

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

In the Matter of)
)
Policies to Promote Rural Radio Service and to) MB Docket No. 09-52
Streamline Allotment and Assignment Procedures)

To: The Commission

COMMENTS OF AMERICAN MEDIA SERVICES, LLC

American Media Services, LLC ("AMS"), by its counsel, hereby respectfully submits its Comments in response to the *Notice of Proposed Rule Making*, FCC 09-30, released April 20, 2009 ("*NPRM*"), in the above-captioned proceeding. In support thereof, the following is stated:

The *NPRM* proposes a dramatic and radical restructuring of the FCC's rules and procedures currently used to award commercial broadcast spectrum in the standard (AM) and FM broadcast bands. While the caption describes this proceeding as a laudable effort to "promote rural radio service and to streamline allotment and assignment procedures," the actual effect of the proposals will be drastically to limit future entrepreneurial efforts to introduce new broadcast service to America's Urbanized Areas, where nearly 65 percent of Americans reside and where nearly 80 percent of minority Americans reside. Moreover, the proposals will also serve to further entrench the incumbent consolidated clusters of radio stations in most markets, contrary to the Commission's oft-stated goals of fostering diversity of ownership and viewpoint.

The proposals, if adopted, will, in practice, severely handicap those entrepreneurs who seek to relocate radio stations from exurban areas to America's Urbanized Areas. Urbanized Areas are geographic locations designated by the Census Bureau based on objective criteria such as population density. The lower 48 states encompass approximately three million square miles.

While Urbanized Areas represent only about two percent of this land area, nearly 65 percent of Americans live in Urbanized Areas.

Census-enumerated minorities live in Urbanized Areas in even greater percentages. Approximately 78 percent of African-Americans and 82 percent of Hispanic-Americans live in Urbanized Areas. The figures may be even higher, given the historic Census undercounting of minorities in America's metropolitan areas. In contrast, the population outside of Urbanized Areas is approximately 86 percent non-minority. Given the historic trend lines, it is reasonable to presume that the 2010 Census will show even higher percentages of minorities living in Urbanized Areas. While the Census does not tabulate lifestyle minorities, all evidence indicates that they are residing in Urbanized Areas in disproportionately higher numbers, as well.

At paragraph 7 of the *NPRM*, the Commission tentatively concludes that, in most instances, Priority (3) (first local transmission service) preferences should not be awarded where the proposed station would or could place a principal community signal over the majority of an Urbanized Area. This proposal ignores the reality that nearly two in three Americans live in Urbanized Areas. The 2000 Census added 79 new Urbanized Areas. The 2010 Census will likely add a similar number. The Commission's proposal will have the effect of denying residents of these Urbanized Areas the benefits of new local transmission services.

The *NPRM* provides little, if any, evidence that areas outside of Urbanized Areas are underserved. The proposals in the *NPRM* are largely solutions in search of a problem. Ironically, proposals to move stations into Urbanized Areas actually create opportunities for new and improved service in rural areas. This is not a zero sum game. More efficient spectrum use creates more overall service, thus serving the public interest.

Under Priority (4) (other public interest matters), the principal determining factor has been whether the proposal would provide new reception service to the greatest population. At paragraph 10 of the *NPRM*, the Commission seeks comments on ways in which a Priority (4) analysis in the FM allocations process could or should be modified to de-emphasize service population totals, "to alleviate the problem of unduly advantaging proposals for new FM allotments in or near large communities." It seems that as in George Orwell's "Animal Farm," the FCC would find some animals more equal than others. Raw population counts are how most decisions are made in the United States, with elections being a leading example. "One person, one vote" is at the very core of our democratic principles. The Commission should shy away from any changes that "de-emphasize" service populations totals. To do otherwise would and should raise Constitutional eyebrows. This is especially so given that Urbanized Areas are disproportionately home to more of America's Census-enumerated minorities.

At paragraph 16 of the *NPRM*, the Commission proposes that a community of license change that creates "white" or "gray" areas (areas with no or only one reception service) should not be allowed under any circumstances. Commission precedent already dictates that implementation of replacement service would be a condition of implementation of the remaining elements of any proposal. There is great benefit in this approach. In many cases, the small size of white or gray areas created by a proposal would necessitate large increases in the coverage of replacement services by a one-step upgrade. Such facilities are, for example, often financed by the proponents of the overall proposal.

At paragraph 17 of the *NPRM*, the Commission proposes to use the rigid presumption of Urbanized Area service above in evaluating AM and FM applications to change existing stations'

communities of license. Inherent in this proposal is the Commission's notion that the proponent is inexorably really seeking to serve the entire Urbanized Area, rather than the small, nearby community of license. Would it be appropriate or likely for a station that covers an entire Urbanized Area to restrict its coverage of snow closings of schools to just those schools in the station's community of license? Stations can serve their community of license while at the same time also serving their entire coverage area. This does not differ for stations in rural or urban areas. The strict presumption of exclusive Urbanized Area service will have the unfortunate effect of "locking in" the AM and FM assignment and allocations schemes in and around America's metropolitan areas, thus foreclosing the opportunity for new entrants, including women and minority-owned broadcasters, from introducing new services to under-served communities in these areas.

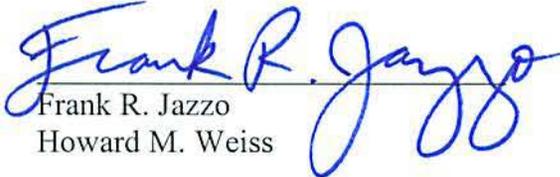
At paragraph 25 of the *NPRM*, the Commission proposes to require AM licensees or permittees receiving Section 307(b) preferences to provide service substantially as proposed in their short-form tech box submissions. Given the difficulty in securing and maintaining transmitter sites for the AM service, a better approach would be to permit modifications that would be essentially equivalent from a Section 307(b) perspective. Modifications which would not have been preferred from a Section 307(b) standpoint would not be accepted. There is a real need for flexibility in implementing AM proposals. Any absolute prohibition on all but the most modest modifications will result in a significant reduction in new AM service, contrary to the stated goal of the Commission's proposal.

In conclusion, the proposals in the *NPRM* will largely serve to lock AM and FM spectrum usage in place, denying new entrants the opportunity to compete against entrenched

incumbent operations in most markets -- urban or rural -- by optimizing coverage. The public would be better served by simply fine-tuning existing allotment and assignment rules and policies that permit the introduction of new service to America's Urbanized Areas without adopting the radical proposals contained in the *NPRM*.

Respectfully submitted,

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