

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

In the Matter of)
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)
Creation of a Low Power) MM Docket Number 99-25
Radio Service)
)

To: The Commission

COMMENTS OF THOMAS DESMOND

I hereby respectfully submits the following comments in reference to the above-captioned Mass Media Docket relating to the proposed low powered radio service.

I. BACKGROUND

The FCC has solicited comments in regard to this Docket, which was initiated as a response to several petitions from the public for a low power FM (LPFM) service, including one from the Community Radio Coalition to which I was a signatory.

In these comments, I will address a variety of the issues which were raised by the FCC docket. Having participated in dockets RM-9208 and RM-9242 with comments and reply comments, I have a great interest in the outcome of this rulemaking.

II. NEED FOR AN LPFM SERVICE

As the commission correctly notes, the past several years have seen increasing ownership consolidation. Although some benefits to the public may accrue from economy of scale by the station owners, I suspect that the primary benefit thus far has been the stockholders of large radio groups such as CBS, Clear Channel, and Chancellor. Negative consequences of consolidation have included a reduced number of “voices” on the radio broadcast bands, as well as substantial escalation of station prices. The latter has effectively frozen out many new entrants to the business, and has also rendered certain specialty formats non-viable in several major markets; the

fate of commercial classical FM stations in Philadelphia and Detroit come to mind as examples of the latter.

As a resident of a city twenty miles out from a major city, I would also observe another negative impact of consolidation: the loss of service to smaller communities near major markets. For example, Plano, TX is a town of over 200,000 people, yet we only have one station licensed to our community. For several years, this station provided significant local service, including coverage of local high school sports. However, last year this station was sold to Disney, which is now using it to transmit their "Radio Disney" children's format to the Dallas-Fort Worth radio market. While I am not interested in judging the relative merits of the "Radio Disney" format, I do consider it unfortunate that its entry into the Dallas-Fort Worth area was at the expense of the only station that had provided locally-oriented service to the city of Plano. A legal, licensed LPFM service appears to be an ideal means to return such service to Plano, TX, and communities like it across the country.

III. "CLASSES" OF LPFM SERVICE

The FCC has proposed several classes of LPFM service, with significant differences in coverage area and regulation. Following are my views on these classes, as well as my proposal for an additional "LP-250" class.

1. "LP-1000" Primary Service

This service, as proposed by the FCC, would have a protected contour of roughly 14.2 km from the station. Although I believe that this service has application in rural areas with the power and HAAT limits proposed by the commission, I consider these stations to be overpowered for most urban and suburban areas. For example, such a station transmitting from downtown Dallas would be able to cover virtually an entire city of one million people within its protected contour. When taking into account the population just outside the protected contour that would still receive an adequate signal, such a station might cover an additional half million people. In the current radio marketplace, such a station would be worth several million dollars, which means that such stations would rapidly be priced out of range of new entrants. Furthermore, the existence of one LP-1000 station in a market precludes the existence of several lowered powered LPFM

outlets; this is not a desirable tradeoff in urban markets that have a very limited number of open frequencies.

As a result, I would propose that the commission limit LP-1000 stations from being built in or near major metropolitan areas. Possible wording of such a rule follows:

“The FCC shall not accept applications to construct LP-1000 stations within 100 km [62 miles] of the central coordinates for the 100 largest metropolitan areas.”

Furthermore, I propose that the FCC require LP-1000 outlets to meet the requirements for not causing or receiving interference that apply to full powered stations, including co-channel, first adjacent channel, second adjacent, third adjacent, and IF separation requirements. This should also reduce concern by full powered stations regarding possible interference from these stations.

2. “LP-250” Primary Service

This is the class that doesn’t exist in the commission’s proposal, but should. As proposed by the FCC, LP-100 stations would have a range of 14.2 km, whereas LP-100 stations would only cover 5.7 km. An LP-250 service allowing 250 watts ERP at 40 meters HAAT would cover roughly 8 km, which is halfway between the other two services. I further propose that this service be granted primary status, and that these stations be required to meet most of the rules applying to full powered stations, just as the FCC has proposed for the LP-1000 service. Minimum power for this class should be 125 watts ERP, with no minimum HAAT.

Initially, I propose that the FCC require these stations to meet the requirements for not causing or receiving interference that apply to full powered stations, except for those requirements applicable to third adjacent and IF separation requirements. To preclude interference with any future IBOC digital service, these stations might be required to choose between IBOC or analog service, but not be allowed to offer both services at the same time. This would result in a reduction in the bandwidth utilized by such stations, thereby reducing the already low likelihood of interference to a third adjacent full powered station.

In the future when more information is available regarding potential interference from such operation, I would also encourage the FCC to revisit these requirements and look into allowing second adjacent operation should the data support this option.

3. "LP-100" Secondary Service

The commission has proposed that this class be licensed as a secondary service only, which means that it could be bumped by any new or changed facilities by primary stations, including all full powered stations, as well as the proposed LP-250 and LP-1000 stations. I respectfully request that the FCC consider granting these stations primary status, especially in urban areas where these may well end up being the only LPFM stations that the spectrum can accommodate. At the very least, these stations should be granted priority over all translators (both new and existing). I would also propose that the FCC recategorize all Class D NCE outlets into this class.

For the most part, I otherwise agree with the FCC's proposal for this class, including maximum and minimum ERP and HAAT limits. These stations should not be allowed to either cause or receive interference to co-channel and first adjacent channel full powered operations using the same standards that are currently applicable to full powered stations. Second adjacent, third adjacent, and IF interference standards need not be imposed since the theoretical interfering contours in these categories for a 100 watt station are really quite minimal--somewhere on the order of 600 meters for a 100 dBu contour.

It may be reasonable to require that these stations take some special measures to reduce potential second and third adjacent interference, but only in the presence of documented interference complaints, and only if the interference complaints are within a second or third adjacent contour overlap zone that would be prohibited for a full powered stations. Remedies could include limiting the maximum FM deviation of such stations to an amount less than +/-75 kHz (perhaps +/-60 kHz might be a reasonable limit), prohibition on use of subcarriers other than those required for transmitting FM stereo (19 kHz pilot tone and 38 kHz stereo subcarrier), prohibition on the transmission of both analog and IBOC digital at the same time, and/or selecting a transmitting antenna that reduces downward radiation near the transmitter site.

The FCC has proposed that LP-100 stations be exempted from many of the regulations that apply to existing primary stations. Although I support a reduction in the applicable regulations that apply to these stations, I do believe that they should be required to participate in

the EAS system, and should be required to meet existing requirements for minimum hours as a tradeoff for being granted primary status.

4. “Microradio” Secondary Service

As proposed by the FCC, these stations would run an ERP of one to ten watts with a maximum HAAT of 30 meters. The FCC inquires as to whether such a service would be useful; my response is “Yes, it would be”. Such a service would be ideal for school run stations (both high schools and small colleges), as well as operation within small densely populated inner city neighborhoods and very small cities. I agree with the FCC that such a service should be licensed on a secondary basis, thereby subject to be displaced by higher powered stations; the one exception to this is that Microradio service should take priority over proposed new translators.

The FCC suggests the need for transmitter certification for this class to avoid interference. I believe that such certification is necessary for stations at all classes, and believe that the appropriate mechanism for such certification is to simply require that these stations use FCC type-approved transmitters, which are now available for a reasonable price (I’ve seen 10 watt transmitters advertised for as little as \$995 new in publications such as “Radio World”).

As a secondary service, I propose that these stations be prohibited from causing co-channel or first adjacent channel interference, but be allowed to receive such interference. This is similar to the requirement currently in place for translators. I propose that second and third adjacent, as well as IF spacing requirements be waived for these stations.

It may be reasonable to require that these stations take some special measures to reduce second and third adjacent interference, but only in the presence of documented interference complaints, and only if the interference complaints are within a second or third adjacent contour overlap zone that would be prohibited for a full powered stations. Remedies could include limiting the maximum FM deviation of such stations to an amount less than +/-75 kHz (perhaps +/-60 kHz might be a reasonable limit), prohibition on use of subcarriers other than those required for transmitting FM stereo (19 kHz pilot tone and 38 kHz stereo subcarrier), prohibition on the transmission of both analog and IBOC digital at the same time, and/or selecting a transmitting antenna that reduces downward radiation near the transmitter site.

Lastly, I recommend that the FCC partially preempt local zoning to allow these “micropower” stations to transmit from locations that might be otherwise prohibited by local zoning, such as from schools, churches, community centers, and strip shopping centers, subject to a requirement that the transmitting antenna may not be more than 10 meters above the highest point on the building to which it is attached. For the very low powered one watt stations, I propose that the FCC preempt local zoning to allow transmission from single family detached and attached residential dwellings, provided that the transmitting antenna may not be more than 7.5 meters above the highest point on the building to which it is attached.

IV. INTERFERENCE CRITERIA

I have already discussed interference criteria in the previous section, and for the sake of brevity will not repeat that material here. I will note that maximum spectral efficiency could be achieved by allowing stations on the FM band based on avoiding overlap of interfering contours, rather than using minimum distance criteria as proposed by the commission. However, if the FCC is willing to consider adoption of an intermediate class or classes of LPFM service such as the LP-250 service that I previously outlined, the difference in efficiency may be minimal.

As I have noted previously, I believe that it is appropriate for the FCC to exempt some LPFM stations from the second and third adjacent and IF spacing requirements, because the theoretical interfering contours are so small that the likelihood of actual interference is minimal, and various options exist for limiting such interference in the relatively low event that it does occur. However, in the event that the commission is otherwise reluctant to approve an LPFM service over concerns of such interference occurring, one option that does exist is for the FCC to commission a study on the risk from such interference, and approve an LPFM service only for those channels that meet all of the interference criteria for full powered stations (for primary LPFM classes) or translators (for the secondary “micropower” class).

V. OWNERSHIP AND ELIGIBILITY

The FCC seeks comment as to whether AM licensees should be allowed to file LPFM applications that are contingent on divestiture of their AM stations. I would say that this should be allowed only if their AM station is a daytime only station, or is limited to extremely low

powered (less than 100 watts) nighttime operation. I would furthermore state that I think this should be allowed only if the AM station in question is the licensee's sole broadcast station (excluding any stations licensed as secondary services, such as LPTV or FM translators). Lastly, no preference should be granted to such applicants.

I also support the strict ownership limits proposed by the FCC, as well as the prohibition on joint sales, local marketing, or other agreements that might result in the LPFM station becoming an appendage of another station. I believe that these restrictions are absolutely essential if LPFM is to be an opportunity for new entrants and a source of significant new local service. In the absence of such restrictions, these stations will quickly become appendages of nearby full powered stations.

In fact, I would argue that even stricter restriction are needed than those proposed by the commission. Certainly, ownership of ten LPFM stations is excessive; I believe that ownership should be limited to a single LPFM station, and that the owner(s) should be required to live within 80 km of their station. I also believe that LPFM stations should be prohibited from rebroadcasting a satellite feed for more than 25% of the day to avoid these stations becoming "satellators". With an ownership limit of one station, there would be no need to determine prohibited contour overlaps between co-owned stations; however, in the event that the FCC chooses to allow ownership of more than one LPFM (or to allow co-ownership of full powered and low powered stations) overlap of the protected contours (generally 1 mv/m) of co-owned stations should be strictly prohibited.

VI. SERVICE CHARACTERISTICS

1. Local programming

Minimum local origination requirements should be imposed on all of the proposed services except for the "micropower" service. Specifically, LPFM stations should be prohibited from retransmitting another station (either full or low powered), and should also be prohibited from rebroadcasting a satellite feed for more than a small part of the day (see Section V of these comments).

2. Commercial programming

LPFM stations of all classes should be allowed to operate commercially, except for those stations operating on the reserved non-commercial portion of the FM broadcast band. Commercial operation serves the public interest by allowing stations to cover their operating expenses, as well as providing a low cost advertising alternative for local merchants. However, I recognize that allowing commercial operation may tend to drive up the cost of acquiring an LPFM station, thereby making it more difficult for community groups and new entrants to acquire these stations. One way to balance these conflicting goals is by limiting the total amount of advertising that may run on these stations; I would propose a limit of around 100 minutes of total advertising time per day as a reasonable compromise.

3. Other service rules

The main studio of an LPFM station should be required to be within the station's protected contour, with the majority of the station's programming day between 6 AM and midnight originating from within that studio or elsewhere with the station's protected contour. However, the staffing rules that apply to a full powered station's main studio should not apply to LPFM stations. Since most LPFM stations are likely to have limited budgets, they will also likely have limited staffs, and keeping two members of the station's staff tied down in the studio during business hours impresses me as an inefficient use of limited resources. Similarly, automation should be allowed on LPFM stations, as long as the source of the automated programming is local (i.e., a hard drive automation system location in the main studio that is locally programmed and controlled).

"Micropower" stations should be exempted from the environmental rules, but these rules should apply to higher classes of LPFM service. The likelihood of excessive RF exposure from a one to ten watt station seems minimal, in any event.

Lastly, I support imposition of the existing minimum operating hour requirements (two thirds of the hours between 6 AM and midnight, which will normally be twelve hours a day) to all LPFM classes except the "micropower" class. In the case of "micropower" stations, this requirement should not be imposed, but stations that operate with lesser hours should be subject to either time sharing requirements, or the risk of losing their license to a station that does agree to meet the twelve hour daily requirement for primary stations.

4. Transfer of unbuilt construction permits

The Community Radio Coalition proposed that such transfers be prohibited in order to discourage speculation and trafficking in LPFM construction permits. As a member of the Community Radio Coalition, I wish to express my continued support for this proposal.

5. Renewability of LPFM licenses

All LPFM license classes should be renewable; otherwise listeners will be subject to significant disruption of service every five to eight years.

6. Emergency Alert System (EAS)

All LPFM classes except the “micropower” class should be required to participate in the EAS system.

VII. APPLICATIONS

I strongly support the commission’s proposal to use electronic filing for LPFM stations in order to streamline the FCC’s handling of applications. I would also propose that the FCC utilize a letter perfect application standard with a “first come, first serve” procedure for accepting applications, since this will eliminate the need for auctions, and auctions would be likely to drive up the cost of applying for the new service beyond that which can be afforded by most community groups and first time entrants. The commission notes that some LPFM opponents have commented that the Balanced Budget Act of 1997 mandates auctions to resolve mutually exclusive applications. I agree with this interpretation, which is another reason to support “first come, first serve” processing--by eliminating the possibility of mutually exclusive applications, the need for auctions is also eliminated.

To avoid swamping the FCC with applications when an LPFM service is approved, I would propose that the FCC impose a one application per entity limit; this will insure that no applicant will flood the FCC with a large number of applications, as happened when the LPTV service was approved.

The FCC might also wish to initially impose 30 day regional filing windows to handle the expected large number of applications expected when LPFM service is authorized . However, if the FCC imposes the one application per entity limit in conjunction with the requirement that the applicant(s) live within 80 km of the proposed station, this combination is likely to reduce the total number of filings to manageable levels without the need for filing windows.

VIII. CONCLUSION

The commission is correct to be considering the addition of a LPFM service to the mix of broadcast programming options currently available to US radio listeners. Such a service will increase local programming, increase minority programming services, and increase opportunities for small businessmen and community groups to own local stations. Interference to existing stations from the proposed service should be negligible, resulting in a “win-win” situation for everyone. Although some existing broadcasters and trade groups have argued against a LPFM service, it should be noted that their primary motivation is to limit competition, thereby maximizing the profitability of existing stations; this should not be a consideration in the commission’s final decision.

Respectfully submitted,

Thomas Desmond
3216 Verbena Drive
Plano, TX 75075