Joint Reply Comments of LPFM Advocates

Prometheus Radio Project, Amherst Alliance, Center for Media Justice, Christian Community Broadcasters, Color of Change, Common Frequency, Free Press, Future of Media Coalition, Media Alliance, National Hispanic Media Coalition, National Lawyers Guild Committee on Democratic Communications, REC Networks, United Church of Christ, Office of Communication, Inc.

The parties to this comment represent longstanding LPFM advocacy organizations as well as national and regional public interest organizations who view LPFM as a key component of a just and democratic telecommunications system. These organizations (henceforth "LPFM Advocates") commend the Commission for its steps forward in the *Fourth Further Notice of Proposed Rulemaking* ("*Fourth Further Notice*"). In particular, LPFM Advocates applaud the Commission's faithful efforts to implement the Local Community Radio Act ("LCRA") by expanding LPFM opportunities nationwide.

In response to the variety of issues raised by commenters to the *Fourth Further Notice*, LPFM Advocates herein articulate a set of five shared policy priorities.

1. **Second adjacent waivers**. LPFM Advocates disagree with NAB that second adjacent waivers should be available only in rare circumstances.[1] Congress authorized the Commission to waive second adjacent restrictions when LPFM stations do not cause interference to any existing radio service.[2] LPFM Advocates strongly urge the Commission to implement a fair and flexible second adjacent waiver policy with no further criteria than the standard authorized by Congress. LPFM stations should be eligible for such waivers whether or not fully spaced channels are available, with all the flexibility afforded to FM translators, including the ability to lower power

[1] Comments of NAB at 5.
[2] See Local Community Radio Act, Pub. L. No. 111-371, 124 Stat. 4072 (2011), § 3(b)(2)(a).

or use directional antennas with "off the shelf" antenna patterns. Imposing an unnecessarily restrictive second adjacent waiver policy would violate the LCRA's requirement that translators and LPFM stations be "equal in status."[3]

2. **Classes of Service**. LPFM Advocates disagree with NPR that the LCRA prohibits the licensing of classes of service other than LP100.[4] The Commission has the authority to implement any class of service, as long as the interference obligations and other requirements specified by the LCRA are met. Moreover, the Commission is obligated by the LCRA to license LPFM stations in as many local communities as possible.[5] LPFM Advocates therefore support the REC Networks proposal for an "enhanced" LP10 class with a maximum power level of 50 watts.[6] An LP50 class would permit the licensing of LPFM stations in many urban communities where LP100 opportunities are limited or unavailable.

LPFM Advocates further support the creation of an LP250 service in both urban and rural areas. [7] Increased wattage will enhance the viability of LPFM stations and allow educational organizations to better reach their listening audiences. Permitting stations this flexibility improves the parity between LPFM stations and translators, in accordance with the LCRA.

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[3] See Local Community Radio Act, Pub. L. No. 111-371, 124 Stat. 4072 (2011), § 5(3).
[4] Comments of NPR at 2-3.
[5] "Read together with Section 5(2), Section 5(1) requires the Commission to provide licensing opportunities for both services in as many local communities as possible..." *Third Further Notice* at ¶7, cited in *Fourth Report and Order* at ¶5 and adopted at ¶18.
[6] Comments of REC Networks at ¶29.
[7] Amherst Alliance notes that it agrees with all of the recommendations in these Reply Comments except the call for contingent licensing of LP250 stations in highly urban areas. Amherst opposes the licensing of both 250 watt LPFM stations and new 250 watt translator stations in the center city areas of the top 100 Arbitron Markets. (A list of such areas is set forth in the Appendix to Amherst's May 7, 2012 Written Comments.) In such areas, Amherst asserts that both LPFM stations and new translators should be limited to exactly the same power level -- set at 100 watts at the very most.

However, we urge the Commission to preserve as many LPFM opportunities as possible in core urban areas when permitting LP250 stations.[8]

3. **Local Programming and Local Eligibility**. LPFM Advocates support a locally originated programming requirement for new LPFM stations, as proposed by a number of commenters in this proceeding.[9] Low power radio was created to bring local voices to the airwaves, and a local programming requirement will ensure that scarce licenses will be used by groups most likely to serve their communities with locally relevant and diverse programming. The Commission should also continue to clarify and tighten its definition of local programming.

LPFM Advocates support extending the definition of a local applicant to include those headquartered within 20 miles, rather than 10 miles, in both urban and rural areas.[10] We support this revision in regard to the established community presence criterion for selecting among mutually exclusive applicants as well as the eligibility criterion for applicants.[11]

4. **IF Minimum Distance Separation Requirements**. LPFM Advocates support the Commission's proposal to eliminate the minimum distance separation requirements related to Intermediate Frequency ("IF") channels. We concur with a number of parties that this change should apply to LPFM stations operating with 100 watts or less, rather than stations operating at

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[8] Prometheus, Common Frequency and REC Networks have proposed methods to ensure that LP250 stations do not preclude LP100 stations in urban areas (See Comments of Prometheus at 30-33, Common Frequency at 16, and REC Networks at ¶36).

[9] Comments of The Leadership Conference on Civil and Human Rights at 5, Future of Music Coalition at 23, National Lawyers Guild at 8, Prometheus Radio Project at 35.

[10] Comments of Common Frequency at 22, Prometheus Radio Project at 51, and REC Networks at ¶59.

[11] See 73.872(b)(1) and Section 73.853(b) and *Fourth Further Notice* at ¶62.

less than 100 watts.[12] This change would further improve the parity between the LPFM service and FM translators, as dictated by the LCRA.

5. **Application Procedures**. LPFM Advocates urge the Commission to design the application process to be as clear and accessible as possible for new entrants. We agree with The Leadership Conference on Civil and Human Rights, which argues that the Commission should allow adequate time after the completion of the rulemaking process prior to opening an LPFM licensing window.[13] We also encourage the Commission to implement procedures that allow greater participation in LPFM filing opportunities, such as multiple filing windows and less burdensome application procedures.[14]

In sharing these five common priorities, LPFM Advocates aim to aid the Commission in charting a course for the future of LPFM. In each instance, we ask that the Commission adopts

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[12] Comments of National Lawyers Guild at 9, Prometheus at 42, REC Networks at ¶42, Jeff Sibert at 5.

[13] "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." Comments of The Leadership Conference on Civil and Human Rights at 1.

[14] REC Networks has proposed one alternative for multiple filing windows (Comments of REC Networks, MM Docket 99-25, at 17, 19, filed Sept. 27, 2011) as has Christian Community Broadcasters (see Reply Comments of Christian Community Broadcasters). Common Frequency and Prometheus Radio Project propose a long form/short form application to allow organizations to participate with minimal expense incurred by non-prevailing applicants (Comments of Prometheus Radio Project at 9, Common Frequency at 5).

policy decisions that align with the basic principles of the Local Community Radio Act. The positions articulated above allow the widespread licensing of LPFM stations on the basis of local community needs and improve the parity between LPFMs and translators, bringing these services closer to “equal in status.”

Respectfully submitted,

Prometheus Radio Project

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