

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Literature Review of Research on Critical)	BO Docket Number: 12-30
Information Needs and Market Entry)	
Barriers)	
)	

**COMMENTS
OF
PROMETHEUS RADIO PROJECT**

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via electronic filing

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SUMMARY

At behest of the Commission, the University of Southern California Annenberg School for Communication & Journalism in collaboration with the University of Wisconsin-Madison together with the *Communication Policy Research Network* (collectively, the “Research Team”) undertook a massive critical literature review. The result is an impressive report and an Executive Summary that was presented to the public in June. The Executive Summary identifies the critical information needs of Americans and assesses how we meet those needs, how the media ecosystem addresses our critical information needs, and the barriers that exist in providing content and services to meet these needs.

The review of the literature, and subsequently the Executive Summary, highlights issues and barriers low-income, minority (defined broadly), and non-English speaking communities face. It also reminds us of the consequences for communities that do not have their information needs met. As Dr. Friedland so eloquently stated, “*Information can make the rich richer and the poor poorer.*”¹

The Prometheus Radio Project (“Prometheus”) believes that there are actions that can be undertaken to address these problems. Further research, as the Research Team has suggested, is critical to better understand the barriers these communities face in media ownership and media representation. Prometheus is an advocate for a more democratic media ownership landscape. In 2004 and 2011, Prometheus and other public interest advocates joined together to challenge deregulatory ownership rules, leading to a judicial mandate from the United States Court of Appeals for the Third Circuit that has helped block further media consolidation and ensure public participation in media ownership proceedings.²

Prometheus is the leading advocacy organization for low power FM (“LPFM”)

¹ Remarks of Dr. Lewis Friedland, *Public Discussion of Critical Information Needs*, June 26, 2012, available at <http://www.fcc.gov/events/public-discussion-literature-review-research-critical-needs>.

² *Prometheus v. FCC*, 652 F.3d 431 (3d. Cir. 2011), cert. denied, 567 U.S. ____ (2012).

radio. Hundreds of organizations have received assistance from Prometheus in applying for licenses, constructing LPFM facilities, and training community members to operate their stations. We are intimately familiar with the importance of a diverse, robust media ecosystem and market entry barriers.

We appreciate the magnitude of the commissioned review. Accordingly, in response to the Commission request for comments on the Executive Summary, we submit the following comments and articles to the Research Team and the Commission.

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I. THE CRITICAL INFORMATION NEEDS OF COMMUNITIES SHOULD BE STUDIED FURTHER

Local communities' critical information needs are forms of information "that are *necessary* for citizens and community members to live safe and healthy lives; have full access to educational, employment, and business opportunities; and to fully participate in the civic and democratic lives of their communities."³ The research team identified eight categories of essential information, such as emergency and political information, that communities need access to in a timely manner.⁴ It is crucial for the information to be in an interpretable language and reasonably accessible media.

"Neither information needs nor the way they are met are distributed equally across communities."⁵ The review has found low-income, minority, disabled, and non-English speaking communities continue to be especially disadvantaged in the meeting of information needs. These communities are often "lower-information" areas that are likely to be systematically disadvantaged when their information needs lag or are unmet.⁶ This is particularly worrisome because "information inequalities within communities can have short and medium term consequences for individuals' access to basic opportunities, and potential long-term consequences for community development."⁷ Evidence suggests that meeting the basic information needs may be a critical step towards raising the quality of life for lower performing metropolitan and

³ University of Southern California Annenberg School for Communication & Journalism, *Draft Review of the Literature Regarding Critical Information Needs of the American Public*, June 12, 2012, at 3 (emphasis in original) [hereinafter *Executive Summary*].

⁴ *Id.*

⁵ *Executive Summary* at 4.

⁶ *Id.* at 5.

⁷ *Id.* at 5-6.

rural areas with lower levels of education and higher percentages of low-income and non-English speakers.⁸ Despite the dire effects of unmet information needs there is a dearth of information directly addressing whether and how critical information needs are being met, particularly in these communities.

Community information needs take different forms depending on demographic and geographic factors, highlighting the need for a diverse media ecosystem with multiple media types available to best reach the greatest number of people. However, even affluent hyper-local news organizations struggle because of a lack in marketing interest.

We commend the Research Team for the massive undertaking this project has been. The research indicates that the problems in our media system are persistent and worsening. New approaches to researching media issues are needed in order to ensure critical needs of communities of all types are met. The Commission should encourage additional research to develop an effective ownership policy that addresses diverse community needs in the changing media landscape.

II. THE COMMISSION SHOULD ENACT MEDIA OWNERSHIP POLICIES THAT SERVE THE NEEDS OF DIVERSE COMMUNITIES

The lack of media ownership by disenfranchised groups is a well-established problem. Minority radio ownership has declined since the 1996 Telecommunications Act even as minority radio audiences have increased.⁹ At the end of 2011, the Minority Media & Telecom Council reported rapidly decreasing minority employment in broadcasting.¹⁰ In 2007 minorities owned 7.7% of all full-power commercial broadcast

⁸ *Id.* at 6.

⁹ Radio's Audience Continues to Remain Strong, According to the Radar June 2012 Report, Arbitron, June 2012, *available at* <http://arbitron.mediaroom.com/index.php?s=43&item=822>.

¹⁰ 2011 Annual Report, Minority Media & Telecom Council, 2011, *available at* <http://mmtconline.org/mmtc-2011-annual-report/>.

stations despite comprising 33% of the U.S. population.¹¹ Since 2007, three of the five largest Black-owned broadcasters and four of the five largest Hispanic broadcasters have gone bankrupt.¹² Women are also under-represented in the media. In 2007, although comprising 51% of the U.S. population, women owned only 6% of all full-power commercial broadcast stations.¹³ Declining levels of participation and ownership are unacceptable and have resulted in both Congress and the Judiciary ordering the Commission to remedy the situation.¹⁴

Diversity has long been a crucial goal of U.S. communications policy.¹⁵ The Commission was created in part to ensure that all Americans have media access.¹⁶ The Third Circuit recently noted that media access includes not only the ability to receive media, but also to have ownership opportunities.¹⁷ The Commission has been unable to meet their access mandate in recent years partially because media conglomeration following the 1996 Telecommunications Act has eliminated ownership opportunities for minorities and women.¹⁸

The Executive Summary identifies that traditional media sources are in decline and that the media ecosystem is changing substantially and quickly over time,

¹¹ Turner, S. Derek, *Off the Dial: Female and Minority Radio Station Ownership in the United States*, Free Press, 2007, *available at* www.stopbigmedia.com/files/off_the_dial.pdf.

¹² *Id.*

¹³ *Id.*

¹⁴ 47 U.S.C. § 309(a). The FCC's last two media ownership orders were rejected by the U.S. Court of Appeals for the Third Circuit because they did not adequately address low media ownership by minorities and women. *Prometheus v. FCC*, 652 F.3d 431 (3d Cir. 2011).

¹⁵ Kim, Dam Hee, *The Triangle of Minority Ownership, Employment and Content: A Review of Study of Minority Ownership and Diversity*, University of Michigan, 2011, *Unpublished manuscript available at* apps.fcc.gov/ecfs/document/view?id=7021897985.

¹⁶ 47 U.S.C. § 151.

¹⁷ *Prometheus v. FCC*, 373 F.3d 372, 421 (3d Cir. 2004) (footnote 58).

¹⁸ *Id.*

suggesting the need for continued study.¹⁹ Importantly, the study found that although minority media ownership and employment studies are available, there is a lack of research on how participation helps communities to meet critical information needs.²⁰

This Literature Review is only a starting point. The development of an inclusive media policy begins with additional research.²¹ Judicial and Congressional mandates already require the Commission to encourage more diverse media ownership generally.²² Given the severe disadvantages these communities already face, the Commission should continue to address issues of minority ownership and encourage a robust, diverse media landscape where there are meaningful options for media ownership. We strongly agree with the Executive Summary recommendation that the Commission conduct research into whether and how local information needs are being met.²³ Further research to develop an effective ownership order is needed. LPFM can play an integral role in providing critical information to America, especially disenfranchised groups. The recommended measures can make great strides in diversifying and localizing media in accordance with Statutory and Judicial mandates and Commission policy goals, and play an important role in new media ownership policy.

III. LPFM HAS THE POTENTIAL TO HELP MEET THE CRITICAL INFORMATION NEEDS OF COMMUNITIES

Because LPFM plays a vital and growing role in meeting the information needs of communities, we urge the Research Team to include research on LPFM in the present

¹⁹ *Executive Summary* at 7.

²⁰ *Id.*

²¹ *Id.* at 10-11.

²² *See infra* at fn 13, 14. Although the FCC released several ownership studies in 2011, the U.S. Court of Appeals for the Third Circuit found that the Commission did not adequately link the studies to their 2010 Quadrennial Ownership Order. *Prometheus v. FCC*, 652 F.3d 431 at 472.

²³ *Executive Summary* at 12.

literature review. A 2004 study indicates that the LPFM service has improved ownership diversity by limiting licenses to non-commercial groups.²⁴ Where LPFM exists, many stations have served critical information needs, particularly in disadvantaged communities. One study found that LPFM stations located in younger and poorer areas are more commonly educational in mission than those in more affluent areas, and that community and civic stations are more prevalent ethnically diverse locations.²⁵

The LPFM service rules were designed to address local community information needs. An LPFM station may only be licensed to a nonprofit educational organization located within ten miles of the transmitting antenna.²⁶ Furthermore, under current licensing rules, when mutually exclusive LPFM applications are submitted preference is given to applicants with an established community presence and to those who pledge to produce eight hours per day of local programming.²⁷ Because organizations with an established community presence are more likely to be sensitive to community needs, the LPFM service can fill gaps in critical information needs. The rules encourage community ownership over some of their information sources and a vested community interest by the station. In rural areas, LPFM stations often provide critical information to groups that would not otherwise have media access. LPFM has the potential to provide local programming to urban communities that are currently only served by major media owners that are often headquartered far from the community and less responsive to community needs.

LPFM service is naturally suited to provide hyper-localized critical information. Because LPFM stations are more localized and less expensive to operate than full-power radio stations, LPFM can provide critical information to communities that are under-

²⁴ Brand, Keith, Rebirth of Low-Power FM in the U.S., *Journal of Radio Studies*, Vol. 11, No. 2, at 166 (2004).

²⁵ Wikle, Thomas, Barriers to Establishing Low-Power FM Radio in the United States, *The Professional Geographer*, Vol. 61, No. 3, at 373 (2009).

²⁶ 47 C.F.R. § 73.853.

²⁷ 47 C.F.R. § 73.872.

represented in radio and other media. LPFM received congressional support in part because of its potential to provide types of critical information to communities.²⁸ LPFM is especially important to disadvantaged groups.²⁹ Communities of migrant workers, Latinos, and Indian tribes have used LPFM to meet their critical information needs. LPFM stations that provide critical information can have a great impact on individual communities. By providing emergency information, LPFM can save lives. In Florida, a LPFM station announces dangerous weather conditions in the native languages of migrant workers.³⁰ LPFM has the potential to increase civic engagement by providing news programs in other languages. Spanish-speaking news programming results in a 5-10% increase in Hispanic voter turnout.³¹ LPFM has the potential to provide community information needs to groups that are underrepresented in the mainstream media.

Community sourced information is particularly useful in addressing issues of community mistrust of media. Prejudices and misrepresentations contribute to a fragmentation of the American public around race issues and mistrust of mainstream media by minority groups.³² This mistrust creates an active avoidance or disbelief of major media sources participating in this behavior and thereby decreases the information a community receives. Given the severe disadvantages these communities already face, the Commission should continue to address issues of minority ownership

²⁸ One Step Closer: Supporters Trying to get Local Community Radio Act to the Finish Line, *Meridian Star*, November 19, 2009, *available at* <http://meridianstar.com/local/x546253563/One-step-closer/print>.

²⁹ *Id.*

³⁰ Waldman, Steven & The Working Group on Information Needs of Communities, *The Information Needs of Communities: The Changing Media Landscape in a Broadband Age*, Federal Communications Commission, June 2011, *available at* <http://www.fcc.gov/document/information-needs-communities>.

³¹ Obholzer-Gee, Felix, et al, *Media Markets and Localism: Does Local News en Espanol Boost Hispanic Voter Turnout?*, National Bureau of Economic Research, June 2006, *available at* <http://www.nber.org/papers/w12317>.

³² Remarks of Dr. Yong Jin Park, *Public Discussion of Critical Information Needs*, June 26, 2012, *available at* <http://www.fcc.gov/events/public-discussion-literature-review-research-critical-needs>.

and encourage a robust, diverse media landscape where there are multitudes of option for media ownership.

LPFM offers a unique chance for community organizations to inform and educate their communities. Owning a LPFM station provides a new voice to the media landscape; often the voice of a community unrepresented by large media. LPFM offers a solution to the problem of minority mistrust in media by presenting minority community members to represent and help their community meet critical information needs.

Radio has long been an important source of emergency information, one of the eight categories of critical information identified by the Research Team.³³ Even in the Internet age, radio is still the preferred source of information during hurricanes and other dangerous weather conditions because it is dependable, portable, uses fewer batteries, and has better signals than television.³⁴

While radio is generally dependable during dangerous weather conditions, extended power outages may result in full-power stations going off-air for lack of a power supply. Unlike full-power stations, LPFM stations require only a battery or small generator to broadcast, enabling them to operate when other broadcasters cannot.³⁵ LPFM stations can operate using power sources that would be insufficient for full-power stations to broadcast. This has led to fantastic feats of community loyalty and dedication such as when Bryce Phillips swam to his LPFM station with a battery pack during Hurricane Katrina so that he could continue broadcasting emergency information after other stations were no longer operating.³⁶

Many LPFM stations create programming to fill other information needs, including health information,³⁷ civic information,³⁸ music and cultural programming,³⁹

³³ Executive Summary at 4.

³⁴ *Riding Out the Storm: The Vital Role of Local Radio in Times of Crisis*, Arbitron, February 2005, *available at* www.arbitron.com/downloads/hurricane_summary.pdf.

³⁵ Waldman, *supra* note 30.

³⁶ *Id.*

³⁷ Felicia Fonseca, *Old Medium Serves Vital Purpose in Indian Country*, *Deseret News*,

and non-English speaking news.⁴⁰ Many LPFM stations also provide opportunities for disenfranchised groups to receive training in radio engineering and reporting.⁴¹ Thus, LPFM can help alleviate difficulties in meeting critical information needs. LPFM can provide critical information in a re-bundled, inclusive and accessible community format.

Access to capital, advertising dynamics, and hiring practices are barriers resulting in under-provision of content addressing minority critical information needs.⁴² LPFM can help reduce these barriers to minority and female media representation by providing a relatively inexpensive media source that is responsive to community critical information needs. Sixty eight percent of LPFM stations that responded to a 2003 survey stated that their operating budget fell at or below \$10,000.⁴³ There is no application fee for LPFM, and in cases of mutually exclusive applications, the FCC determines which to grant based on application criteria.⁴⁴ In contrast, commercial stations have licensing fees and the FCC uses a competitive bidding process to decide cases of mutually exclusive applications.⁴⁵ The competitive bidding process contributes to the cost barrier by driving up station costs, leading to further disenfranchisement for low-income communities.

December 31, 2011, <http://www.deseretnews.com/article/700211646/Old-medium-serves-vital-purpose-in-Indian-Country.html?pg=all>.

³⁸ Comments of Prometheus Radio Project in Response to the Future of Media and Information Needs of Communities in Digital Age, GN Docket No. 10-25 (June 8, 2010), p. 4-5.

³⁹ Brian Stelter, *Low Power FM to Gain Space on the Dial*, NY Times, January 24, 2011, <http://www.nytimes.com/2011/01/25/arts/25radio.html>.

⁴⁰ Waldman, *supra* 30.

⁴¹ *Id.*

⁴² *Executive Summary* at 8.

⁴³ Brand, *supra* note 24 at 165.

⁴⁴ 47 C.F.R. § 73.872.

⁴⁵ 47 U.S.C. § 309(j).

IV. REMOVING LPFM BARRIERS CAN IMPROVE COMMUNITY ACCESS TO CRITICAL INFORMATION

The Commission created LPFM service to provide service to underrepresented groups and programming responsive to community needs,⁴⁶ and many LPFM stations have provided remarkable service to their communities in meeting information needs.⁴⁷ Nonetheless, there are several barriers to LPFM meeting its potential in filling critical information gaps.

Historically, LPFM has been relegated to rural and suburban areas. Because of the Radio Broadcast Preservation Act, the Commission has been barred to allowing LPFM stations on the third adjacent frequency to existing full power radio stations, effectively keeping LPFM out of cities. Thanks to the passage of the Local Community Radio Act, LPFM has the potential to dramatically expand its role in meeting critical information needs because LPFM stations will be available in many more communities, particularly in urban areas. Because of the relatively small reach of an LPFM station, licensing LPFM in communities with greater population density will allow significantly greater impact.

Depending on the implementation of the Act, the number of LPFM stations may double or triple, with many in cities previously unserved by LPFM. We therefore encourage the Commission to take all necessary steps to permit LPFM stations the flexibility allowed to FM translators and other radio services. In particular, a fair and flexible standard for granting “second adjacent frequency waivers” will allow meaningful LPFM availability in urban areas.⁴⁸

We also encourage the Commission to help LPFM meet its potential to fill critical information gaps by requiring local programming for new LPFM stations. Research

⁴⁶ *Creation of a Low Power Radio Service*, Report and Order, MM Dkt. No. 99-25, 15 FCC Rcd. 2205, 2208 ¶¶ 4, 5 (Rel. Jan. 27, 2000), 65 Fed. Reg. 7616 (Feb. 15, 2000).

⁴⁷ Waldman, *supra* note 30.

⁴⁸ Comments of Prometheus Radio Project in Response to the *Fourth Further Notice of Proposed Rule Making*, In the Matter of Creation of a Low Power Radio Service, MM Docket No 99-25, filed May 8, 2012, p. 20.

indicates some licensees exclusively re-broadcast national programming rather than providing community media access.⁴⁹ With limited spectrum available, it is crucial for the FCC to implement rules that give priority to truly local ownership and programming. We urge the Commission to adopt a local programming mandate or dispositive point system to encourage more local programming. Such a requirement will ensure LPFM removes participation barriers for the disenfranchised groups the service was intended to reach.⁵⁰

Media conglomeration prevents disenfranchised communities from having a voice in the media. The Commission has a statutory mandate to regulate broadcast in the public interest, and convenience, and necessity,⁵¹ and has recognized that in carrying out the mandate every community has a presumptive need for its own transmission service.⁵² Second-adjacent channel waivers and local programming requirements will help the Commission to meet their statutory mandate.

CONCLUSION

Prometheus commends the Research Team and the Commission for this important work. The research they have undertaken indicates that the problems in our media system are persistent and worsening and as such must be addressed. We urge the Research team to focus on minority ownership and the needs of disenfranchised communities. We also ask that they include LPFM as a medium which helps address some of the barriers communities face. Finally, we urge Commission to address the problems outlined in the Final Report swiftly and proactively.

⁴⁹ Brand, Keith, *supra* note 24 at 165.

⁵⁰ The First Amendment permits a local programming requirement for new LPFM applications because applications are voluntarily submitted to the FCC.

⁵¹ 47 U.S.C. § 307(b).

⁵² Pacific Broadcasting of Missouri LLC, 18 FCC Rcd 2291, 2293 (2003) (quoting Public Service Broadcasting of West Jordan, Inc., 97 F.C.C. 2d 960, 962 (Rev. Bd. 1984)).

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APPENDICES

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