

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
 )  
Retention by Broadcasters of Program ) MM Docket No. 04-232  
Recordings )

To: The Commission

**COMMENTS OF UNITED MINISTRIES**

United Ministries, licensee of AM broadcast station KJOL, Grand Junction, Colorado, and noncommercial educational FM broadcast station WBMR, Telford, Pennsylvania, through counsel and pursuant to Section 1.415 of the FCC's rules, hereby submits these comments in response to the *Notice of Proposed Rule Making* in MM Docket No. 04-233, FCC 04-145, released July 7, 2004 (the "*NPRM*"). In the *NPRM*, the FCC proposes to require licensees of radio and television broadcast stations to record their programming, in its entirety, and retain the recordings for a certain period of time, to aid the FCC in its enforcement of rules prohibiting the broadcast of obscene, indecent or profane programming.

Both KJOL and WBMR operate noncommercially and are listener-supported, i.e., the continued operation of the stations is dependent on the voluntary contributions of members of the listening audience. The operation of the United Ministries stations is also sustained through the gracious contribution of time and talent by numerous volunteers. Both stations broadcast a mix of Christian music, teaching and discussion programming.

Given the stations' reliance on the public for financial support, and their format and overriding religious purpose, it is inconceivable that either station would permit the broadcast of obscene, indecent or profane programming. The arbitrary imposition of a requirement to record all of the stations' programs to aid the FCC in the enforcement of a rule that neither station would ever violate is totally unjustifiable.

There should be no mistaking the size of the burden the *NPRM* seeks to impose. There is no technological marvel that can efficiently and inexpensively record, catalogue, update and maintain a library of 90 or even 60 days of programming. The additional equipment costs and administrative burdens have special implications for listener-supported radio stations. Listeners should not be asked to make financial contributions to cover the costs of enforcing a rule prohibiting programming that (1) is antithetical to the purpose of the station and the public's reasons for supporting it and (2) the station never will broadcast. Similarly, volunteers cannot reasonably be asked to give their valuable time for purposelessly operating and maintaining equipment and cataloging and updating recorded programming on discs.

In addition to its sweeping over-breadth, the proposed recording rule contains the potential for grave danger to First Amendment rights. Tacitly acknowledging the weakness of the rationale for the recording requirement, the *NPRM* suggests (§ 7) that program recordings might be useful in the enforcement of other program-content rules, such as commercial limits during children's television programming and sponsorship identification announcements. This suggestion is an abrupt about-face from an explicit policy of deregulation that extends more than twenty years. Of at least equal importance, it would lead inevitably to the use of the recordings to verify compliance with all of the FCC's

program-content regulations. Not surprisingly, in the numerous informal comments filed prior to the deadline for formal comments in this proceeding, the only support for the proposal comes from groups who would seek to use the recordings to monitor political announcements and confirm the broadcast of issue-oriented programming. (Comments of Alliance for Better Campaigns, et al., filed July 29, 2004.) This can only portend more frequent (and groundless) complaints, and greater second-guessing of licensee programming decisions by regulators, with attendant adverse implications for the First Amendment rights of licensees.

This issue is of particular concern to religious broadcasters. It often appears that people of faith may not express themselves on public issues without some person claiming to take offense. The mere recitation of passages from scripture may be facilely characterized as “hate speech.” A regulation requiring religious broadcast stations to record all of their programming will not prevent the broadcast of a single obscene, indecent or profane program. But those who are opposed to religion, or to positions on public issues shared by religious people, will seek to make those recordings a tool for the suppression of religious points of view.

For the foregoing reasons, the FCC should terminate this rule making proceeding,  
promptly.

Respectfully submitted,

UNITED MINISTRIES

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