



## Discussion

As the Commission is aware, full-service broadcasters have an exemplary record of responsive service to their local communities.<sup>5</sup> In recognition of this service, the Commission has sought to protect full-power broadcast operations from harmful interference. Thus, in establishing the LPFM service in 2000, the Commission took steps to ensure that the new service would not “compromise the integrity of the FM spectrum” or “cause unacceptable interference to existing radio service.”<sup>6</sup> The Commission fully acknowledged that “FM band crowding may preclude or limit LPFM opportunities in certain markets,”<sup>7</sup> and chose to “authorize low power radio stations throughout the FM band, *where the stations will fit.*”<sup>8</sup> Thus, from the very outset the Commission has been clear that LPFM operations should not displace or degrade full-power FM operations.

The Commission’s technical rules also reflect this foundational LPFM policy, recognizing the Commission’s “vital interest in maintaining the technical integrity of existing radio services” in the face of LPFM operations.<sup>9</sup> The Commission’s rules require that LPFM stations protect the service areas of full-service stations and their associated FM translator and booster stations. Further, LPFM licenses are granted with the understanding that those licenses might be limited by subsequently-licensed full-power operations. This implicit license condition flows directly from the Commission’s conception of LPFM as a limited, secondary service that must not impede full-power FM operations.

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<sup>5</sup> See, e.g., Comments of the Named State Broadcasters Associations, *Broadcast Localism*, MB Docket No. 04-233, FCC 04-129 (Nov. 1, 2004).

<sup>6</sup> *Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205 at ¶ 6 (2000).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at ¶ 58 (emphasis added).

<sup>9</sup> *Id.* at ¶ 62.

Critically, though, in the approximately five years since the LPFM service was established, these rules have not adversely affected the LPFM service. As the Commission itself observes, only one LPFM station has been compelled to cease operations.<sup>10</sup> It stretches credulity to suggest that this single instance of discontinuance somehow endangers the integrity of the LPFM service as a whole, or justifies a radical revision of the current LPFM framework that would certainly harm full-power operations.

In contrast, there is ample evidence that LPFM operations have adversely affected the public's ability to receive programming from full-service radio stations. As one study has shown, LPFM stations are capable of generating interference areas that are 1000% to 2000% larger than the small areas served.<sup>11</sup> This concern is particularly pronounced in western markets, where the interference caused by LPFM stations sharply limits the ability of full-power stations to reach their listeners, particularly in outlying areas of the community, or in areas having difficult terrain, where the full-power signal is weakest. Suburban growth and challenging terrain are common conditions in these markets, and have made many LPFM proposals highly destructive of existing service in those markets.

Given the much wider scope of the services provided by full-power stations – both in terms of geography and cross-sectional appeal, and in resources for public service programming – this high level of interference simply cannot be justified.<sup>12</sup> In light of these concerns, the Commission should take no action that would confer “primary” status on LPFM licensees, nor

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<sup>10</sup> *FNPRM* at ¶ 38.

<sup>11</sup> *See Amendment of Sections 74.1204(a) and 73.807 of the Commission's Rules*, Petition for Rulemaking, RM-11099, at 24-24 and Exhibit 6 (filed by the New Jersey Broadcasters Association on May 27, 2004).

<sup>12</sup> This is particularly evident given the unproven track record of LPFM operations, the questionable business model underlying those operations, and the ready availability of alternative sources of localized information, including full-power stations and their associated FM translators, and local Internet portals, podcasting, wireless broadband, and similar technologies.

should the Commission limit the applicability of its existing interference protection requirements to co- and first-adjacent channel operations. Not only would such actions alter the fundamental nature of the LPFM service, which was always intended to provide limited, secondary service, but it would also result in an overall loss of existing service to the listening public in contravention of the public interest.

Permitting LPFM stations to continue operating, even after new full-power stations have commenced operations or existing full-power stations have improved their facilities, would serve no one. The public would suffer from the effects of interference on the frequencies of new or improved full-power stations, and would receive little or no service from interfering LPFM stations. Even on second- or third-adjacent channels, this interference would be a real possibility on many consumer radios. Removing these restrictions would not result in any significant service gains, but would result in a further degradation of the FM service by creating more interference. In short, any speculative benefits that might stem from conferring “primary” status upon LPFM licensees would be greatly outweighed by the undeniable harm that such action would cause to the ability of full power FM broadcasters to serve their local communities and total service areas.

**Conclusion**

Based on the foregoing, Point strongly urges the Commission to refrain from any modification of its LPFM rules. Any supposed benefits of the LPFM service are unproven, while the harms that would be caused by liberalized LPFM operations are manifest. However, should the Commission nevertheless decide to modify its LPFM rules, it must not do so without simultaneously increasing the interference protections afforded to full-service radio stations.

Respectfully submitted,

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Dated: August 22, 2005