



May 10, 2012

Chairman Julius Genachowski
Commissioner McDowell
Commissioner Clyburn
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Creation of a Low Power Radio Service, MM Docket 99-25

Dear Chairman Genachowski, Commissioners McDowell and Clyburn:

On behalf of the undersigned members of The Leadership Conference on Civil and Human Rights, we write to offer our views with respect to the Commission's implementation of the Local Community Radio Act ("LCRA"). The civil rights community has been a strong supporter of low power FM radio since the service's inception under Chairman Bill Kennard in 2000, and we continue to support it today. Our members pushed for passage of the LCRA because adding new radio stations to the dial is one of the most clear-cut and relatively simple steps the Commission can take to increase the number of stations controlled by underserved communities, including people of color, women, seniors, people with disabilities, and others. At the same time, we are extremely concerned that the large-scale mainstream media is too concentrated and held in too few hands, and so we hope that low power radio stations can be a starting point for the constituencies we represent to create and control media content, as well as to disseminate it.

As we outline in detail in the comments below, we believe several of the decisions the Commission will make this summer will mean the difference between a process that ensures our communities can fully reap the benefits of the LCRA and an application process that is simply another mechanism to exclude communities that are already underrepresented in mainstream media.

The Commission must adopt a process that provides adequate time for local nonprofits and coalitions of nonprofits to receive adequate information about the rules for applying for stations, leaving sufficient time to comply with the rules and to prepare applications. These procedural barriers are very significant for communities of color and other underrepresented communities that are already at a disadvantage when it comes to Internet access, funding, and support infrastructures. In addition to the extremely practical questions of the applications process, the undersigned Leadership Conference members strongly support the Commission's proposal to adopt a 20-hour local programming obligation as a mandatory eligibility criterion. For the same reasons that we support a diverse and local media in the media

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ownership docket, we believe local programming is the *raison d'être* of low power radio service, and that all stations receiving a license in that service ought to be required to offer a minimal amount of local programming.

The Low Power Radio Service is Intended to Assist Groups Underrepresented in Broadcasting

The constituencies served by the members of The Leadership Conference are at the heart of the reason for the low power radio service. In 2000, then-Chairman Kennard articulated the original purpose of the low power radio service as “giv[ing] voice to the previously voiceless,”¹ and that the core goals of the LPFM service are “localism and diversity.”² When the FCC created this service in 2000, it stated, “[o]ur goal in creating a new LPFM service is to create a class of radio stations designed to serve...*underrepresented groups*,”³ and that LPFM’s purpose is to “foster a program service responsive to the needs and interests of small local community groups, particularly *specialized community needs that have not been well served by commercial broadcast stations*”⁴ such as “linguistic and cultural minorities or groups with shared civic or educational interests that may now be underserved”⁵ by existing commercial and noncommercial radio. Yet it is unclear that the LPFM service has served its goal well.⁶

Ethnic Media Serve Discrete Ethnicities More Effectively; Language Minorities Have Particular Needs

In his original supporting statement, then-Chairman Kennard highlighted the needs of language minorities, “from the Haitians in South Florida to the Vietnamese of South Texas.”⁷ LPFM service has great potential to meet the unique needs of ethnic communities. For example, more than one in three Asian Americans are considered limited English proficient (LEP) and experience some difficulty communicating in English.⁸ Moreover, one in five is isolated in a household where no one over 14 speaks English without some difficulty.⁹ Many local government websites and services still do not offer in-language resources to communicate with

¹ Statement of FCC Chairman William E. Kennard on low power FM radio initiative, FCC Press Release (March 27, 2000) available at: <http://transition.fcc.gov/Speeches/Kennard/Statements/2000/stwek024.html>.

² Creation of a Low Power Radio Service, MM Docket 99-25, Fifth Report & Order, Fourth Notice of Proposed Rulemaking, Fourth Order on Reconsideration (rel. March 29, 2012) (FCC 12-28).

³ Creation of a Low Power Radio Service, *First Report & Order*, 15 FCC Rcd 2205, 2208 (2000) (emphasis added).

⁴ *Id.* at 2213.

⁵ *Id.*

⁶ As Prometheus/FMC/UCC explained in comments last year, evidence demonstrates that prior to the LCRA LPFM stations were not located in geographic areas that served minority communities. Citing a study concluding, “LPFM radio has not served minorities or disadvantaged populations to the extent envisioned by the FCC.” PRP/FMC/UCC comments at 10-11 (citing Wikle, Thomas A. and Comer, Jonathan C.(2009) “Barriers to Establishing Low-Power FM Radio in the United States”, *The Professional Geographer*, 61: 3, p. 376).

⁷ Separate Statement of Chairman William E. Kennard, 15 FCC Rcd 2205, 2316 (2000).

⁸ Asian Pacific American Legal Center & Asian American Justice Center, *A Community of Contrasts Asian Americans in the United States: 2011* (2011).

⁹ *Id.*

LEP individuals, and LPFM service can fill a crucial gap in disseminating critical information to these communities.

LPFM is also a valuable outlet for ethnic media, which are becoming the most effective ways to reach communities of color.¹⁰ A recent study by New America Media showed that 82 percent of the U.S. ethnic population is reached by ethnic media, and ethnic radio is one of the fastest growing mediums for reaching ethnic populations.¹¹

	Reach of Ethnic Media	Reach of Ethnic Television	Reach of Ethnic Newspaper	Reach of Ethnic Radio
Hispanic	89%	86%	37%	70%
African American	78%	58%	37%	67%
Asian American	73%	57%	43%	25%

LPFM services can also reach and address the needs of communities of color where traditional public news radio does not. For example, Station Resource Group's "Grow the Audience" initiative cited numbers in which a typical radio station reached 12.7 percent of listening by college graduates generally (public radio's strongest demographic) but reached only 2.2 percent among Black college graduates and 5 percent for Latino graduates.¹²

Application Procedures Must Serve Underserved Communities First and Foremost

Some of the undersigned groups have weighed in on the technical matters that the Commission has considered thus far in this proceeding, including the importance of low power radio station availability in urban areas where so many people of color reside. No matter how these questions are resolved, however, the Commission will not succeed in its goals of reaching underserved communities if the application process for low power radio licenses is not conducted with adequate notice time for preparation of applications. *The Commission could get each technical decision "right," but if the target communities lack a meaningful opportunity to apply, those technical decisions will be meaningless.* The Commission's own Information Needs of Communities Report gave this idea its unqualified support stating, "[t]he Commission should make sure that licensing 'windows' are set up in such a way to give LPFMs a fair shot at getting traction throughout the nation."¹³ Moreover, we note that the Prometheus Radio Project, Future of Music Coalition, and the United Church of Christ have asked the Commission to seek

¹⁰ See New America Media, *National Study on the Penetration of Ethnic Media in America* (2009), http://media.namx.org/polls/2009/06/National_Study_of_the_Penetration_of_Ethnic_Media_June_5_2009_Presentation.pdf (describing reach of ethnic media to Hispanic, African American, and Asian American populations)..

¹¹ *Id.*

¹² Station Resource Group, Walrus Research, Corporation for Public Broadcasting, *Grow the Audience: Listening by Black and Hispanic College Graduates* (2008) at 9, available at: <http://www.srg.org/GTA/GTA%20Black%20Hispanic%20Report.pdf>

¹³ Information Needs of Communities at 357.



comment in this proceeding on the procedural questions that would enhance widespread participation and endorse many of the points they raised at that time.¹⁴ We are disappointed the Commission did not lay out its plans in this regard and are describing here the factors that will impact the access of underserved communities to low power radio stations.

In 2000-2001, the Commission's process for accepting applications proceeded as follows. First, the Commission divided the country into five groups based on location. Each filing window lasted five days. The Commission gave an outline at the start of the application process for when each filing window could be expected. The precise dates of the filing windows were announced 30 days in advance of the windows. The entire process was not announced until two months before the first filing window.¹⁵ The Commission adopted plain-language guides for applicants in English and in Spanish.¹⁶

Many things were positive about this process. Five applicant windows gave sufficient time and advance notice (particularly for the later windows) for national support groups to work with different geographic areas. Moreover, each successive window gave the applicants who came after (and Commission staff) the opportunity to learn from the prior window's applicants. Outreach in Spanish was a good start, although it did not begin to address the needs of other language minorities.

Civil rights groups that are considering applying for stations require no less than six months between final rules and the opening of the first applicant window. We further strongly request that the FCC divide the country into multiple application windows as it did in 2000-2001.

In the last notice in this docket, the Commission held out a vision of a "robust, dynamic and permanent" LPFM service, and offered its view that the next LPFM window represents the "last best opportunity to create a vital and sustainable community radio service in major metropolitan areas."¹⁷ We concur with these points and believe that an open and user-friendly process is essential for these to occur.

The local affiliates of many of the undersigned organizations represent the most stable and organizationally sophisticated civil rights and other groups at the local level. Our members look forward to collaborating with smaller groups that are more focused on technology and radio broadcasting. At the same time, we believe that our local affiliates bring considerable expertise to the table, expertise that is necessary for strong, long-lasting low power radio stations.

¹⁴ Comments of the Prometheus Radio Project, Future of Music Coalition, and United Church of Christ, OC Inc., MM Docket 99-25 (filed Sept. 6, 2011).

¹⁵ FCC Lottery Today Determines Order for Accepting Applications for Low Power FM Radio Station Licenses, FCC Press Release (March 27, 2000).

¹⁶ Federal Communications Commission, *Low Power FM Radio: An Applicant's Guide and Servicio de Radio FM a Baja Frecuencia (LPFM): Guia para el Solicitante* (April 28, 2000) available at: <http://transition.fcc.gov/mb/audio/lpfm/lpfmguide.pdf> and <http://transition.fcc.gov/mb/audio/lpfm/lpfmguideespanol.pdf>.

¹⁷ Creation of a Low Power Radio Service, *Third Further Notice of Proposed Rulemaking*, 26 FCC Rcd 9986, 9996 (2011).

However, these organizations have many competing agendas and limited resources, preventing them from stopping all other activity to prepare for a radio application window. They are often run primarily by all-volunteer boards who meet monthly; have limited professional staff; and budgets that are adopted annually. These organizations are important players in the low power radio universe, and are important organizations to accommodate.

A successful low power radio application will require the collaboration of multiple local organizations. For example, one organization may have a headquarters with appropriate space for an antenna, while another is likely to run a youth program with a large number of interested volunteers, and a third might have a board member who can offer legal expertise. Each of these organizations will likely be drawn to low power radio with a vision of the local programming that could be offered.

These are critical collaborations that require time to negotiate. Yet many of these conversations have only just begun now that the FCC has issued its preliminary decisions regarding frequency availability. No organization is likely to put significant organizational resources behind this project unless it knows that a frequency is available in its community. Even now, because several important decisions remain in this docket, many communities will not yet know for sure if there is a meaningful frequency available. Thus, community organizations that might apply or collaborate with other to apply cannot seriously make plans until the FCC's decisions are complete.

Local Programming Should be an Obligation of Low Power Radio Stations

Currently, low power radio stations are not obligated to offer any local programming. While stations that competed against each other for scarce licenses could earn credit that enabled them to win a license through a promise to offer local programming, no obligation on all stations was ever adopted.

With the advent of new technology and the zeal of a few applicants hoping to create national networks despite the FCC's goals for the low power radio service, a large number of stations currently offer no local programming whatsoever. We strongly endorse a Commission-imposed obligation on all low power radio stations to offer at least 20 hours of local programming per week, defined under the current definition of local programming. These local hours of programming are the programming we anticipate will most serve the underserved audiences we represent. We do not believe that scarce spectrum should be allocated in the low power radio service that will not be used to produce any local programming.

Conclusion

We hope that these recommendations and analysis prove useful to the Commission and we look forward to collaborating with you in fulfilling the promise of LPFM to serve the needs of all Americans, and in particular, the communities we represent. Please contact Leadership Conference Media/Telecommunications Task Force Co-Chairs Cheryl Leanza, UCC Office of

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Communication, Inc., at 202-841-6033, Chris Calabrese, ACLU, at 202-715-0839, or Corrine Yu, Leadership Conference Managing Policy Director at 202-466-5670, if you would like to discuss the above issues or any other issues of importance to The Leadership Conference.

Sincerely,

American Civil Liberties Union
Asian American Justice Center
Common Cause
Communications Workers of America
The Leadership Conference on Civil and Human Rights
NAACP
National Hispanic Media Coalition
National Urban League
National Organization for Women
United Church of Christ, OC Inc.