCIAL to keep LPRS stations out of the hands of larger institutions (INCLUDING large non-profits). License eligibility must be tightly limited AND licenses held to “one per customer”: otherwise, stations intended to serve communities could become mere satellites of larger entities.

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For details, see the Sub-Section on “Our Fears”.

2(a). UPWARD MOBILITY. Perhaps this point is best made by a story:

Don Schellhardt, National Coordinator of THE AMHERST ALLIANCE and an RM-9208 Petitioner, was a contract employee of the Connecticut courts when he wrote his portions of the RM-9208 Petition. Most of the words he penned in that Petition were written on courtroom breaks, with his mind still full of fresh, vivid images from the Juvenile Court of New Haven.

It took Don but a few days in a Juvenile Court to see that victims of abuse

can quickly become abusers themselves. Often, he would see a child in the morning, at a Hearing on his or her parents' alleged abuse -- and then see the same child in the afternoon, at a Hearing on the child's alleged juvenile crimes.

Violence was being passed, systematically, from one generation to the next. The incubator was almost always a neighborhood marked by poor education, high crime and high absentee ownership of neighborhood businesses.

According to one school of economics, absentee ownership of local businesses is the single greatest factor in plunging a neighborhood, or even an entire nation, into poverty -- because few of the dollars stay in the places where they were earned. (On this point, see APPENDIX 5 of these Additional Comments: "Economics As If Values Mattered". This is a series of 3 articles by Charles Matthei, a community development practitioner, in the November 1993, December 1993 and February 1994 issues of SOJOURNERS magazine.)

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Child abuse and juvenile crime can occur anywhere. However, MOST Defendants in this court (covering cities AND suburbs) lived in "urban islands": neighborhoods that were disconnected from much of the mainstream culture, while lacking the internal cohesion to be nurturing communities in their own right.

Most of the Defendants were STRANDED on these islands. They lacked the credentials to earn a lower middle class wage and move into a better neighborhood. Meanwhile, their current neighborhood lacked a base of locally

owned enterprise that might have empowered the community to improve itself.

Don also remembers working with a different judge -- in an ADULT criminal court. On one occasion, after sentencing a 19-year-old boy to prison for selling hard narcotics, the judge retreated to his chambers and held his head in his hands. "If only we could GIVE THEM something," he said.

"Give them something?" Don asked.

The judge lifted his head out of his hands. "Give them HOPE. Show them a way to succeed WITHOUT selling drugs," the judge said. He paused. "The way these kids see it, they can sell drugs and make \$1,000 a week, or more, or they can work at McDonald's for \$5.25 an hour. For most of them, that's a pretty realistic view of their choices. But if there were a THIRD path -- something that would lead, over time, to \$15.00 an hour or \$20.00 an hour -- I believe a lot of these kids would take the deal and stay away from drugs."

The point of the anecdote is this: There have to be paths out of poverty for people who cannot obtain a college education with the resources they have.

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Of course, Low Power Radio will not singlehandedly solve the problems of poverty-stricken, crime-ridden neighborhoods. However, it WILL open a path to upward mobility, and ultimately a decent standard of living, for SOME -- WITHOUT requiring them to spend 4 years in college or earn a graduate degree.

Also, by offering radio advertising opportunities for LOCALLY OWNED

businesses, and perhaps becoming a local employer in its own right, an LPRS station can keep more dollars within a community that needs dollars desperately.

Of course, we do not mean to imply that “community-sized” stations are only needed in a ghetto or a barrio. Across America, on farms, in Appalachia, on Reservations and elsewhere, individuals find themselves trapped in communities or neighborhoods they can neither escape nor improve. The entry level manufacturing jobs that once offered a transition route to the middle class are mostly gone. Now, for both humanitarian reasons AND its own future stability, the larger society MUST find ways to open NEW paths of upward mobility.

2 (b). RELATED POLICY RECOMMENDATIONS. Both of the economic effects we have discussed -- upward mobility for individuals AND economic growth for the community being served -- will be eroded, perhaps to the point of oblivion, unless LPRS stations are permitted to air commercials. Many who would ban commercials from the LPRS are working for social change that would supposedly help the poor, but in the meantime their proposed ban would BLOCK a possible path to a better life for low-income individuals and neighborhoods.

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This is throwing a drowning man an anchor.

The question is simple: How will individuals, and where possible entire communities, lift themselves out of poverty if they aren't allowed to make more money?

3(a). **RELEASING HUMAN POTENTIAL.** Although the need for LPRS stations is most acute in America's "urban islands", and also in its "disconnected" small cities and rural areas, many individuals in more affluent areas also feel frustrated by, or even trapped by, institutions that offer no outlet for letting them do what they do best -- and WANT to do most. Some of these people are aspiring entrepreneurs, while others are artists or activists with a dream, but ALL of them are PIONEERS -- eager to test their own abilities by opening a frontier, and opening it THEIR way.

In the 19th century, many of them might have settled the West. In the 21st century, their children, grandchildren and ideological kinfolk may colonize space. For now, however, they are pioneers without a frontier -- smothered professionally by corporate and/or government employers who under-value creativity and initiative (when they do not attempt to eradicate it completely) AND smothered culturally by a "global economy" that sees individuals, communities and even countries as mere atoms in a mass of consumers.

The Internet has released some of the pressure by providing a frontier of sorts, but standing alone it is not enough. It is no substitute for owning your own

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business, founding your own political party, writing your own book, patenting your

own invention. Bureaucracies, corporate and/or governmental, have increasingly

taken control of such areas -- leaving less room for diversity and individualism in

business, in politics, in publishing, in Research and Development AND in radio.

This is a dangerous situation for the larger society because "pioneer energy" will NOT go away (especially in a nation like the U.S.A., where tradition supports it). The energy will re-surface in a different, and perhaps less benign, incarnation: as anger turned inward (for example, through drug use); and/or as as anger turned outward (against authority figures); and/or (if the larger society is very lucky) through creation of a "New Frontier" SOMEWHERE, whether the society's established institutions like it or not.

While we at Amherst DO NOT advocate revolution, rebellion, disruption or even (at this time) civil disobedience, we would be remiss in our obligations to society if we did not note that the seeds of such events have already been sown. Corrective action is needed -- soon -- and the LPRS is a good place to start.

A U.S. Army Manual for fighting guerilla movements in the Third World places this statement on page 1:

"Resistance movements begin when intelligent, disciplined and highly motivated individuals conclude that what they want most from life cannot be attained by any means that are legal."

Are we so arrogant as a nation that we think this insight ONLY applies to OTHER countries?

3(b). RELATED POLICY RECOMMENDATIONS. Entrepreneurs and other visionaries need the option of airing commercials -- so they can have the cash flow to retain their operational autonomy.

Most of the aspiring broadcasters within Amherst are willing to accept “non-commercial” status IF: (a) “non-commercial” is defined to mean “non-profit” rather than “commercial-free”; and (b) this status exempts them from mandatory auctions. That is, they are willing to limit advertising revenue to the level that will cover reasonable costs (including a decent salary for themselves and their staff).

These Amherst Members would prefer to make profits, but they are willing to make this conditional concession because their PRIMARY goal is not wealth. Their primary goal is OPPORTUNITY -- to express the very best of themselves.

Some in the Low Power Radio movement dream of “radio collectives”, or similar community-controlled organizations, and we agree that such “collective” stations should be included in the LPRS. However, ample room should ALSO be left for the AMHERST kind of LPRS station: a “rugged individualist” station, rooted in the spirit of the frontier and run by a man or woman who would rather spend a MONTH selling ads than spend 5 minutes having to beg for funding or programming approval from a “community collective”.

Also, as with the urban neighborhood stations discussed earlier, there will be more room on the dial for entrepreneurial and/or artistic “rugged individualists”

if: (a) both the LP-100 option AND the LP-10 option are available in our large urban areas; and (b) the LP-1000 and LP-250 options are NOT.

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Further, as with the urban neighborhood stations, ALL stations in the LPRS

should be shielded from “bumping”.

Also, ALL licenses should be RENEWABLE.

The LPRS is NOT the Public Access Channel on local Cable TV. It is A FIELD OF OPPORTUNITY where individuals and communities will invest their money and their dreams in a chance to CREATE A NEW LIFE for themselves. We BEG the Commission not to doom their dreams in advance!! The FCC’s decision on license renewals should be made AFTER the LP stations have had a chance to show what they can do.

If the FCC is simply not ready to guarantee an opportunity for license renewal after 7 years, then we would suggest DEFERRING the decision on license renewability -- rather than deciding the question NOW, in the negative, before the LPRS has forged a “track record” for the Commission to assess.

Under this alternative approach, we recommend that the Commission should:

(a)

set forth, publicly and clearly, the results which the Commission expects to flow from LPRS stations, both individually AND collectively; (b) defer its decision on opportunities for license renewal until a publicly stated “date certain”, 3 to 5 years after publication of the Final Rule on LPRS; AND (c) make it clear from

the outset that success or failure in reaching these goals WILL be a major factor in the FCC's decision on whether to allow an opportunity for license renewal.

We suggest, in other words, that the Commission could treat LPRS stations the way a good corporate manager would treat a new employee:

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Make THE RULES clear.

Make THE GOALS clear.

Set a clear DEADLINE.

THEN:

Convey clearly that there will be CONSEQUENCES, positive OR negative, that hinge on whether the goals have been met, on time and effectively.

4(a). MORE CHOICES FOR LISTENERS. Contrary to some opinions, not all Low Power Radio activists are hostile to "Pop 40". We are, however, hostile to hearing THE SAME "Pop 40" songs, "Golden Oldies" songs, "hard rock" songs and country songs played over and over again, 6 or 7 or 8 times a day.

Also, we are insulted that broadcasters think we're too stupid to notice!!

Similarly, not all of us are Hispanic, or even able to speak Spanish, but we still feel society has lost something when -- as in New Haven -- a station acquisition drives the city's single Spanish language station off the air. We also think there is something dysfunctional in the marketplace when NO conventional broadcasting company cares to pursue ONE FIFTH of the people in New Haven.

Further, most of us in Amherst are not turning the radio dial in search of something as unconventional as “The Wiccan Station” or “The Biker Station”. However, we believe there MIGHT be enough interested listeners out there to justify “The Wiccan HOUR”, or “The Biker HOUR”, once a week, on an LPRS station. The odds of either show appearing on a Class A station are very low.

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Indeed, even some fairly large “niche markets” -- light jazz, exercise buffs, science fiction fans -- are largely ignored by Class A radio stations. In most of New England, for example, no light jazz station can be found on the dial.

Of course, the situation is worst for listeners in many small towns and rural areas, and also in some of our small cities. They may have only 5, 4, 3 or less audible choices on the FM dial -- and some or all of THOSE stations may be “translators” or even “satellators”. This is a gap that LP-1000 and/or LP-250 stations could fill IMMEDIATELY AND EFFECTIVELY -- in places that conventional broadcasters have largely abandoned. Indeed, we remain surprised that the NAB has not simply conceded these areas to Low Power Radio and concentrated on defending its core territory in the larger urban areas.

Finally, we note that the artificial restriction of choices on the dial permits licensed radio broadcasters to run more advertisements -- and/or charge more for each advertisement -- than they could do under more competitive circumstances. This insulation from accountability has “real world” results.

During late January of 1999, THE NEW YORK OBSERVER published an

article on radio industry stocks, which ended with an unusually revealing quote:

George Sosson, Clear Channel's senior vice president, sums up radio's new rules: Before the F.C.C. loosened its regulations, stations were afraid to increase loads [the number of ads] for fear of driving customers to "the other guy", he said. "Now, we all ARE the other guy." [Emphasis added]

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4(b). RELATED POLICY RECOMMENDATIONS. Key policy recommendations for increasing consumer choice are the same as those for boosting neighborhood stations or allowing more self-expression by individuals:

** Increase the number of neighborhood stations by licensing LP-10s, while also protecting them against "bumping" by anyone.

** Adopt LP-100 as the basic standard for most LPRS stations, with smaller stations (LP-10s) common in areas with relatively high population density and larger stations (LP-1000s and/or LP-250s) common in areas with relatively low population density. Protect LP-100 stations from being "bumped" by anyone.

** License LP-1000s ONLY in areas with a population density of 1,000 people or less. Limit LP-250s, IF they are licensed, to areas with a population density of 1,500 people per square miles or less. (A roughly equivalent restriction might involve barring LP-1000s from The Top 50 Media Markets and LP-250s from The Top 40 Media Markets.) This "quarantine" will keep a single

LP-1000 or LP-250 from displacing SEVERAL smaller stations in an area where the spectrum is congested. It will also help to prevent EXTREMELY uneven results from the same license: for example, enormous revenues for an LP-1000 in New York City and moderate profitability for an LP-1000 in Sioux City.

** Use a variety of policies (especially "one to a customer") to keep LPRS licenses from being acquired, directly or indirectly, by anyone besides individuals, the very smallest of small businesses and the very smallest of small non-profits.

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5(a). THE DEFENSE OF DEMOCRACY. Some in THE AMHERST ALLIANCE, and elsewhere in the Low Power Radio movement, are motivated by intense feelings of patriotism -- amplified by a KEEN sense of looming danger to the liberty and security we have inherited.

To put it bluntly, most of us have grave concerns about the long term prospects for the survival of representative democracy in the United States. Some of us are even concerned about the survival of the United States itself.

Any course of corrective action must deal with two threads that are, at this point, tightly interwoven: (1) restoration of the legitimacy of the nation's business, political and media Establishments; AND (2) preservation of our existing liberties.

(1) THE RESTORATION OF LEGITIMACY. We deal with legitimacy first. We do so not because we value liberty less, but rather because

legitimacy is part of the foundation upon which liberty rests.

A nation without liberty can still hold “legitimacy”: that is, can arouse a widespread perception among its citizens that the existing order has value and is worth serving or even defending. Witness the “good Kings” and “bad Kings” of the Old Testament. ALL of the Kings were dictators, but SOME of them were flexible, compassionate, subject to God and The Law. OTHERS were “tyrants”: selfish, ruthless, arrogant, “arbitrary and capricious”, Above The Law.

However, while nations without liberty can still have legitimacy -- can still enjoy a level of UNFORCED loyalty and support, or AT LEAST acquiescence --

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a nation without legitimacy cannot long sustain liberty.

Liberty is forged from an interlocking set of expectations and obligations -- held together by TRUST. GOVERNMENT must trust the people enough to believe that most citizens will not abuse their rights, to the detriment of the larger society. THE PEOPLE must trust the government enough to believe that it will not abuse its power -- or, at least, that abuses can be corrected through the ballot box, the courts or other ways to “petition for a redress of grievances”. Unless this MUTUAL TRUST is present, AND deserved, then ultimately the people will not be truly loyal to the established order -- and force will ultimately be needed, in place of “the consent of the governed”, to keep the society functioning. The growth of force will in turn mean a decline of individual liberty -

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and a climate favorable to the emergence of civil war, rebellion, revolution and/or

widespread reluctance to defend the larger society against its external enemies.

In his classic book, A STUDY OF HISTORY, Professor Arnold Toynbee examined the birth, life and death of 23 different civilizations around the world. All but 4 of them, he concluded, died from within. Some of them, such as ancient Rome, appeared on the surface to have suffered defeat at the hands of external forces -- BUT, on closer examination, can be seen to have DEFEATED THEMSELVES. Whether they collapsed in the face of barbarians, drought and famine, or depletion of essential resources, they FIRST lost respect for the value of their own society -- AND THEN they lost their resolve to struggle and adapt.

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The founders of America never read Arnold Toynbee -- but they knew the importance of LEGITIMACY. By the time of the American Revolution, and later of the Bill of Rights, the theory of The Social Contract had crossed the Atlantic from Western Europe. This concept, usually expressed as a metaphor of mythical history, envisioned that human beings had once been in “a state of Nature” -- an existence of anarchy, without government -- and had then CONSCIOUSLY created law, and government, for the sake of THEIR OWN cumulative self-interest. God had not bestowed “The Divine Right of Kings”: rather, THE PEOPLE had “contracted” to surrender SOME of their otherwise TOTAL individual freedom in order to obtain the benefits that only law and

government can provide. If God had bestowed ANYTHING, it was not a divine mandate for leaders but a body of “inalienable Rights” for each citizen.

Our nation’s founders were familiar with the Social Contract theories of Thomas Hobbes (who argued that the primary goal of The Social Contract was the establishment of ORDER) and John Locke (who argued that the primary goal of The Social Contract was the preservation of LIBERTY). The latter philosopher postulated that individuals have fundamental rights to “life, liberty and property”. Thomas Jefferson, in the Declaration of Independence, changed this to “life, liberty and the pursuit of happiness”: perhaps the first rejection of LAISSEZ FAIRE capitalism by the leaders of America.

The American Revolution rested on the premise that King George III had broken The Social Contract and thus voided his claim to the loyalty of Americans.

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Then, after the American Revolution was won, efforts were made to assure that the NEW government would never abuse its power to the point of losing the loyalty of its own citizens. Through the Bill of Rights, Constitutional “checks and balances” in the structure of the Federal Government, avoidance of the trappings of royalty, and other steps, efforts were made to assure that the new government could CLAIM loyalty by DESERVING loyalty.

Today, it remains true, on the most fundamental level, that citizens of ANY society -- whether totalitarian, authoritarian or (like the United States) relatively libertarian -- must ultimately believe that the established order serves THEIR

interests, too. For a society to be STABLE, a solid majority of its citizens MUST be able to say “Yes”, consciously or unconsciously, to questions like these:

If I have a grievance, and/or a vision, will the established institutions of the society offer me an avenue to make at least SOME progress SOME of the time?

Will the leaders of my society LISTEN to me?

If they DO listen, will they CARE?

Will they avoid “playing favorites” -- and honor at least the BASIC rights of EVERY member of the larger society, no matter how humble?

Finally, just as I am sometimes expected to make sacrifices -- or, at the very least, delay gratification -- for the sake of the survival or advancement of the larger society, are the LEADERS of the society willing to do the same?

IF questions like these CANNOT be honestly answered “Yes”, at least much of the time, then OTHER questions -- dangerous questions -- can arise:

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Since the leaders of established institutions do not listen to me, care about me or empower me, why should I obey any laws they make that I don't like?

Why should I pay taxes to keep in power people who don't care about me?

Why should I serve in their wars -- ESPECIALLY when and if I am given no say in whether these wars should be waged?

And why am I thinking of laws, taxes and wars as “THEIRS”, not “OURS”?

Eventually, IF the gap between the interests of the people and the interests of their leaders becomes TOO great, citizens may move beyond ignoring,

evading or challenging specific laws and/or customs. At some point, THE GOVERNMENT ITSELF -- not just its specific laws or policies -- may lose the loyalty of the people. THEN the question may become:

Why not REMOVE the leaders of the society from power? And why not also

remove the institutions those leaders were serving instead of serving the people?

Before the Civil War commenced, members of the abolitionist movement -- outraged by the existence of slavery, and even more outraged by its spread into the frontier Territories and (via the Fugitive Slave Act) into the North -- were well on their way to asking the LAST question in this chain. John Brown, in his abolitionist raid on Harpers Ferry, stepped over the line to armed rebellion -- and so, shortly thereafter, did his "opposite numbers" in the Confederacy.

We tell this story to underscore the reality that IT CAN HAPPEN HERE. The basic legitimacy of law and government CAN be lost in America -- with disastrous results that may never be fully undone.

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History ALSO teaches us, however, that America CAN step back from the brink and restore itself -- can learn, can heal, can grow. The Great Depression of the 1930's, the civil rights movement of the 1950's and 1960's and the Vietnam war protest movement of the 1960's and 1970's ALL created INTERNAL crises that might have ripped the nation assunder -- but didn't. In all three cases, reform movements prevailed before revolutions erupted -- and the Federal Government altered its attitude WITHOUT shrinking the Bill of Rights.

We are hopeful that the same process -- reform rather than revolution -- has begun with the Commission's consideration of Low Power Radio.

Barely over a year ago, the electronic civil disobedience popularized by Free Radio Berkeley, Radio Mutiny and others had begun to seep into Middle America. Forced to choose between the law and their consciences, with no prospect of a LAWFUL resolution, "pillars of the community" -- Main Street businesspeople, Hispanic community activists, evangelical Christians and other "solid citizens" -- began to broadcast without a license.

THIS was the same point at which the Vietnam war became politically unsustainable: when Iowa and Colorado and Ohio began to join Berkeley and Boston and the Lower East Side in holding demonstrations, sending their sons to Canada and demanding an end to the war. When rebellion reached Main Street, the war was dead -- though the burial took years.

We hope, and believe, that the same message reached the Commission when the ranks of unlicensed broadcasters began to include Republicans.

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We can report that the FCC's responsiveness has ALREADY brought SOME unlicensed broadcasters back into compliance with the law. From our perspective at Amherst, WE KNOW of unlicensed broadcasters who have "gone dark" -- VOLUNTARILY, without being asked -- as "a gesture of good faith" while the Commission considers their "petition for a redress of grievances".

Interestingly, most of these broadcasters didn't wait for the issuance of a

formal Proposed Rule. They “went dark” in response to the Commission’s VERY FIRST positive step: the solicitation of public comments on the Leggett/Schellhardt RM-9208 Petition (and, several weeks later, on the Skinner RM-9242 Petition).

These are people who DO NOT WANT to break the law. Like the founders of our country, however, they will break the law if the only alternative is dishonor. In their own way, they echo the words of Albert Camus: “I want to be able to love my country -- and still love justice.”

We ask THE COMMISSION to echo the toast of the 19th century reformer

Carl Schurz, who founded the Civil Service: “My country, right or wrong! When right, to be kept right. When wrong, to be SET right!”

(2) THE PRESERVATION OF EXISTING LIBERTIES. Within our own borders, national corporations -- indeed, even GLOBAL corporations, which seem to show no loyalty to anything that cannot be measured in dollars and cents -- have gained strangleholds over the flow of ideas and information in what remains (for now) the most powerful country in the world.

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American radio is already “highly consolidated” ... Television Station Groups are plotting the absorption or elimination of their local “affiliate” stations ... newspapers, in MANY cities, face NO print media competition AT ALL in their news coverage (with the exception of “alternative weeklies”, which they are

now starting to acquire) ... and a handful of companies, through relentless acquisitions, have seized most of the book publishing industry -- turning large, proud and independent publishing houses into docile conglomerate subsidiaries.

The Internet, while a MAJOR counterweight to these forces, cannot singlehandedly offset their impact. It is ONE new, and freewheeling, source of information flow -- attempting to compensate for the oligopoly control of SEVERAL established, and easily accessed, forms of media.

Also, for many Americans, The Net remains out of financial reach (at least for now). News and views on The Net still elude most everyday Americans.

Even for those who CAN afford Net access, there remains the threat of censorship legislation (already attempted, but so far blocked by the courts) -- and the POSSIBLE threat that media megacorporations may initiate strategic acquisitions of key search engines and/or ISPs.

We realize that the Commission does not have jurisdiction over all forms of media. It can certainly EXAMINE AND EVALUATE all forms of media, however, to PUT RADIO IN CONTEXT. We believe such a review of the OVERALL media situation will strengthen the Commission's resolve to TAKE CORRECTIVE ACTION in those industries where it CAN make a difference.

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For more discussion of media ALTERNATIVES to radio, please see APPENDIX 2 of these Additional Comments: "A Response To Senator McCain". In this Appendix, we address the recent claim by Senator John McCain (R-AZ)

that the FCC's concerns about "outlet and viewpoint scarcity" are "anachronistic".

It is the Senator's apparent thesis that aspiring LPRS broadcasters could, and should, pursue opportunities in other media industries instead of radio.

It is OUR contention that these other media are largely controlled by the same KIND of people, and sometimes LITERALLY the same people, who now have American radio in a stranglehold.

5(b). RELATED POLICY RECOMMENDATIONS. For Low Power Radio, there are two broad policy goals which must be achieved.

The FIRST goal, discussed earlier in this Sub-Section on "Our Hopes", is structuring a Low Power Radio Service that will ENDURE -- and endure WITHOUT duplicating the style and programming of conventional Class A stations. Meeting this goal means carefully designing the LPRS to incubate stations which are SMALL enough to have a community and/or "niche market" focus ... LARGE enough to be financially self-sustaining (except for some of the LP-10 stations, which are likely to be part-time and/or subsidized) ... and SECURE enough to work and plan outside the shadow of possible "bumping" and/or license non-renewability.

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Also, LPRS stations should be EMPOWERED to sell air time as a source of

revenue. Further, LPRS stations should be allowed to obtain “non-commercial” status -- and, with it, insulation from mandatory auctions -- WHEN AND IF they are willing to become commercial-airing NON-PROFITS, selling only enough air time to cover the station’s REASONABLE costs (including decent salaries).

For more discussion, see the preceding portions of “Our Hopes” -- notably including page 14.

The SECOND broad policy goal is to prevent a viable LPRS from being acquired -- openly or surreptitiously, directly or indirectly -- by institutions which are not committed to the core values of Low Power Radio: that is, ownership diversity, programming diversity, freely flowing ideas AND community focus.

For a discussion of credible scenarios for the subversion of LPRS by larger entities, AND a related discussion of preventive measures, see the Sub-Section on “Our Fears”.

OUR COMMITMENT

We have described FIVE MAJOR MOTIVATIONS that have led AMHERST ALLIANCE Members to “get involved”. Many of us are inspired by MORE than one of these hopes -- and some of us are inspired by all five.

The POWER of these individual commitments is reflected in two “signature characteristics” of THE AMHERST ALLIANCE.

6. LOOKING BEYOND TANGIBLE SELF-INTEREST. As we noted in our basic Written Comments (dated April 28, 1999), roughly two thirds of our Members are NOT past, present and/or aspiring Low Power Radio broadcasters. Most Members -- including Don Schellhardt, the National Coordinator -- are the proverbial “concerned citizens”: in some cases, DEEPLY concerned citizens.

Moreover, even among the Amherst Coordinators, Officers and Coordinators EMERITI -- the “worker bees” who form our equivalent of a Board of Directors -- only TWO THIRDS have PERSONAL experience with, and/or PERSONAL interest in, owning and/or working at a Low Power Radio station.

It takes a special cause, ESPECIALLY in the world of MODERN American politics, to draw people who will contribute time, money and energy -- sometimes, relative to their resources, on an almost heroic scale -- in order to achieve results that may NEVER benefit them, PERSONALLY, in a tangible way. Such movements are not unknown in American politics -- in fact, during times of crisis, America has often DEPENDED on such movements!! -- but such movements ARE rare. It MEANS something when one of them surfaces.

7. OVERCOMING DIFFERENCES -- TO MAKE A DIFFERENCE.

The commitments of individual Amherst Members are powerful enough to jump

across major barriers that typically separate people from each other.

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Even looking at only the ACTIVE Members of Amherst, we can see a stunning disregard for the usual classifications. Politically, we have rock-ribbed Republicans working with self-proclaimed "Socialists". Culturally, we have evangelical Christians working with uncloseted gays and lesbians. Generationally, we have a National Coordinator who turned 50 on January 31, after being elected unanimously by Members with a median age under 25.

We concede that people of color remain under-represented in our Membership -- perhaps, in part, because our currently modest resources limit our level of outreach for now. To a lesser extent, women are under-represented as well. We would certainly welcome more Members from both of these groups.

Overall, however, we know of few movements -- let alone interest groups!! -- that cross as many barriers as we do. We may not be unique, but we ARE exceptional.

WE TAKE PRIDE IN OUR DIVERSITY.

We believe it reflects AN INTENSITY OF COMMON COMMITMENT that is powerful enough to overcome potential divisions.

WE ALSO BELIEVE IT IS A FORETASTE of the diversity that will flourish within a meaningful, and workable, Low Power Radio Service.

OUR FEARS

8(a). UNDER-SIZING AND/OR OVER-SIZING OF LPRS BROADCAST COVERAGE AREAS. As we said in the preceding Section on “Our Hopes”, the SIZING of LPRS stations will require A DELICATE BALANCE -- ideally, with built-in variations to reflect major differences in population density.

We recognize that population density is not the ONLY factor which affects the sustainability of a radio station, but it appears to be the most important factor most of the time. Salary differentials in the CONVENTIONAL radio industry, between small cities and large cities, demonstrate clearly that broadcasters see a close correlation between population density and profits.

In any case, UNDER-SIZED stations will not be financially sustainable (with the possible exception of part-time and/or subsidized LP-10s).

OVER-SIZED stations may prosper, but will tend to have economic incentives for METROPOLITAN coverage over COMMUNITY coverage -- and “MASS MARKET” programming over “NICHE MARKET” programming. In short, such stations will have a tendency to become miniature versions of conventional Class A stations -- rather than something truly NEW.

Finally, as noted, finding a balance is complicated by the wildly varied

GEOGRAPHICAL CONTEXT of America. In Manhattan, an LP-100 may be over-sized. In Winnemucca, Nevada, an LP-250 may be under-sized.

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One of Amherst's greatest fears is the risk that LPRS stations may be MIS-sized by the FCC -- at least in SOME areas. The INTENSITY of our concern for OPTIMAL sizing is underscored by the pattern of our words in our basic Written Comments. More than a third of that 112-page document was devoted, directly or indirectly, to the issue of OPTIMAL STATION SIZING.

8(b). RELATED POLICY RECOMMENDATIONS. We discussed our policy recommendations in some detail in the subsection on "Our Hopes". Our key recommendations are: (1) keeping LP-1000s (and/or LP-250s) out of large urban areas; (2) making LP-100 the GENERAL standard for LPRS stations; and (3) establishing an LP-10 Tier, ESPECIALLY in large urban areas, that is accessible to part-timers AND offers both FM and AM licenses.

9(a). INITIAL AND DELAYED DISPLACEMENT OF LP-100s AND LP-10s BY LP-1000s. While a case can be made for LP-1000s (or at least LP-250s) in areas with population density of 1,000 people per square mile or less, LP-1000s -- unless VERY carefully contained -- could effectively displace everyone else, everywhere else, throughout the LPRS.

To put the point colloquially, LP-1000s may be justifiable in rural areas, small towns and SOME small cities -- BUT they make most Members

of Amherst nervous. They make most of us VERY nervous.

We view LP-1000s in the way that George Washington once described the Federal Government: "A dangerous servant, and a fearful master."

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There are TWO DIFFERENT WAYS, which are NOT mutually exclusive, that LP-1000s could displace other LPRS stations on a MASSIVE scale.

THE FIRST DANGER would be INITIAL displacement -- before licenses are even granted -- in areas where the spectrum is even moderately crowded. The FCC's own Proposed Rule notes an FCC Staff study, which reports that metropolitan Denver can accommodate one LP-1000 or FOUR LP-100s -- while metropolitan Minneapolis can accommodate one LP-1000 or NINE LP-100s.

God knows how many LP-10s could take the place of A SINGLE LP-1000!!

THE SECOND DANGER from LP-1000s would be DELAYED displacement, affecting LICENSED stations -- IF the Commission insists that LP-1000s must have Primary Service Status while LP-100s and LP-10s are restricted to Secondary Service Status. LP-100s and LP-10s would then be "bumpable" by any LP-1000 licensee who has designs on their frequencies.

Thus, UNLESS the Proposed Rule is changed, LP-100s and LP-10s will be

"endangered species" from the outset -- AND could quickly become extinct.

Such results may please a little handful of people who REALLY want to have CLASS A licenses -- BUT pose as champions of the Low Power Radio movement AND claim to speak for it. They do NOT speak for it, however.

Read what Amherst says, read what ARD says, read what CDC says, read what REC Networks says, read what Rogue Communications says, read what Prometheus Radio says. One thing will be clear: ALMOST EVERYONE in our movement WANTS LP-1000s RESTRICTED to small cities AT THE MOST.

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9(b). RELATED POLICY RECOMMENDATIONS. We have discussed this matter, to some extent, in the Sub-Section on “Our Hopes”.

We propose to prevent DIRECT displacement of LP-100s and LP-10s by: (1) limiting LP-1000s to areas with 1,000 people per square mile or less (PLUS limiting LP-250s, if any, to areas with 1,500 people per square mile or less); AND (2) keeping FULL Primary Service Status for LP-1000s (and/or LP-250s) BUT adding MODIFIED Primary Service Status for LP-100s and LP-10s (under which LP-100s and LP-10s could neither “bump” other stations NOR be “bumped” themselves).

The second recommendation would ALSO solve the problem of possible DELAYED displacement -- AFTER the LPRS licenses have been granted.

The Commission is correct in concluding that there ARE parts of America where LP-1000s, or at least LP-250s, are necessary -- or even desirable. In such areas, almost by definition, the spectrum should usually be open enough to prevent major competition for spectrum. Where there IS major competition for spectrum, this implies enough potential revenue to support an LP-100 or possibly even an LP-10. There is, therefore, NO NEED to license LP-1000s in

such areas -- and no justification at all for letting them “bump” smaller stations.

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10(a). INADEQUATE LIMITS ON ACCESS TO LPRS LICENSES.

Another fear of Amherst Members, and of others in the Low Power Radio movement, is the possibility that LPRS licenses may be gained by institutions which do not share the movement’s “core values” of ownership diversity, programming diversity, freely flowing ideas AND community focus.

WE COMMEND THE COMMISSION for proposing to bar existing broadcasters from acquiring LPRS licenses. This is a MAJOR step in The Right Direction -- but, unfortunately, it does not go far enough.

It does not go far enough because OTHER large institutions may well desire to acquire stations -- for reasons UNRELATED to the 5 basic LPRS goals of community revitalization, upward mobility, releasing human potential, more choices for listeners and the successful defense of democracy.

One scenario that concerns us might be called “Wal-Mart Radio”. Because so many of the LPRS stations will be focusing on specific neighborhoods or communities, they might make an ideal beachhead for those with a product to sell at local outlets: discount stores, video/CD chains, fast food restaurants and so on. Few people are likely to tune in for non-stop commercials, but they

MIGHT tune in for entertainment or other programming -- which could then be peppered with locally tailored ads for locally based retail outlets.

Another possibility already has a name in Low Power Radio circles: the “McChurch” scenario.

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This scenario is less speculative than the first one. At Amherst, we have heard reports that The American Family Association, a well-funded evangelical group led by The Reverend Donald Wildmon, routinely files for a license on an open frequency (directly OR through intermediaries) whenever ANYONE ELSE applies for that frequency FIRST. The Commission is, of course, in a much better position to verify these reports than we are -- but we at Amherst have no reason, at least so far, to distrust our “sources”. Assuming the reports are accurate, they are very disturbing: whether the AFA’s intent is to “warehouse” frequencies for the future, OR to block the emergence of additional secular programming, OR both, the practical effect is the systematic delay or denial of opportunities sought by others.

We acknowledge that, under the Proposed Rule, EXISTING networks (evangelical or otherwise) would be barred from acquiring LPRS licenses DIRECTLY. However, NEW, 5-station evangelical networks (evangelical or otherwise) could be created very quickly.

10(b). RELATED POLICY RECOMMENDATIONS. Our most important

recommendation is restricting Low Power Radio licenses to “one to a customer”. This will make it more difficult, AND less rewarding, for larger corporations to acquire commercial-airing stations. This will also make it more difficult for expansionist non-profits, such as certain evangelical networks or NPR, to add commercial-free Low Power stations as new links in their chains.

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As our SECOND priority in this area, we also recommend, at least as a starting point, a REVISED version of the size and income restrictions first proposed by Don Schellhardt, Nick Leggett and Judith Fielder Leggett in their REVISED version of the proposal in Docket No. RM-9208. Specifically, we propose limiting eligibility for an LPRS license to: (1) INDIVIDUALS; and (2) INSTITUTIONS, whether corporate or non-profit, which have \$200,000 or less in GROSS annual revenues AND \$500,000 or less in NET assets (excluding the value of the station itself, and of any station-related equipment, plus any equity in an owner-occupied PRINCIPAL residence).

We have made only two changes in the original proposal by Don Schellhardt and the Leggetts. That is, we have raised their proposed limits of \$100,000 and \$200,000, respectively, AND we have added the exclusion from net assets for the station itself and station-related equipment.

As our THIRD priority in this area, we also favor LOCAL RESIDENCY REQUIREMENTS. Specifically, we advocate requiring LPRS license holders to live within reasonable proximity of their station -- preferably within the

Reception Contour, but in no event more than 25 miles away.

LPRS licenses should be reserved for individuals AND for institutions that are both local AND small. If forced to choose, however, we see size and income

as the more important criteria -- because, at least these days, impersonal economics often influence institutional behavior more than geographical location.

Thus, for example, an environmentalist station established at Harvard Square, by

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the California-based Sierra Club, would probably enrich the total range of radio choices more than a station chartered by Bank of Boston.

ALL THREE of these policy recommendations -- in the indicated order of priority -- make sense. Therefore, we urge the FCC to adopt ALL of them.

With the extreme imbalance of power between large corporations (and large non-profits) On The One Hand, and aspiring LPRS broadcasters On The Other, we believe our recommended protections are necessary EVEN IN THE CASE OF those LPRS stations which are NOT subject to mandatory license auctions. However, WHEN AND IF some LPRS licenses are awarded by auction, the presence or absence of these protections will double or triple in importance. That is, IF the FCC determines that some LPRS licenses MUST be

awarded by auction, it is VITAL that ONLY individuals and small institutions be eligible to offer a bid. Otherwise, larger institutions can "sweep the field" --

killing, at least in the case of AUCTIONED stations, any hope that these stations will ever become meaningful alternatives to the radio STATUS QUO.

We also note that Bill Pfeiffer of ARD asserts the FCC may legally exempt all LPRS stations -- non-commercial AND commercial -- from mandatory auctions. Bill argues the LPRS is protected by its status as a SERVICE. Also, according to one report, Chairman Kennard has speculated the LPRS may be protected from auctions because it is NEW: something not envisioned by Congress when auctions were enacted. While we have not had time for legal research on either argument, we urge the FCC to evaluate these points carefully.

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11(a). INADEQUATE LIMITS ON INDIRECT CONTROL OF LPRS STATIONS. As we understand the Proposed Rule, “new” broadcasters would be eligible to obtain up to 5 licenses (nationwide). Unfortunately, these “new” broadcasters could be subsidiaries, affiliates, agents or franchisees of -- or even “fronts” for -- established broadcasting interests. They could ALSO be subsidiaries, affiliates, agents or franchisees of -- or even “fronts” for -- large institutions which are not currently engaged in broadcasting BUT see a sudden opportunity to acquire “a piece of the action” inexpensively.

This is, in Capitol Hill parlance, “a loophole so big you could drive a truck through it”.

Revisiting, briefly, the scenarios we discussed in Item 10:

(1) An existing broadcaster could create a new subsidiary. It could even

“sponsor” a totally “new” company with stock -- or other instrument(s) of institutional control -- vested in the same hands that control the existing broadcaster. Then, under the Proposed Rule as it is currently proposed, the “new” subsidiary, or unofficial affiliate, could scoop up 5 LPRS licenses across the nation. After that, or even SIMULTANEOUSLY, other voracious legal fictions could cruise for LPRS licenses -- with each one allowed a “hunting limit” of 5.

(2) Wal-Mart’s or McDonald’s or “McChurch” could do the same thing -- except that THEY would not even have to worry about creating the legal fiction of an “independent” institution. Rather, Wal-Mart’s or McDonald’s could simply charter 50 or 100 subsidiaries, authorized to “bag” 5 LPRS stations apiece, and

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“McChurch” could create 50 or 100 non-profit affiliates for the same purpose.

(3) ANY of these larger institutions could hire, or otherwise recruit, individuals to “front” for them in filing for licenses. The licensee would appear independent “ON PAPER”, but would in fact be financially dependent on -- OR otherwise accountable to -- an unknown institution, hidden in the shadows.

(4) This list probably does not exhaust the possibilities.

11(b). RELATED POLICY RECOMMENDATIONS. We propose, for INSTITUTIONS, that all LPRS licensees must be PARENT COMPANIES (or their non-profit equivalents) ONLY. As for INDIVIDUALS, all LPRS licensees should be PRINCIPALS ONLY.

It should be illegal, WITH appropriate penalties, for an LPRS license to be acquired by the subsidiary, affiliate, agent or franchisee (and/or the non-profit

equivalent) of ANY institution or ANY individuals. ALL applicants should be required to certify, in a doubly witnessed and notarized statement which will make them subject to legal penalties, that: (1) they are acting absolutely and exclusively on behalf of themselves; AND (2) apart from an authorized sale or transfer to OTHER parties who are ALSO eligible for an LPRS license, the licensees will not cede direct or indirect control of station programming and/or operations to ANY party not listed as, AND eligible to be, an LPRS applicant.

As an additional barrier to indirect control of LPRS stations, we endorse the recommendation made by Don Schellhardt and the Leggetts in their REVISED version of RM-9208.

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That is, quoting from page 64 of the May 7, 1998 Reply Comments of The RM-9208 Petitioners (which we incorporate by reference):

Otherwise eligible microstations should be barred IF they are subject to excessive influence or control by those too large to apply for licenses themselves. Licenses should not be granted to, AND purchases of licensed microstations should not be allowed for, institutions meeting these criteria:

More than 10% of the stock [in the case of a profit-making LPRS], or other instrument of control [in the case of profit-making and non-profit stations alike], is held by an ineligible source

OR

More than 20% of GROSS REVENUE is received in any form (grants, government funding, sales, whatever) from an ineligible source

OR

More than 20% of financing is received from an ineligible source (adjustable to 40% in the case of a bank with no direct or indirect financial interest, of any kind, in any form of broadcasting

OR

Any combination of the above

Finally, we note that a licensing policy of “one to a customer” -- proposed in Item 10(b) as a way to prevent access to LPRS licenses by those who are not sympathetic toward its goals -- will also complicate any schemes for indirect control. That is, under a “one to a customer” policy, parties seeking indirect control of LPRS will require 5 times the number of subsidiaries, affiliates, franchisees, agents or “fronts” to reach the same objective. They will ALSO have to leave 5 times the “paper trail”, deal with 5 times the number of potential “leaks” AND place themselves under public and regulatory scrutiny 5 times as often. We believe this WILL have some deterrent effect, although MAXIMUM

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effectiveness requires a complementary policy of limiting licenses to “parent companies, parent non-profits and principals” ONLY.

12. FOOD FOR THOUGHT: BURGER KING v. McDONALD’S. Given that LPRS stations are likely to be less profitable than conventional Class A stations (at least initially), some at the Commission might wonder WHY we are so concerned that larger institutions will attempt -- directly or indirectly -- to oligopolize LPRS licenses and/or acquire independent LPRS stations that have already been licensed.

We answer by urging the Commission to look beyond the SURFACE of the economics involved.

Mark Blake, of the silenced station Prayze-FM in Hartford, illustrates this point with a hypothetical question:

“Is it worth it to spend \$20,000 on a vacant lot you have no intention of developing? Normally -- probably not. But what if you’re McDonald’s? And the lot is right across the street from you? And Burger King is going to build there unless you buy up the lot first? When THAT is the situation, you have an ENTIRELY DIFFERENT kind of economics at work.”

We strongly suspect that in time LPRS stations, ESPECIALLY those which air commercials, WILL BE strong competitors -- at least collectively -- to the established megacorporations. WE have the innovation and daring that many established stations not only LACK but actually FEAR. Because “playing it safe”

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is sometimes the riskiest strategy in the world, media megacorporations WILL lose some ground to LPRS stations.

The very stridency and inflexibility with which the NAB attacks Low Power Radio shows their fear of the programming we can offer to the public AND the affordable advertising we can offer to businesses (if the Commission lets us). John Earnhardt of the NAB -- the other “Man With A Hardt” in this debate -- has called Low Power Radio “the most serious issue facing the radio industry in the last 30 years”. Whether they fear most OUR ability to innovate, or THEIR apparent addiction to bland and homogeneous programming, the media megacorporations have demonstrated with their statements and actions -- AND

with the INTENSITY of those statements and actions -- that they see Low Power Radio stations as potentially effective competitors.

Given THIS outlook by the media megacorporations, it is difficult to believe that they DON'T view themselves as McDonald's, LPRS licenses as a vacant lot across the street -- and the Low Power Radio Service as a Burger King that can threaten their market dominance.

In short, the threat of "pre-emptive strikes" -- to keep independent LPRS stations off the air by denying them licenses, directly or indirectly -- is real AND rational. So is the threat of systematic efforts, through various intermediaries, to render Low Power Radio stations innocuous by gaining direct or indirect control. If the FCC does NOT heed these threats, and protect the LPRS against them, all that the FCC is seeking to accomplish in this Rule will be at grave risk.

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THE COMMISSION'S PROPOSED RULE: PULLING OUT INTO TRAFFIC

Almost everyone who drives has had the experience of pulling out, from a standing start, into a lane of high speed traffic.

On such occasions, the natural reaction of some drivers is to move very tentatively throughout the entire episode: pulling out slowly and accelerating slowly once they enter the lane -- or even slowing down as they enter the lane.

This "natural reaction" is, of course, an invitation to a rear end collision.

The SAFEST course, apart from standing still forever, is to select a moment

of RELATIVELY low risk and then SPEED UP to match the speed of the traffic.

While we have stressed that the Commission's Proposed Rule is a major improvement over the STATUS QUO, it still reminds us of a driver pulling out into high speed traffic TOO SLOWLY.

To continue the metaphor, we commend the Commission for deciding to stop standing still. However, now that the decision to enter the flow of traffic has been proposed, the safest course is NOT to seek a "happy medium" between standing still and matching the speed of the oncoming cars, buses and trucks. The SAFEST course -- the one MOST LIKELY to avoid a collision -- is a swift, smooth and even transition from one world to another.

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We acknowledge that there ARE many situations where a balance of opposites is necessary or desirable: for example, a balance between intimacy and autonomy in a marriage, between family and work in a career or between outreach and self-preservation in dealing with China.

Creation of a Low Power Radio Service is not such a situation, however. Here, the Commission must be careful to avoid being caught somewhere between zero velocity and the speed of the oncoming traffic.

The present "risk of a collision" springs from the fact that the Commission

seems to be trying to authorize Low Power Radio while simultaneously making the smallest possible change in OTHER standing policies.

This is often a wise strategy for those who foster innovation. When proposed changes are focused narrowly, there is less total change for established interests to digest -- and, therefore, a chance of less resistance. With the LPRS, however, this INCREMENTAL strategy is far from optimal.

The problem is that certain FCC policies RELATED to the LPRS will profoundly affect the LPRS itself. If these RELATED policies are left unchanged, while the Commission attempts to foster innovation and diversity through the LPRS, the results may be "neither fish nor fowl": not a BALANCE of innovation and tradition, but rather A COLLISION of innovation and tradition.

We present some specifics below.

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13. COMBINING "CLASS A REFORM" WITH LOW POWER RADIO.

We have spent considerable time and energy speculating WHY the Commission has proposed the licensing of LP-1000 stations, WITHOUT geographical limits, when virtually no one in the Low Power Radio movement ever ASKED for them. Apart from Rodger Skinner and a few others, NO ONE in the movement asked for more than 250 watts -- and most of the "players" asked for 100 watts or less.

It may be that the Commission was drawn to the simple symmetry of the

system: 1 watt contemplated, 10 watts contemplated, 100 watts proposed and 1,000 watts proposed, with each Tier an order of magnitude above the Tier below

it. Unfortunately, the LAST order of magnitude creates a jump in coverage area that is SIMPLY HUGE: a leap from 38 square miles for an LP-100 to 250 square miles for an LP-1000. In areas with low (or even moderate) population density, many LPRS stations may be either too small to survive (at 100 watts) or so large that they begin to think and act like conventional Class A stations (at 1,000 watts). We have proposed to fill this gap with a Transitional Tier at 250 watts -- which is also the standard size range for translators and "satellators".

WITHOUT a Transitional Tier at 250 watts, the coverage areas run as follows: 13 square miles for an LP-10, 38 square miles for an LP-100 and 250 square miles for an LP-1000. To put it another way, if 13 = 1, then the Tiers run 1, 3 AND THEN 19.

The WATTAGE in the Tiers may be symmetrical, but the COVERAGE is definitely NOT!!

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WITH a Transitional Tier at 250 watts, the square miles of coverage progress more smoothly: 13, 38, 61 (for 250 watts at 100 feet), 125 (for 250 watts at 200 feet) AND THEN 250. That is, if 13 = 1, the Tiers NOW run 1, 3, 5, 10 and 19. This is hardly perfect symmetry, either, but it's a BIG improvement

-- AND it permits a rational transition from the largest urban areas (LP-10s, perhaps with some LP-100s) to the mid-sized urban areas (LP-100s, perhaps

with some LP-10s) and small cities and rural areas (LP-1000s and/or LP-250s, perhaps with some LP-100s for the small cities and even some LP-10s for the small towns and villages).

In any event, while the appeal of symmetry may well have played a role in the Commission's thinking, we SPECULATE that the weightier factor was this:

We suspect the FCC saw this Proposed Rule as a chance to combine the creation of TRUE Low Power Radio stations with some reform of Class A.

As currently proposed, the provisions which establish LP-1000s will have AT LEAST THREE EFFECTS on current conventional stations:

- (A) At a time when the "consolidation" of the radio industry -- that is, the conversion of thousands of stations into mere satellites of a few media megacorporations -- has become legendary, the LP-1000 Tier might produce "contenders" who could "grow into Class A" over time. These new "contenders" could then increase the currently constricted pool of competitors in Class A.

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- (B) At a time when the number of translator stations -- and especially satellators -- has climbed far beyond the original expectations, "piping news and views" into many areas from points far removed, LP-1000s with Primary Service Status would have the right to "bump" 250 watt translators that have only Secondary Service Status. In many small cities, small towns and rural areas, stations run by and for out-of-town interests might be replaced by new stations that are LOCALLY owned, LOCALLY operated and LOCALLY oriented.

Also, since 1,000 watts provides more coverage than 250 watts (when tower height is the same), these new LP-1000 stations would reach MORE people than the translators being displaced. There would be a RISE in net broadcast coverage after the displacement.

A new Tier at 250 watts would presumably be “a wash” in most cases.

However, coverage areas would SHRINK if the Commission allowed LP-100s and/or LP-10s to displace 250 watt translators. Therefore, it makes sense to deny LP-100s and LP-10s the right to “bump” stations that have Secondary Service Status.

- (C) As a variation on the same theme, some LP-1000s could become the functional equivalent of conventional stations in small cities, small towns and rural areas that conventional stations have abandoned.

Other evidence supports our speculation that an Agenda for Class A Reform has been mingled with an Agenda for “traditional” Low Power Radio. Consider, for example, the proposed limit of “5 LPRS stations to a customer” (nationwide), instead of only one.

IF LP-1000s are being groomed for eventual entry into Class A, the 5-station limit makes more sense. It promotes and facilitates empire-building, thereby fortifying the LP-1000s for their eventual assaults on Disney or CBS.

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HOWEVER, in the case of LP-100s and LP-10s, a policy of “5 stations to a customer” -- ESPECIALLY if it is accompanied by Secondary Service Status -- is potentially fatal. In the dangerous game of corporate acquisitions, they are more likely to be the dinner than the diner.

We stress to the Commission that we are NOT against Class A Reform -- SO LONG AS IT IS NOT ACHIEVED AT OUR EXPENSE.

Nor are we opposed to ANY of the three specific objectives (A, B or C) that we have described above. In terms of the impact on CONVENTIONAL radio, most of us in Amherst could accept, or even cheer, the probable results.

We just worry about the impact on UNconventional radio: namely, US.

ALL of these probable results, IF achieved, will improve the situation for CLASS A listeners. However, they will NOT necessarily improve the situation for LOW POWER RADIO, in the sense that its advocates have envisioned it.

In fact, the probable results of establishing LP-1000s, under the Rule as it is presently proposed, would likely be HARMFUL to Low Power Radio stations (in the established sense of the term).

In short, the Commission seems to be grooming a new pool of competitors who can "thin the herd" of proliferating translators and satellators -- and sow the seeds of future challenges to the standing Class A empires.

Unfortunately, in its apparent pre-occupation with Class A Reform, the FCC has overlooked something. That is, stations with megacorporations in their sights might START their upward trek by hunting the EASIEST target: US.

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Fortunately, this problem can be "fixed", fairly easily, and we have already told the Commission how to do it:

First, keep LP-1000s out of areas with more than 1,000 people per square

mile. (Alternatively, ban them from the Top 50 Media Markets and/or from areas where Primary Service stations occupy 80% of the spectrum or more.)

AND ...

Second, do not allow LP-100s and LP-10s to be “bumped” by LP-1000s -- or anyone else.

In short:

If the FCC wants to use this Proposed Rule as a vehicle for CLASS A REFORM, it should not mix these Class A objectives with the DIFFERENT goals of “traditional” Low Power Radio. When it comes to SITING and “BUMPING”, the Commission should “build a firewall” between LP-1000s and the other Tiers. To a significant extent, the different levels appear to have different FUNCTIONS: the functions of one should not be allowed to disrupt the functions of the others.

Under our proposed approach, each of the three Class A Reform objectives can STILL be pursued by the FCC.

That is, translators and satellators can STILL be “bumped” by LP-1000s and/or LP-250s in the small cities, small towns and rural areas where translators and satellators are most common. Indeed, the Commission doesn’t have to go to 1,000 watts to achieve this result: the same result could be accomplished by a Tier set at 250 watts (although this would not increase net broadcast coverage).

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Similarly, LP-1000s and/or LP-250s can STILL provide CONVENTIONAL

programming, and AREAWIDE news coverage, in places where most or all of the

conventional radio stations have vanished from the airwaves.

Finally, LP-1000s will STILL be able to build empires. They will have to build them, however, in the smaller cities and towns where they are needed most -- AND they will have to do it by displacing translators and satellators, AND/OR acquiring translators and satellators for conversion to local stations, rather than by pursuing the direct or indirect displacement of other, smaller LPRS stations.

In short, a man in metro Miami who dreams of an LP-1000 station can STILL have one. However, he will have to build it someplace like Gainesville or Pensacola, leaving metro Miami to the LP-10s and LP-100s, AND he will have to settle for displacing ONLY competitors who are NOT locally owned and oriented.

14. NEEDED: RE-THINKING OF OLD CONCEPTS. In addition to the correctable complications from mixing an Agenda for Class A Reform with an Agenda for TRUE Low Power Radio, at the expense of the latter, the FCC's Proposed Rule ALSO reflects a tendency to transplant OLD concepts into the NEW area of Low Power Radio.

As with BIOLOGICAL transplants, sometimes the new host accepts them -- and sometimes there just isn't a match.

We can think of 3 distinct areas where there "just isn't a match" between transplanted concepts and the needs of the new LPRS.

(1) INVESTMENT PATTERNS THAT NEED TO BE ENCOURAGED.

As the FCC is well aware, from other statements we have made On The Record, we support the proposed Primary Service Status for LP-1000s and/or LP-250s -- but we are deeply troubled by the proposed Secondary Service Status for LP-100 stations and, apparently, LP-10 stations as well. This preferential treatment of one Tier means that larger LPRS stations can displace smaller LPRS stations.

We are ALSO troubled by the Commission's EXPLANATION for this dangerous discrepancy.

The Commission notes that the capital costs for LP-1000s are higher than the capital costs for LP-100s (or LP-10s). Because the capital costs are higher, the Commission asserts, strong incentives are needed to attract enough investment capital to build these stations. The Commission then presents a PREFERENTIAL degree of security -- that is, undiluted Primary Service Status -- as a necessary incentive for the attraction of such capital.

The Commission never explains why this security for LP-1000s has to be PREFERENTIAL: that is, why security is bestowed upon LP-1000s AT THE EXPENSE OF, rather than IN ADDITION TO, security for LP-100s and LP-10s. This is a point to which we will return shortly.

For now, we stress only that this line of reasoning fails to make any adjustment for the fact that Low Power Radio stations are -- or, at least, are supposed to be -- DIFFERENT from CONVENTIONAL stations.

Rightly or wrongly (and we would say wrongly), the CURRENT licensing of CONVENTIONAL radio does not weigh the question of access to the airwaves by everyday Americans. What counts most is the STATION, and its capabilities -- NOT the station OWNER.

In Low Power Radio, however, the question of WHO OWNS the station is supposed to come FIRST. If the owners of newly licensed LPRS stations do not reflect A DRAMATICALLY BROADER SPECTRUM of Americans than the owners of conventional stations do, the LPRS will fail in its most crucial mission before it has even begun -- and those who have labored for Low Power Radio licensing, so hard and so long, will feel outraged, or even betrayed.

Once the FCC accepts that Low Power Radio is first and foremost about WHO OWNS the station, it will hopefully realize it has been ASKING THE WRONG QUESTION in its thinking about incentives.

If the FCC doesn't care who owns the stations, there may be some logic to its "classic" reasoning for deciding who needs "economic incentives" the most. The BEST incentives go to the people who have to put up the most money.

If the Commission DOES care who owns the stations, however -- which is, hopefully, THE POINT of this exercise -- the key question changes.

Instead of asking WHO HAS TO PUT UP THE MOST MONEY, the Commission needs to be asking: WHO HAS TO PUT AT RISK THE GREATEST PERCENTAGE OF THEIR PERSONAL INCOME AND ASSETS?

It is THESE station owners who need the BEST incentives the MOST.

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We submit, based on a mixture of both observation and common sense, that a typical LP-100 owner is likely to be putting more of his or her personal assets and income at risk than a typical LP-1000 owner. This is likely to be even more likely in the case of an LP-10 owner.

Under THIS reasoning, we believe we can justify a preference for the SMALLER stations over the larger ones. However, we will not ask the Commission to go that far. We will not even oppose allowing LP-1000s (and/or LP-250s) to “bump” Secondary stations, while LP-100s and LP-10s cannot. Still, we DO urge the Commission to at least establish PARITY OF SECURITY between the Tiers -- by making stations in ALL of the Tiers “unbumpable”.

(2) BINARY THINKING ABOUT “PRIMARY SERVICE STATUS”. As we noted above, we can understand why the FCC proposes to make LP-1000s “unbumpable” -- but we do NOT understand why the FCC has not proposed PARITY OF SECURITY for the other LPRS Tiers.

After scratching our heads over this, we speculate that the FCC may be carrying over -- from conventional radio to Low Power Radio -- a BINARY, “Either/Or” concept of what constitutes Primary Service Status.

Under the CURRENT regulation of CONVENTIONAL radio, a station is either TOTALLY Primary or TOTALLY Secondary. A station with Primary Service Status cannot be “bumped” -- but it CAN “bump” other stations, with Secondary Service Status. As for Secondary Service stations, they can neither

defend themselves against “bumping” NOR “bump” anyone else.

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There is NOTHING in between the two extremes.

We hypothesize that the FCC has TRANSPLANTED this dichotomy into its

Proposed Rule. Because it has tied together the issue of whether a station should be “bumpable” with the question of whether it should be able to “bump” others, the Commission’s analysis may have begun and ended too quickly. That

is, the issue of Primary Service Status for LP-100s and LP-10s may have been resolved by the question: Should an LP-100, or even an LP-10, be able to “bump” a 250 watt translator? With the Commission’s CURRENT schematic in place, a “No” answer to THAT question is automatically ALSO a “No” answer to the question of whether LP-100s and LP-10s should be “unbumpable”.

It DOESN’T have to be that way. There is no reason at all why the Commission cannot create A MIDDLE GROUND -- where stations can be secure from “bumping” but STILL unable to “bump” others.

THIS is what we have asked the Commission to do -- to carve out a NEW place for what we call “MODIFIED Primary Service Status”. Whatever rationale the FCC may have for dividing the ranks of CONVENTIONAL stations into dominants and submissives, there is NO reason why LOW POWER stations cannot be EQUALS in their level of security.

(3) BINARY THINKING ABOUT “NON-COMMERCIAL STATUS”. A

similar dichotomy has traditionally been present in the regulatory concept of “non-commercial status” for radio stations. Stations have been either profit-making, perhaps with stocks and dividends, or TOTALLY commercial-free.

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As with the dichotomy of FULL Primary Service Status versus FULL Secondary Service Status, the Commission may be tying its own hands with “Either/Or” thinking.

Thus, just as we have proposed MODIFIED Primary Service Status as A THIRD PATH for the FCC, so we have proposed “commercial-airing non-profits” as a similar middle ground -- where many stations may someday flourish.

While most of the aspiring LPRS broadcasters in Amherst would PREFER to be able to earn profits, their HIGHEST priority is simply getting on the air, and STAYING on the air, with a decent standard of living. IF they can escape the mandatory auctions for “commercial” stations, these aspiring broadcasters are willing to forego stocks and dividends -- AND to limit their commercials to a level that will cover decent salaries and other REASONABLE costs.

We urge the Commission to give these entrepreneurs and activists a chance to show what they can do -- IF they are allowed to pursue the revenues that will make them financially sustainable.

15. FOOD FOR THOUGHT: A POSSIBLE “SPILLOVER” EFFECT.

We note that the FCC may someday wish to “reverse the flow of ideas” -- taking

concepts that are tested and proven in the world of Low Power Radio and transplanting them in the world of CONVENTIONAL radio. Commercial-airing non-profits, for example, may be a good option for conventional stations, too.

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We ALSO note, however, that the level of possible “spillover” -- from one realm to the other -- is in THE COMMISSION’S hands. Low Power Radio is a NEW area, where NEW approaches can be tested -- and accepted, rejected or modified. These innovations will NOT be duplicated in the world of conventional radio UNLESS the Commission WANTS them to be duplicated.

In short:

The creation of a TOTALLY new Radio Service presents the Commission with a precious opportunity to try approaches it has never tried before -- WITHOUT having to disrupt ANY of the EXISTING arrangements in the world of conventional radio (unless, of course, it CHOOSES to do so).

Opportunity may, in fact, “knock more than once”. For most of us, though, it doesn’t knock OFTEN -- and, for the Commission, it is knocking NOW.

CONCLUSION

For the reasons stated herein, we respectfully urge the Commission to:

(1)

adopt the Proposed Rule in Docket MM 99-25 (aka RM-9208 & RM-9242); with

(2) the modifications we have recommended in these Additional Comments
AND/OR in our basic Written Comments (dated April 28, 1999).

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Respectfully submitted,

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Dated: _____
May 28, 1999

NOTE

**We have sent a copy of these Additional
Comments to all parties
Who sent a copy of THEIR Comments, in Docket
MM 99-25, to us.**

**We have also sent a copy of these Additional
Comments
To Senator McCain.**

Appendix 2: A RESPONSE TO SENATOR McCAIN

Many of us in THE AMHERST ALLIANCE are deeply concerned about the present and future state of representative democracy in America. In particular, we are concerned with concentrations of media ownership that can, and DO, impede the free flow of ideas and information -- favoring SOME values and interests over others. More broadly, we are concerned about the combination of a largely closed mass media Establishment AND a largely closed political Establishment. Each Establishment reinforces the OTHER Establishment's lack of diversity, to some extent disenfranchising everyone who "doesn't fit the mold" -- from struggling teenagers in the ghetto to cultural conservatives on the farm.

Unfortunately, in a recent address before the National Association of Broadcasters (NAB), Senator John McCain -- a Republican from Arizona, a Presidential candidate and Chairperson of a Senate Committee which oversees the FCC -- challenged the need for a Low Power Radio Service (LPRS).

Senator McCain based his challenge on two basic contentions:

- (1) Technology has created new opportunities OUTSIDE OF RADIO -- notably, Internet audio and the possibility of leasing cable TV channels. Also, the Senator claimed, current American radio

has become “transitional” (although it is not clear whether he means radio itself or simply ANALOG radio). With the Internet and cable TV audiences growing, and Radio As We Know It on the road to becoming Something Else, aspiring LPRS broadcasters would be “better off getting a Web page or leasing a cable channel”.

- (2) The Senator declared that FCC concerns about “outlet and viewpoint scarcity”, as reflected in the Commission’s rationale for establishing the LPRS, are in fact “anachronistic”. The Senator did not elaborate on the reasoning which led him to this conclusion. However, we presume, from the CONTEXT of his remarks, that he believes OTHER media are available as alternatives for those who find American radio too closed to entrepreneurs -- and/or too narrow in the concepts and programs it allows on the air.

In this special Appendix to the ADDITIONAL Comments of THE AMHERST ALLIANCE, we examine each of these propositions in turn.

APPENDIX 2-B

ARE THERE REALLY “GREENER PASTURES” FOR ASPIRING LPRS BROADCASTERS?

Senator McCain, as noted above, called radio a “transitional” technology - although he might have meant just ANALOG radio. Aspiring LPRS broadcasters, he argued, will be entering the radio industry just as Radio As We Know It is starting to sink below the waves. Also, he added, they will be coming up against well-financed competitors who may decimate their ranks.

Thus, as we also noted above, the Senator concluded that those who dream of owning a Low Power Radio station would be better off “getting a Web page or leasing a Cable TV channel”.

OUR question is this:

If Radio is indeed a sinking ship, why aren’t any of the current passengers lowering the life boats?

To this day, media megacorporations are still BUYING -- not BAILING. As virtually any recent copy of RADIO WORLD (picked at random) will tell you, station acquisitions by voracious media chains are still a weekly event (and

sometimes even a daily event). This megacorporate behavior does NOT suggest a belief that the radio industry is doomed.

Radio, in fact, continues to offer some IMPORTANT “strong points”. Until and unless computer terminals and TV sets are built into the cars we drive, radios will remain UNIQUELY portable for their listeners. Further, as far into the future as we can see, radios are likely to remain UNIQUELY affordable for its listeners. Finally, radio’s very “low tech” nature gives it a level of survivability -- in the face of disruption or disaster -- that more sophisticated and sensitive media technologies cannot match.

The continuation of the megacorporate “buying spree” suggests that NAB Members share our optimistic assessment of radio’s POTENTIAL (although it is open to question how well they are DEVELOPING that potential).

With its WORDS, the NAB may be saying its largest Members paid too much for their past station acquisitions, that the stations can now be sold only at a loss -- and, therefore, that media megacorporations cannot afford to divest some of these stations (as recommended by the FCC Staff in 1998).

APPENDIX 2-C

With their ACTIONS, however, the NAB’s largest Members are voting for the proposition that radio has a promising -- if not a lucrative -- future. That is, they are continuing to BUY. Buying More of The Same Thing is NOT the attitude of someone who truly views prior purchases as a bad investment.

If “imitation is the sincerest form of flattery”, surely plunking down dollars to purchase a company must be the sincerest vote of confidence in its future.

If a corporate acquisition ISN’T a vote of confidence in the acquired company, then the motive is probably the pre-emptive preclusion of competition. THIS motive implies that the buying company is secretly voting “NO confidence” on its own ability to compete.

Of course, it IS possible that this behavior of media megacorporations has no rational basis -- that “corporate herd instinct” has given endless acquisitions a momentum which lacks any basis in reason, logic or experience. Even if this is true, however, it is hardly an argument for leaving these companies with nearly total control of the radio spectrum.

As to whether LPRS stations can survive competition from established broadcasters, we compare LPRS activists to established broadcasters and ask:

Who's acting SCARED??

Are aspiring LPRS broadcasters sweating, twitching and losing sleep over the question of whether they can compete with larger broadcasters? Hardly.

Without a doubt, they are rightly concerned that loose FCC regulations may allow media megacorporations and/or non-profit chains to TAKE THEM OVER. They are ALSO rightly concerned that media megacorporations, and/or non-profit chains, may be allowed to scoop up many of the LPRS licenses by acting through subsidiaries, affiliates, franchises and direct or indirect agents.

As for their ability TO COMPETE FOR LISTENERS, however -- to hold their own, or better, in a FAIR fight with established broadcasters "at the Marketplace Corral" -- the aspiring LPRS broadcasters are far from quaking in their booths. If anything, they see widespread public discontent with current radio programming -- and they are eager to woo those listeners for fun or profit.

APPENDIX 2-D

Of course, it IS possible that the aspiring LPRS broadcasters are "Don Quixotes" in reverse, charging a dragon that they think is a windmill. It is ALSO possible that the media megacorporations, in a reaction so extreme that the NAB even opposes Low Power Radio in areas where major broadcasters have no stations, are over-estimating the competitive potential of Low Power Radio.

All we can say with much certainty is this:

To the extent that ACTIONS betray ASSESSMENTS, the aspiring LPRS broadcasters seem to be motivated primarily by hope -- and the NAB's Members seem to be motivated primarily by fear. These attitudes, subjective though they may be, suggest strongly that both "sides" are reacting to the same reality: that is, LPRS stations DO constitute SOME degree of competitive threat to established broadcasters, rather than the other way around.

As a final response to Senator McCain's call for an involuntary exodus of LPRS enthusiasts to the frontiers of cable TV and the Internet, we must question

the Senator's claim that cable TV and The Internet are more cost-effective than Low Power Radio.

If "The Name Of The Game" is reaching the largest potential audience IN THE SURROUNDING COMMUNITY, at the lowest reasonable cost, it is difficult to imagine cable TV or the Internet outperforming Low Power Radio as an investment.

That is, a local cable TV channel may reach a larger audience in the surrounding community, but it is likely to cost more than the startup and operation of a 100 watt Low Power Radio station (so long as mandatory auctions do not "put a thumb on the scale"). Further, if the cable TV channel is LEASED, there will be no opportunity to recoup its costs -- or even convert some equity into a profit -- through a future sale of the channel to someone else.

Internet audio may reach a larger audience (at least potentially), and might offer lower startup and operating costs, but Internet audio is not likely to be available for nearly as many listeners IN THE SURROUNDING COMMUNITY. Also, at least for now, potential listenership would be highly unrepresentative of Americans as a whole in terms of education, income and age. The cost and training barriers to Internet use place it out of reach for a wide range of everyday Americans -- the vast majority of whom COULD tune in to Low Power Radio.

APPENDIX 2-E

For the moment, we do not have the resources to conduct our own comparative economic analysis. However, it is our strong suspicion that the capital and operating costs for (non-auctioned) Low Power Radio -- when divided by the number of potential listeners within the Broadcast Coverage Area -- would yield a "Cost Per LOCAL Potential Listener" that is lower than the comparable per capita cost of reaching each local listener through a leased cable channel or The Internet.

IS "OUTLET AND VIEWPOINT SCARCITY" REALLY AN OUTDATED CONCERN??

In his speech to the NAB, Senator McCain also expressed the belief that the mass media is growing MORE democratic. The Commission's Proposed Rule on LPRS, he told the NAB, is based on "anachronistic" concerns about "outlet and viewpoint scarcity".

Apparently, the Senator believes that scarcity of wavelengths and diversity is a thing of the past (though perhaps not fully, since he also claims there is no way to fit LPRS stations into the radio spectrum without causing interference). He implies that those who cannot air their views on the radio, or find as listeners the information or entertainment they seek, can simply shift to another medium.

WE COULD NOT DISAGREE MORE with the Senator's assessment of modern mass communications. From OUR vantage point, WE have been seeing diversity SHRINK -- within the world of radio AND outside of it as well.

"Error of opinion may be tolerated," Thomas Jefferson once wrote, "where Reason is left free to combat it."

But Reason can make its case ONLY IF there are people willing to speak out AND channels of communication for circulating their views. Thus, Jefferson made this additional statement: "Were I forced to choose, I would rather see newspapers with no government than a government with no newspapers."

200 years later, we have NOT run out of people willing to speak out -- but we ARE running low on media forums for open circulation of the ideas and information they want to share.

This problem extends across ALL major media. Ownership concentrations in conventional RADIO are only PART of the problem.

APPENDIX 2-F

We urge the FCC to consider what is happening in ALL of the major media.

1. NEWSPAPERS. Start with a look at Mr. Jefferson's newspapers. We may not have "a government with no newspapers" (yet), but in MOST of our cities -- large AND small -- we have a government with only ONE newspaper to report on it. If THAT newspaper makes an "error of opinion", Reason CANNOT combat it in the other paper -- because there IS no other paper.

2. PUBLISHING. Even the enormous world of PUBLISHING has become constricted. Professor Stephen Barber of Rutgers, in his provocative book JIHAD v. McWORLD, reports that 6 COMPANIES now control 50% of the publishing capacity in THE WORLD. Not the country, but THE WORLD.

For the most part, these 6 publishing giants didn't grow their way to

dominance by building a reputation over decades, or even centuries, in the publishing business. They BOUGHT their way in -- by ACQUIRING companies with decades or centuries in the publishing business, and then turning them into something else. For the new owners, publishing was just another way to make money. Unlike the truly publishing-oriented owners they displaced, they had little tolerance for printing a book with a low profit potential in order to win CRITICAL acclaim and/or give a new writer a chance to grow. At the same time, ALSO unlike the truly publishing-oriented owners they displaced, the new owners had FAR TOO MUCH tolerance for “corporate herd instinct”.

If he approached a major publisher today, James Joyce wouldn't stand a chance.

Further, this state of affairs has been aggravated by the concurrent “consolidation” of BOOKSTORES: fewer key retailers for fewer key publishers.

James Michener has described this New World Order In Publishing -- in a novel called THE NOVEL. It describes the hostile takeover of a publisher with which a certain bestselling author (reminiscent of Michener himself) is connected.

BEFORE the takeover, this author takes pride in the fact that the large profits from his books make it possible for his publisher to seek only a small profit, or even LOSE money, on “riskier” books by new and/or unconventional writers. AFTER the takeover, the new owners -- with no emotional or experiential attachment to publishing -- simply KEEP the revenues from currently bestselling authors and HALT the unofficial investment in grooming the writers of tomorrow.

APPENDIX 2-G

In any case, the Commission does not have to rely on James Michener's fiction to “get the picture”. The Commission can look instead at the NEW YORK TIMES BESTSELLER LIST, bearing in mind that publisher-publicized books are the ones most likely to make it. On a number of occasions in the past few years,

6 or 7 out of The Top 10 Fiction Bestsellers were written by just two authors: Michael Crichton and John Grisham. With all due respect to Messrs. Crichton and Grisham, it is difficult to believe they account for 70% of all the highly marketable fiction in America. They must have been aided by extra showcasing, fed by “corporate herd instinct”. This enabled them to take (between them) 5

extra “slots” on the bestseller list that COULD have been filled by OTHER writers.

If this sounds similar to the possible displacement of LP-100s and LP-10s by LP-1000s, and/or by conventional Class A stations, it is no coincidence. This effect is a natural reflection of overly concentrated ownership.

So far, we have no evidence that any publishing houses are engaging in the conscious censorship of particular political, spiritual, religious and/or philosophical views. They seem to be “censoring” purely on the basis of perceived marketability. However, even “market-driven censorship” has a political impact -- because “low risk” literature tends to encourage “low change” societies.

AND -- who can say this ECONOMIC power to censor will not be used for other goals tomorrow?

3. TELEVISION. Ownership concentrations in television are not as extreme as in radio, but they are moving in that direction.

According to the April 17 issue of BROADCASTING & CABLE:

“With 39 more stations than last year, the top 25 [station groups] now control a total of 38.6% of the nation’s TV stations. In 1998, the groups controlled 35.9%, or 432 of the 1,202 total commercial TV stations ...

“Consolidation will accelerate if the FCC or Congress decides to lift the ownership cap on station groups, now set at 35% of all TV homes. Fox Television Stations Inc. has been pushing hard for such a change ... “

APPENDIX 2-H

Tom Jicha of the SOUTH FLORIDA SUN-SENTINEL, in his syndicated column on the television industry, ALSO had something to say on April 17:

“ ... A study released this week by the American Association of Advertising Agencies and the Association of National Advertisers shows that commercials and other clutter within programs is at an all-time high, almost 16 minutes per hour in prime time. Prime time clutter is up about five minutes from 10 years ago on ABC and NBC ...

“It isn’t only the consumers -- the viewers -- that the networks are alienating. Fox and ABC recently took drastic steps to rupture the relationship with their distributors, the local stations. Fox informed affiliates it intends to take back 20 prime-time commercial availabilities a week. Fox stations now get about 90 half-minutes per week to sell, so the reduction is about 22 percent, a killer to a station’s bottom line.

“Meanwhile, ABC announced it is going ahead with the establishment of a cable soap opera network. The heart of the new channel will be a rerun of the afternoon’s soaps in prime time. This is a left-right combination to the gut of affiliates.

“ ... According to some estimates, as much as 70 percent of all taping is soaps. When a viewer tapes a program, the local station gets ratings credit as if the program were being watched live. With a rerun in prime time, who needs to tape? What’s more, viewers for the evening encore will not be watching the network fare on the local station. While ABC would suffer here, too, it recoups on cable what it loses on the flagship network. Local stations lose all around ...

“ ... ABC’s cable soap opera channel all but screams at affiliates, “Who needs you?” It isn’t just ABC. NBC has floated the notion of taking the network to cable numerous times during the past year.

“The day when networks truly won’t need affiliates is drawing closer.”

4. RADIO. If the pre-emption of 7 bestseller “slots” by 2 authors reminds the FCC of the displacement of several smaller radio stations by a single large station, then the ultimate absorption or destruction of locally owned TV affiliates should remind the FCC of what has ALREADY happened in radio.

APPENDIX 2-I

Such results should NOT be surprising. They are among the NATURAL RESULTS of failing to regulate enough of the business activity in an industry

that is prone to oligopoly control whenever the regulators look the other way -- AND/OR are told, by an Act of Congress, that they MUST look the other way.

5. OVERALL IMPACT. The mass media STATUS QUO does NOT foster capitalism in the 20th century sense of the word. It fosters capitalism in the 19th century sense of the world: capitalism without anti-trust laws.

The merger of Mobil and Exxon, in another industry, is eerily symbolic: turning back the clock to the Standard Oil monolith, whose breakup once ushered in the anti-trust era. Now, BP is forming a rival monolith by acquiring Amoco and attempting to acquire ARCO.

BLIND faith in capitalism is called “market fundamentalism” by George Soros, perhaps the most successful financier alive, in his book THE CRISIS OF GLOBAL CAPITALISM. A self-made billionaire, he warns that capitalism without oversight tends to swing toward destructive (even SELF-destructive) extremes.

Among other consequences, TOTALLY unregulated markets tend, ULTIMATELY, to produce FEWER companies, and FEWER consumer choices, not more -- with the leaders of the “winning” firms no less tempted to abuse their power than the leaders of sovereign governments.

The best test of market diversity is not how many companies populate an industry, but rather: (1) how much of the market is controlled by those companies which are LARGE; (2) how many of the companies that are listed as separate entities are IN FACT controlled by the same parent company; and (3) how many of the small companies can BECOME large, or even medium-sized, without being acquired by Someone Else along the way.

Applying these criteria to the nation’s experiment with the semi-total deregulation of airlines, we can see a pattern of an INITIAL increase in consumer choices, FOLLOWED by a “market shakeout”, FOLLOWED BY fewer airline choices than consumers had BEFORE deregulation.

Some observers of electricity deregulation (including the former energy lawyer who heads Amherst) are predicting similar results from THAT experiment. That is, there will be more energy providers, and therefore lower electricity prices, AT FIRST -- but we will ultimately move to a national, or even INTERnational, market in which 4 or 5 giants have absorbed the nation’s hundreds of smaller, LOCALLY BASED electric utilities.

There was a reason for The Progressive Era, which gave birth to anti-trust laws AND to regulation of “natural” monopolies and oligopolies (such as railroads and energy utilities). It was a reaction to the excesses of the “Robber Barons” -
-
and of others in the business community.

In the mass media industries, the presence of current and aspiring “Robber Barons” is evident. THIS time, however, the stakes are higher than they were at the end of the 19th century. THIS time, with their ECONOMIC power to control the flow of IDEAS, the rising “Robber Barons” may do more than simply rob consumers of their wealth and competitors of their opportunities. They may ALSO rob the nation of its liberties.

AGGRAVATING FACTORS

The basic situation described above is aggravated by at least THREE additional factors.

1. The No. 1 Aggravating Factor is a set of CAMPAIGN LAWS that often give special interests (not just companies, but also unions, professional associations and ideologically driven non-profits) more clout with legislators than voting constituents have.

As the Commission is painfully aware, concepts such as Low Power Radio are more likely to face “an uphill battle” in an environment where some legislators look for guidance to campaign contributors first and constituents second. Nevertheless, this reality IN ITSELF underscores the importance of establishing forums, such as the LPRS, that can present under-acknowledged concerns to the public -- INCLUDING the need for campaign finance reform!!

The LPRS can also grow INDEPENDENT clusters of wealth and power, as a check against abuse of wealth and power by those who have too much of it.

2. The No. 2 Aggravating Factor, which is likely a product of the No. 1 Aggravating Factor, is the easing of statutory limits on CROSS-MEDIA OWNERSHIP. Now a single company, in a single large metropolitan area, can

legally own several radio stations, the leading television station, THE newspaper and THE local Cable TV franchise. In the future, cross-media corporate acquisitions could allow the standing oligopolies in radio and television to extend their current control to cable TV, newspapers or even Internet Service Providers.

APPENDIX 2-K

3. The No. 3 Aggravating Factor is the limited reach of current FIRST AMENDMENT LAW. In mentioning this, we are NOT referring to the claim, by CDC and others, that the FCC's current ban on licensing of small radio stations (of 100 watts or less) violates the First Amendment to the Constitution ("freedom of speech"). We AGREE that the ban is unconstitutional -- for reasons rooted in the FOURTEENTH Amendment ("equal protection of the laws") -- but we are NOT referring to the station licensing process here.

We are referencing INTERNAL institutional decisions to censor free speech.

When the founders of our nation wrote our Constitution, AND its Bill of Rights, they were fearful, with good reason, of the power of GOVERNMENT -- and especially the power of the FEDERAL Government. The vast British Empire, with its over-reaching King and its use of law against liberty, was their "role model" for what they DIDN'T want. However, with the important exception of fierce debates over slavery, not much consideration was directed toward possible abuses of power by STATE AND LOCAL governments. Further, today's abuses of power by CORPORATIONS, with some of the global versions larger than many of the national governments that regulate them, were too far into the future for even the brilliant architects of our Constitution to see.

Thus, for well over a century after its adoption, the Bill of Rights was largely interpreted in American courts as being ONLY a shield against the power of the FEDERAL Government. The Attorney General of the United States couldn't send you to jail without a trial, but in Alabama the Sheriff of Birmingham could.

Gradually, in an incremental process that required decades of individual Supreme Court decisions, it was finally decided that the Bill of Rights IS a shield against the power of STATE AND LOCAL governments, too.

Today, however, the Bill of Rights has still not been interpreted to address abuses of power by institutions that are NOT GOVERNMENTS AT ALL.

Such abuses of power are hardly unknown.

In the 1980's, a Washington lobbyist with a natural gas pipeline was fired

at the personal request of James Watt, then President Reagan's Secretary of the Interior, after the lobbyist advised Secretary Watt to stop eating the meat of an endangered species. In the 1990's, a Sikorsky Aircraft worker in Connecticut was fired for failing to support The Gulf War.

APPENDIX 2-L

In the latter case, an appellate court recently denied an employee lawsuit that included First Amendment claims. The court acknowledged that the Sikorsky employee's First Amendment right to free speech had been violated -- but stressed that this right had NOT been violated by an act of GOVERNMENT.

From the beginning, private employees have been free to coerce their employees to an extent that the Federal Government could not (legally) do.

More to the point of Amherst's Additional Comments:

Under the Bill of Rights, as interpreted by the courts, publishers and newspapers have had complete discretion to decide what they would and would not put in print; radio and TV stations have had ALMOST complete discretion in deciding what to include or exclude in their programming and so on.

Censorship

(and attempted censorship) by government has not been unknown in our nation's

history, but it has been COMPARATIVELY rare. By contrast, decisions to "spike" stories in the news media, or avoid publishing unfashionable books, are made DAILY.

Of course, there really isn't room for "ALL the news that's fit to print" or ALL the books that might be offered to publishers. Someone has to pick and choose.

The NEW factor is THIS:

Now there are A LOT FEWER Someones doing the picking and choosing.

Today, if a writer wants to offer a book for publication, there are thousands of publishers who might review his or her manuscript, but MOST of them are tiny -- with a limited reach into the marketplace. If they start to become MORE than tiny, they are likely to be acquired by a larger company long before they can ever become both large and autonomous.

There ARE exceptions, but the dominant reality is this: Whatever his or her choices “on paper”, a writer who wants to reach MILLIONS OF READERS must usually please one of the 6 companies that control 50% of the world’s publication capacity. If he or she doesn’t please one of them, there are 5 other places to go. Once there were dozens -- even hundreds.

The same situation can be found, with various degrees of severity, in newspapers, radio and TV. If a news story in Metroland U.S.A. does not appear in THE local newspaper, or THE group of 5 radio stations owned by the same company, OR the Station Group satellite station that used to be a local TV affiliate -- ALL of whom MAY have the same owner!! -- then, from the

APPENDIX 2-M

standpoint of most of that area’s residents, the story never happened. If a news story is “spiked” for being too damaging to favored politicians, too radical or too “politically incorrect”, or simply unlikely to boost newspaper sales and/or broadcast ratings, The People With The Story may have few other places to go.

“Today,” muckraking journalist Jack Anderson said two decades ago, “95% of the media chases 5% of the stories.”

Since then, concentrations of media ownership have grown considerably.

We ask the Commission:

What stories lie buried in the unreported 95%? Is there any information in there that American citizens SHOULD know -- but DON’T? Is The Invisible 95%

more likely to reach the news with 4 corporations dominating radio, and 4 major TV Station Groups plotting to eat their own affiliates, and 1 newspaper often dominating an entire metropolitan area? OR is it more likely to be revealed if The

People With The Story can knock on the doors of a long list of media outlets, SOME of which are small enough to resist “corporate herd instinct”?

We further note that ownership concentrations, coupled with an unbelievable “herd instinct” inside media megacorporations, have affected a much wider range of programming than news alone.

A few years ago, TV GUIDE article quoted a Hollywood executive on the unexpected success of TOUCHED BY AN ANGEL. The executive declared that “Religion is now stepping to the forefront of American life.”

The TV GUIDE article responded that, in MOST of the country, religion has never LEFT “the forefront of American life”. Religion is an honored, visible and PUBLIC presence in most locations outside the Northeast and the West Coast. TV executives are often blind to this reality because they -- and their writers -- mostly live, work and socialize in metro New York and/or metro L.A.: arguably, the two most secular cities in the country.

THIS is a clash of cultures -- fought on the battleground of entertainment programming, whose unspoken assumptions about the world may influence more votes than “sound bites”. In modern entertainment media, however, only ONE of the world views is usually represented.

We are NOT asserting that secular world views should be driven from the airwaves. In fact, a number of our own Members are atheists or agnostics.

What

we DO advocate is allowing OTHER world views to appear in entertainment

APPENDIX 2-N

programming more often -- INCLUDING an increase in tolerant and respectful programming, such as TOUCHED BY AN ANGEL, or even J.A.G., which speaks to the values, beliefs and experience of tens of millions of Americans.

At this point, we see three basic courses that society can take in response to the increase in actual or potential for censorship by institutions OTHER THAN GOVERNMENTS:

ONE -- “Go With The Flow”, or even INCREASE the flow by repealing the remaining restrictions on media ownership and cross-media ownership. This is our current course: “the course of least resistance”. Its ULTIMATE price tag may be fearful, however: a continued hardening of the arteries of democracy.

TWO -- Establish some sort of government oversight of media programming decisions. Even if it survived review by the courts, this cure could easily be worse than the disease. PRIVATE SECTOR CENSORSHIP could be replaced by GOVERNMENTAL CENSORSHIP.

THREE -- Fight private sector censorship by offering people MORE PLACES TO GO, with a BROADER RANGE of institutional objectives, when they want coverage of a story, have a teleplay to sell or otherwise seek to “reach the world” -- or at least their communities -- on a scale that only mass media can usually provide. This is the WISEST course: DIVERSIFYING PROGRAMMING BY DIVERSIFYING OWNERSHIP.

The FCC has no jurisdiction over newspapers or publishing, of course. However, it DOES have jurisdiction over radio and TV broadcasting.

Because the disturbing concentrations of ownership in newspapers and publishing fall outside the FCC's jurisdiction, it is even MORE important for the FCC to stand for liberty wherever it has the power, authority and duty to do so.

APPENDIX 2-0

MITIGATING FACTORS

There HAVE been some major counterweights to the overall trends -- in the form of NEW FORUMS that bypass the excessive concentrations of ownership in more established media.

These forces, while not enough to offset the ground that has been lost, have nevertheless slowed the cultural and economic regression of our nation, created opportunities to REVERSE the current trends AND -- offered HOPE.

1. The No. 1 Mitigating Factor is, of course, THE INTERNET. It is perhaps the freest flow of ideas and information in human history.

The Net ALSO offers unprecedented opportunities for individuals to bond together in common cause, on a national or even global scale. THE AMHERST ALLIANCE is a perfect example of this creative, AND/OR political, potential: without the Internet, Amherst would probably not exist.

Unfortunately, determined efforts have been made to restrain the free flow of ideas and images on The Internet. So far, the courts have shielded The Net from subject matter regulation on Constitutional grounds -- but efforts to impose censorship were enacted in both Houses of Congress and signed by the President. This is hardly cause for comfort.

We also note that nothing appears to prohibit a media megacorporation from acquiring an ISP or, more likely, a search engine. (Nothing appears to prohibit a search engine from acquiring a media megacorporation, either: the point is that, One Way Or The Other, large media companies and large Internet search engines can unite.) When there may be 50,000 search engine responses to a single inquiry, that search engine's guidelines for what to find FIRST can make an enormous difference in terms of what information is actually read and used. There IS potential for deliberate "tilts" of the information flow.

The Internet is STILL a bastion of freedom and a huge step forward for the whole human race. Nevertheless, with The Net as with nations, "Eternal vigilance is the price of liberty."

2. The No. 2 Mitigating Factor is CABLE TV -- which may soon be joined by broader use of satellite direct TV.

APPENDIX 2-P

In terms of the arts and entertainment, Cable TV has provided choices unknown on radio OR network TV. To cite the Amherst National Coordinator's personal favorites, Cable TV offers re-runs of QUANTUM LEAP and SPACE: ABOVE AND BEYOND on the SCI-FI CHANNEL; EMERGENCY VETS on THE ANIMAL PLANET Channel; AND time-tested cinema on the AMERICAN MOVIE CLASSICS Channel. (Now, if it only offered light jazz ...)

BEYOND the arts and entertainment, however, Cable TV has ALSO given birth to "in depth" coverage of Congressional deliberations, and of OTHER forums where public policy is discussed, by C-SPAN 1 and C-SPAN 2. This has certainly increased the pool of knowledge for C-SPAN viewers -- and has probably influenced the outcome of some elections.

3. The No. 3 Mitigating Factor is the literary world's growing acceptance of SELF-PUBLICATION: that is, publication of a book directly by the author, at his or her own expense, with marketing by the author often involved as well. If the book does well, in effect proving its commercial value, an established publisher may pick it up at some point.

While ALWAYS an option -- as shown by the 18th century poet, William

Blake, and more than one Pulitzer Prize winner since then -- self-publication has grown greatly in popularity during the past decade. Its popularity has grown in rough proportion to the tendency of increasingly consolidated publishers (AND increasingly consolidated BOOKSTORES) to cling to the supposedly predictable.

The primary RECENT example of successful self-publication is the book EMBRACED BY THE LIGHT by Betty J. Eadie. An account of a reported Near Death Experience, it was rejected by more than 40 publishers for being too "unconventional". Once it was self-published, it hit the NEW YORK TIMES BESTSELLER LIST and stayed there for over a year.

We note here that Amherst is neither accepting nor denying Ms. Eadie's account of a Near Death Experience. We mention her book to demonstrate the relative rigidity of many publishers, AND the potential impact of self-publication, but we do NOT endorse (or oppose) Ms. Eadie's metaphysics. On such matters, the individual Members of Amherst speak for themselves.

4. The No. 4 Mitigating Factor is the development of AN ALTERNATIVE PRESS, such as THE CITY PAPER in Washington, DC and the Westchester (County), Fairfield (County), New Haven, Hartford and (Pioneer) Valley ADVOCATE newspapers in New York State and New England.

APPENDIX 2-Q

We note, however, that the latter chain of "alternative weeklies" has just been purchased by THE HARTFORD COURANT. There has been, we add, no opposition so far from the Justice Department. However, in yet another example of citizens filling a vacuum left by their society's "official" leaders, there HAVE been lawsuits by private individuals, invoking the anti-trust laws that the Federal Government apparently will not. Other conventional newspapers are reportedly watching this development to see whether they will be allowed to do the same.

5. The No. 5 Mitigating Factor is the growing, if highly intermittent, public acceptance of INDEPENDENT POLITICAL PARTIES -- carrying messages that neither the mass media nor the major political parties have taken seriously.

The classic modern example is the Presidential candidacy of Ross Perot in 1992, which earned him 1 vote in 5. Had he first invested in 3 or 4 years of therapy, he might have won.

Whether you love Ross Perot or hate him, he demonstrates dramatically

what can happen when the mass media and political Establishments refuse to deal with an issue that millions of Americans find consuming.

In the 1992 Perot campaign, that issue was the federal budget deficit. He called the Republicans on it for bloating the deficit with defense spending and tax cuts; he called the Democrats on it for refusing to re-examine entitlement programs; and he spoke in a style that crackled with "I Mean Business!"

In the end, he created some long overdue Establishment Embarrassment that finally led to SOME resolution of the problem.

This "whistleblowing" COULD have been done by the news media and SHOULD have been done by the news media. Perhaps, however, their prime reporters were too busy accepting 5-figure speakers' honoraria for addressing global corporate conferences, where the United States was just another market and its possible bankruptcy a peripheral concern.

The point here is NOT to paint Ross Perot as a hero. The point here is that the mass media and political Establishments ARE CREATING candidates like Ross Perot -- or Jesse Ventura, or Pat Buchanan -- by refusing to acknowledge there is a LARGE body of INTENSELY MOTIVATED CITIZENS who dissent from the STATUS QUO on one or more FUNDAMENTAL issues.

APPENDIX 2-R

The federal budget deficit MAY be under control for the moment, thanks to the leadership of THE PEOPLE, but OTHER fundamental issues are still being left to simmer until they boil over. OTHER anti-Establishment candidates, besides Ross Perot, are available to speak for injured parties when this happens.

As of this writing, in early May of 1999, the most visible of The Invisible Issues is the current war in Serbia. News coverage of the DETAILS of the war has generally been good to excellent, but news coverage of the REASONS for the war has been terrible.

Polls show roughly half of all Americans initially opposed our involvement in Serbia -- but the interviews, sound bites and questions at White House Press Conferences focused almost exclusively on the TACTICS of the war.

Rarely was heard a discouraging word about the PURPOSE of the war.

From ABC to CBS to NBC, criticisms of THE WAR ITSELF -- as opposed to the TACTICS being used -- were few and far between. You would never have known, from TV and radio coverage, that HALF THE PEOPLE IN AMERICA initially opposed this war -- AND that many of them still do.

No wonder the recent resistance in the House of Representatives took the nation by surprise!!

As for the POLITICAL Establishment, it is still joining the mass media in a lockstep. Republicans Elizabeth Dole and Steven Forbes support the war; Democrats Al Gore and Bill Bradley support the war; and George Bush Jr. says he cannot decide what he would do until he has first been elected President and has the secret information which is available to Bill Clinton.

Please realize that AMHERST is neither opposing nor supporting this war. Like most groups in America, we have a wide range of views within our ranks. We just want to see this "range of views" reflected in the mass media as well.

What we ARE opposing is a phalanx of "Group Think", in the mass media AND political Establishments alike, so pervasive that the opinions of HALF THE AMERICAN PEOPLE go largely unreported -- or at least unarticulated -- by EVERY major television network and EVERY major Presidential candidate except Pat Buchanan and Alan Keyes (joined by a current non-candidate, The Reverend Jesse Jackson, on the Left).

APPENDIX 2-S

We can also name other MAJOR issues -- notably, the unblinking worship of "free trade" and the shameful silence toward tyranny in China -- where ONLY THE OUTSIDERS, from Pat Buchanan and Alan Keyes to Jesse Jackson, dare to proclaim that people are being hurt while their government stays inert.

Does this disgraceful situation REALLY serve the long term interests of the mass media and political Establishments?

Does the nation's mass media Establishment REALLY want its viewers and listeners to conclude they can ONLY hear BOTH sides of an important issue by finding ALTERNATIVES to conventional TV and radio?

AND -- does the nation's political Establishment REALLY want a situation where those voters who seek withdrawal from Serbia, AND/OR an end

to the “blank check” for “free trade”, AND/OR an end to the “blank check” for China, can ONLY get what they want by electing someone from the extremes of Left or Right?

THE AMHERST ALLIANCE
DJS/djs
5/16/99

Appendix 1:

**OUTLINE OF THE 35 POLICY RECOMMENDATIONS
OF THE AMHERST ALLIANCE
ON THE FCC’S PROPOSED RULE ON LOW POWER RADIO
(FCC DOCKET MM 99-25 aka RM-9208 & RM-9242)**

For details, see (in RISING order of specificity):
(1) The ADDITIONAL Comments of THE
AMHERST ALLIANCE;

And
(2) The BASIC Written Comments of THE
AMHERST ALLIANCE
(dated April 28, 1999; filed April 30, 1999)

1. License LP-100 stations and treat them as the STANDARD for the LPRS, with smaller stations common in areas with relatively high population density -- and larger stations common in areas with relatively high population density

2. Provide for LP-100s a MODIFIED Primary Service Status, shielding them from being "bumped" -- BUT ALSO preventing them from "bumping" anyone else

3. Provide FULL Primary Service status for LPRS stations at 250 watts or more: Also, subject to certain conditions, allow smaller LPRS stations to form 250 watt "consortia" with FULL Primary Service Status

4. License LP-10 stations

5. As with LP-100s, provide LP-10s with a MODIFIED Primary Service Status, shielding them from being "bumped" -- BUT ALSO preventing them from "bumping" anyone else

APPENDIX 1-B

6. Issue LP-10 AM licenses as well as LP-10 FM licenses

7. Limit LP-1000 stations to areas where population density is 1,000 people per square mile or less

8. Create "Transitional" Tiers BETWEEN the Tiers that have been proposed -- by either raising TOWER HEIGHT limits as population density falls, OR by keeping the same elevation limits but raising THE WATTAGE: A Transitional Tier is needed MOST between LP-100 and LP-1000, with A WATTAGE-BASED TIER (250 watts) recommended in order to minimize zoning complications

9. To offset the natural "tilt" in the radio marketplace toward large urban areas, the FCC should be sure to insure that Broadcast Coverage Areas increase in size as population density declines

10. Both commercial-free AND commercial-airing stations should be eligible for LPRS licenses

11. Amherst Members will reluctantly accept a totally "non-commercial" Low Power Radio Service IF:
(a) "non-commercial" is defined to mean "non-profit";
AND
(b) commercial-airing BUT non-profit LPRS stations are exempt from mandatory license auctions

12. LPRS station owners should be required to reside within reasonable proximity of their stations -- PREFERABLY within the Reception Contour, but IN NO EVENT more than 25 miles away

13. Possible investments in LPRS by existing broadcasters should be strictly prohibited

14. Local ownership requirements alone are NOT ENOUGH, since they will still allow LPRS licenses for entities which are local but LARGE -- AND/OR for small local subsidiaries, affiliates, franchisees or agents

APPENDIX 1-C

of out-of-town institutions:

Therefore, the FCC needs to limit the SIZE and INCOME of institutions that are eligible to seek LPRS licenses, while ALSO setting a ceiling on the amount of permissible OUTSIDE CONTROL (allowing licenses for PARENT institutions ONLY, and PRINCIPALS ONLY in the case of individuals,

AND ALSO limiting the degree to which any LPRS station may rely upon a single institution for financing, advertising, donations or other cash flow)

15. As A STARTING POINT for drafting such restrictions, the FCC should review the size, income and outside control limits proposed by Don Schellhardt, Nick Leggett and Judith Fielder Leggett in their REVISED version of the RM-9208 Petition:
Please NOTE, however, that Amherst would ADD the “parent institution only”/ “principals only” policy mentioned in Item #14; would raise the income limit from \$100,000 to \$200,000 in gross yearly revenues;
AND would raise the net assets ceiling from \$200,000 to \$500,000 (while also excluding from assets the radio station itself, related equipment and any equity in an owner-occupied PRINCIPAL residence)

16. LPRS licenses should be “one to a customer” -- and, as noted in Item #14, granted to parent institutions or principals ONLY

17. The FCC should allow an opportunity for LPRS licenses to be renewed, subject to a “public interest” standard, after the end of one or more 7-year terms:
if the Commission considers it premature to establish renewability now, the Commission should DEFER the decision for 4 or 5 years
AND communicate NOW, to LPRS licensees, the kind of RESULTS that would, in the Commission’s view, justify renewability

18. Wherever possible, licenses should be AWARDED under a “public interest” standard as well (as opposed to mandatory auctions, lotteries or “first come first served”)

19. Where LPRS stations are concerned, the FCC should proceed with its proposal to eliminate 2nd and 3rd adjacent channel spacing requirements

APPENDIX 1-D

20. Part-time stations, with VOLUNTARY time-sharing agreements, should be allowed within the LP-10 Tier

21. Given the tremendous potential of LPRS stations to assist in warning of (and/or dealing with) disasters large and small, participation in the Emergency Alert System (EAS) should be mandatory for LP-1000s and LP-100s: for LP-10s and other exempted stations (if any), perhaps an examination of “ham” radio practices can suggest
LOW-COST BUT EFFECTIVE IDEAS
for adding small LPRS stations to the nation’s emergency preparedness network

22. The Commission should proceed with its contemplated policy of retroactive amnesty for unlicensed broadcasting that occurred BEFORE notice of the MM 99-35 Proposed Rule was received (that is, no later than 10 days after FEDERAL REGISTER publication)

23. REASONABLE local programming content requirements are needed to deny LPRS status for stations that are really translators, “satellators”, franchisees or other “outlets” for a central source feed:
However, to prevent prohibitive costs for LPRS station owners, possible impairment of creativity and innovation, AND possible violations of the 1st Amendment, such requirements should be:
(a) very modest in scope; AND
(b) carefully targeted toward the goal of preserving programming autonomy (For example: Limiting ALL central source feeds, COMBINED, to no more than 49% of all station programming)

24. Nothing in the FCC’s regulations should prohibit LPRS stations from syndicating and/or donating original material to each other

25. Nothing in the FCC’s regulations should prohibit LPRS stations from syndicating original material to LARGER institutions: this could become a major source of income for some LPRS stations AND a way to “pre-test” innovative, but potentially popular, material for the American “mainstream”

APPENDIX 1-E

26. Existing Class D stations should be “grandfathered” from all “bumping” AND given the option of guaranteed conversion to an LPRS license

27. Special case-by-case adjustments should be available when specific LPRS applicants can demonstrate, through a preponderance of the evidence, that topography, buildings or other factors beyond their control are substantially reducing the normally applicable signal range: If granted, however, any adjustments should be limited to restoring whatever Protected Contour is applicable for that station's Tier

28. We do not object to the establishment of self-regulation organizations, for those stations with an interest in joining them, PROVIDED that all Membership is VOLUNTARY: IF the FCC chooses to make Membership in such organizations mandatory, it should at least allow A CHOICE of self-regulation organizations (so that entrepreneurs do not have to answer to Marxists) AND it should NOT provide self-regulation organizations with ANY jurisdiction over programming content and/or internal station management

29. The Commission deserves commendation for considering the possible conversion of TV Channel 6 to Low Power Radio: However, we recommend that this option should be evaluated in conjunction with the possibility of Digitalization Implementation (NOT as part of Docket MM 99-25, where its complexity might delay a Final Rule)

30. If the Commission ultimately decides to implement the IBOC Digitalization system, or the Eureka-147 Digitalization system, it should take steps to avoid wholesale displacement of the LPRS stations it has just established: In particular, the FCC should not initiate a PROPOSED Rule on Digitalization until it has issued its FINAL Rule on LPRS, thereby identifying and establishing the rules and parameters for Low Power Radio

31. The Commission should be aware that the Low Power Radio community in general, and THE AMHERST ALLIANCE in particular, are committed to exploring the potential for DIGITAL Low Power Radio

APPENDIX 1-F

32. The FCC should also be aware that some Low Power Radio activists

are also beginning to explore the potential of LIGHT WAVE BROADCASTING
AND have an especially strong interest in the 10 micrometers wavelength
(aka the 30 Terahertz frequency)

33. "Non-commercial" LPRS stations should not be limited to
one small corner of the FM Band

34. The Commission should bear in mind that the current microradio ban
(on stations broadcasting at 100 watts or less)
has been challenged, On The FCC Record, on Constitutional grounds --
as a violation of the 1st Amendment ("freedom of speech"),
according to the Committee for Democratic Communications
of the National Lawyers' Guild (among others)
AND as a violation of the 14th Amendment ("equal protection of the laws"),
according to the RM-9208 Petitioners and others

35. The Commission should ALSO bear in mind that
MANDATORY AUCTIONS have ALSO been challenged, On The FCC Record,
as a violation of the 14th Amendment --
according to the RM-9208 Petitioners and others

THE AMHERST ALLIANCE
DJS/djs
4/17/99

Appendix 3:

25 EXAMPLES OF POSSIBLE COMMUNITY-ORIENTED PROGRAMMING

Nickolaus E. Leggett -- of Reston, Virginia -- has assembled the following list of 25 ways in which a "community-scale" LPRS station could serve a neighborhood or a municipality. Nick is one of the 3 Co-Petitioners in Docket RM-9208 and also a Member of the LPRS Task Force of THE AMHERST ALLIANCE.

This list of 25 examples should NOT be regarded as exhaustive. Indeed, possibilities are almost as limitless as the human imagination.

Neither should any of these 25 activities be made MANDATORY. They are EXAMPLES of what CAN be done -- but individual LPRS station owners may be able to come up with better programming choices on their own!!

1. Cover PTA Meetings
2. Cover School Board Meetings
3. Cover performances of local musicians (young and adult)
4. Cover services of all religions
5. Provide "Community Watch" broadcasts and bulletins
6. Provide a forum for political commentary by citizens and local groups
(as opposed to NPR "talking heads")
7. Cover issues facing condominium and homeowners' associations
8. Provide On-Air instruction on learning English as a foreign language
9. Provide On-Air instruction for earning a GED diploma
(equivalent to graduation from high school)
10. Provide On-Air instruction for earning an Amateur Radio license

11. Broadcast coverage of Power Squadron instruction for safe boating
 12. Provide On-Air instruction on job hunting, as well as information on locally available job opportunities
 13. Provide local merchants with radio ads they can afford
 14. Provide a forum for listeners to suggest, AND discuss or debate, possible community improvements
 15. Offer a Legal Advice Show for citizens and/or employees
In the community
 16. Allow local writers and poets to read their works on the air
17. Offer Weekly Reports by State legislators, Town or City Council Members and/or other locally rooted elected officials
 18. PROD elected officials with a Weekly "Pot Hole Report"
 19. Offer the community a Medical Advice Line
20. Provide information, including times and places, for Adult Education courses and/or other training programs offered in or near the community
21. Cover sporting events, plays, concerts and other events at local high schools, junior high schools and/or elementary schools
 22. Cover Little League baseball games
 23. Cover Soccer Club games
 24. Cover Chess Club Championships, perhaps with move-by-move commentary
25. Cover local theatrical performances, INCLUDING Community Theatre

NEL/djs
4/18/99

Appendix 4:

Amherst's INTERNAL POLL On Policies Toward LP-1000s

INITIAL REACTIONS TO THE LPRS RULE

It was late January of 1999 when the Federal Communications Commission issued its Proposed Rule (in Docket MM 99-25) to establish a Low Power Radio Service (LPRS). That Proposed Rule contemplates a top Tier for the LPRS -- LP-1000, for stations that broadcast at levels up to 1,000 watts -- which would have the Primary Service Status authority to "bump" any LPRS station(s) in the LP-100 and LP-10 Tiers.

It was clear IMMEDIATELY that virtually ALL Members of THE AMHERST ALLIANCE were STRONGLY -- even viscerally!! -- opposed to the envisioned "bumping" authority for LP-1000s.

Amherst quickly reached a consensus that LP-1000 stations should be allowed Primary Service Status IF -- AND ONLY IF -- two conditions are met:

- (1) The status of LP-100 and LP-10 stations should be upgraded from Secondary Service Status to MODIFIED Primary Service Status. Under the latter Status, which would be a NEW concept, LP-100s and LP-10s could neither "bump" stations NOR be "bumped" by other stations themselves.

AND

- (2) LP-1000s should be kept totally outside of large urban areas, where they could easily absorb ALL of the spectrum available for "newcomers" -- at the clear and direct expense of other, smaller LPRS stations (with a more authentically local focus). After detailed discussion over how to define a "large urban area", Amherst reached an internal consensus that LP-1000s should be licensed ONLY in areas where the population density is 1,000 people per square mile or less. Shortly thereafter, it was noted that this is roughly the average population density of the Nashville/Davidson area, which ranks 48th in population density among the 50 largest cities in the U.S.A. Therefore, Amherst Members quickly agreed that we could also accept the REC Networks' proposal for a ban on LP-1000 stations in or near The Top 50 Media Markets.

APPENDIX 4-B

Amherst's position on the FIRST Condition, MODIFIED Primary Service Status for LP-100s and LP-10s, has remained solid ever since. There has been no visible second-guessing.

HOWEVER:

In the case of the SECOND Condition -- Limiting LP-1000s To Areas With 1,000 People Per Square Mile Or Less -- there has been growing support within Amherst for even TIGHTER geographical restrictions on LP-1000 licenses.

There ALSO appears to be growing support for this in THE REST of the Low Power Radio movement.

Upon reflection, Amherst itself may have helped to start this trend.

HOW LP-250s "CHANGED THE GAME"

By early April, Amherst's research and analyses had uncovered a number of DIFFERENT LEVELS OF POPULATION DENSITY where LP-100 stations (with a Broadcast Coverage Area of 38 square miles) might not be financially sustainable. In the same areas, however, LP-1000 stations (which are ALMOST 7 TIMES LARGER, with a Broadcast Coverage Area of 250 square miles) would have strong market incentives to act more like conventional Class A stations than stations focused on serving "niche markets" and specific communities. Thus, at THESE levels of population density, generally found in places which are neither fully metropolitan nor truly rural, we saw the need for a Transitional Tier -- large enough to make these stations FINANCIALLY SUSTAINABLE but still small enough to encourage A COMMUNITY AND/OR "NICHE MARKET" FOCUS.

After more discussion, we selected 250 watts -- WITH full Primary Service Status -- as an appropriate power level to "fill the gap".

Specifically, we advocated licensing of LP-250s at 100 feet (with a Broadcast Coverage Area of 61 square miles) and 200 feet (with a Broadcast Coverage Area of 125 square miles).

We stressed, however, that LP-250 stations should be licensed ONLY in areas where the population density is 1,500 people per square mile or less.

(This is roughly the population density for Virginia Beach.) We also decided we could accept, as an alternative, banning LP-250s in The Top 40 Media Markets.

APPENDIX 4-C

Once our support for LP-250s, at 100 feet and 200 feet, became an established feature of the Amherst policy recommendations, much of the internal support for LP-1000 stations began to evaporate -- at a surprisingly rapid rate.

Subsequent analysis has indicated that some of our aspiring LPRS broadcasters in small cities and rural areas, when presented ONLY with a choice between 100 watts and Secondary Service OR 1,000 watts and Primary Service Status, had felt literally FORCED to opt for the latter. From their perspective, the Commission had “stacked the deck” by presenting them with LP-1000 as the ONLY way they could avoid insolvency and/or displacement by another station.

However, once the alternative to 1,000 watts and Primary Service was presented as 250 WATTS and Primary Service, instead of 100 watts and SECONDARY Service, Member after Member after Member told us: “For small cities and the countryside, 100 watts is too little. And 1,000 watts is too much. 250 watts is JUST RIGHT -- and ‘Thank You’ for putting it On The Table.”

AMHERST’S INTERNAL POLL

By the middle of May, we decided to conduct an internal poll of Amherst Members -- to confirm or deny the sea change we were sensing. Here is how the participating Amherst Members voted on the following options, ALL OF WHICH assume the availability of LP-250 licenses with Primary Service Status:

1. License LP-1000s WITHOUT Any Geographical

Restrictions: 0%. We DID receive ONE “Yes” vote, from an aspiring LPRS broadcaster in a “Second 50” Market, but that Member subsequently withdrew from active Membership in Amherst. Therefore, the vote has not been counted.

2. RETAIN The Established Amherst Position: 43%. For details of this position, and how it developed, see the preceding discussion.

2

3. TIGHTEN Amherst’s Currently Proposed Restrictions: 43%. Specifically, in the case of LP-1000s, reduce the geographical “ceiling” to 500 people per square mile or less -- AND/OR keep LP-1000s out of The Top 100 Media Markets. In the case of LP-250s, reduce the geographical

“ceiling” to 1,000 people per square mile or less -- AND/OR keep LP-250s out of The Top 50 Media Markets.

4. Replace All LP-1000s With LP-250s: 14%.

APPENDIX 4-D

“THE BOTTOM LINE”

Given the relatively narrow margin by which poll participants favored tightening of restrictions, and also considering that participation in our poll was less than ideal, Amherst will not drop its established position COMPLETELY.

What Amherst WILL do is this:

We present our established position to you as THE OUTER LIMITS of our willingness to accept LP-1000 stations into the LPRS.

That is, WE WILL NOT OPPOSE any action by the Commission to tighten our proposed geographical restrictions on LP-1000 stations.

NOR we will oppose action to abolish LP-1000s completely, SO LONG AS the LP-1000 Tier is replaced by an LP-250 Tier that has Primary Service Status.

WE **WILL** OPPOSE any Commission action to license LP-1000s in areas with MORE than 1,000 people per square mile. WE WILL ALSO OPPOSE action to license LP-250s in areas with MORE than 1,500 people per square mile.

In short:

We ask the Commission to view our established position as THE **MINIMUM** LEVEL OF RESTRICTION we can accept for LP-1000 stations.

We ALSO stress again that Amherst has CONSISTENTLY favored MODIFIED Primary Service Status for LP-100s and LP-10s.

DJS/djs
5/27/99

Appendix 5:

**“ECONOMICS
As If Values Mattered”**

By

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(The text of Appendix 5 is printed text, which must be “scanned in” for purposes of electronic transmission. Unfortunately, the FCC’s

Electronic Filing System appears unable to accommodate it. Therefore, after a week of unsuccessful efforts to transmit Appendix 5, we have DROPPED IT from the ELECTRONIC version of these Additional Comments. However, we are also submitting 15 PHYSICAL copies of these Additional Comments, plus an original, and all of these “hard copies” DO contain Appendix 5.)