

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

Creation Of A)
Low Power Radio Service) FCC Docket No. 99-25

ADDITIONAL REPLY COMMENTS OF
REVEREND BOARDMAN "BARNEY" KATHAN OF CONNECTICUT
TO THE EX PARTE WRITTEN COMMENTS
OF THE UNITED CHURCH OF CHRIST

I am Reverend Boardman "Barney" Kathan. I am a retired minister. I have served as Pastor of United Church of Christ congregations in Minnesota, Illinois and two Connecticut communities (New Preston and Cheshire). I have also worked on the staff of the Massachusetts Conference of the United Church of Christ, in Boston, and the United Church of Christ Board of Homeland Ministries in New York City.

Further, I served for 12 years as General Secretary of the Religious Education Association. This is an interfaith institution (featuring Protestants, Roman Catholics, Jews, Muslims, Hindus and others) which gathers religious education scholars for Conferences and publishes their work in its journal or in books. The Association is international, but I was based at Yale Divinity School in New Haven, Connecticut.

I hold a B.A. from Wesleyan University in Middletown, Connecticut -- and a Master of Divinity degree from Yale Divinity School. In addition, I received a Fulbright Scholarship for 1 year of study at the University of Leiden in the Netherlands.

I have taught courses at Yale Divinity School and Emerson College in Boston.

The Kathan family has lived in New England since the 1600's. Therefore, it may not surprise you that I have a strong personal interest in American history.

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In this regard, I have edited the book PIONEERS OF RELIGIOUS EDUCATION IN THE 20TH CENTURY. I have also written numerous historically oriented articles and two non-fiction books: A CHURCH SET ON A HILL, a history of the centuries-old Prospect Congregational Church, and -- with my wife, Joyce C. Kathan -- a United Church of Christ publication entitled. YOUTH IS WHERE THE ACTION IS.

I am now in the process of writing another non-fiction book, tentatively entitled AMERICA'S MOVEABLE FEASTS: THE HEART AND SOUL OF OUR NATION'S HOLODAYS . The book discusses the religious and secular roots of America's official National Holidays.

In my field, I am considered an expert on "American Civil Religion".

Within the world of Christianity, I am the opposite pf a typical televangelist.

The Promise of Low Power FM Radio

I have learned about Low Power FM (LPFM) Radio through my personal friendship with Don Schellhardt. I have known Leroy Schellhardt, Don's father and a member of Prospect Congregational Church, for many years -- and I have known Don for almost as long. He lives one town over in Waterbury's East End.

Like me, Don is a graduate of Wesleyan University in Middletown, Connecticut. So is his longtime friend and activist colleague, Nick Leggett of Reston, Virginia. These two men were the first people to petition the FCC for an LPFM Radio Service. Don has become Co-Founder, and current President, of THE AMHERST ALLIANCE.

Based on my knowledge of American history, plus my knowledge of Don, I believe that THE AMHERST ALLIANCE vision for the LPFM Radio Service is fully in resonance with the spirit of America's Founders.

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Don Schellhardt personally strikes a very American balance between his own deeply held religious beliefs and his tolerance for the religious (and secular) views of others. Like America's Founders as a whole, the Amherst organization seeks increased freedom for diverse activities and convictions, while uniting this diversity in common service to a common moral purpose -- in this case, the empowerment of free expression and the nurturance of communities.

Naturally, I signed the November 6, 2012 Reply Comments of Don Schellhardt, Nick Leggett and 13 others to the October 30, 2012 Ex Parte Written Comments of the national United Church of Christ.

Today, I am filing Additional Reply Comments, on my own behalf.

The Federal Communications Commission's Coming Choice

First of all, Don Schellhardt has given me the following information:

In the new LPFM filing window, he tells me, there are likely to be some places (mostly very rural areas and small towns) where there will not be enough locally based LPFM applicants to take up all of the available frequencies. Don thinks there will be relatively few areas like this, with what he calls "zero spectrum scarcity", while other people seem to think such areas will be relatively common. In truth, however, no one will know for sure until the LPFM filing window has opened.

Some religious radio networks are pointing to these "zero spectrum scarcity" areas -- which may turn out to be few or many, once the filing window has opened -- and saying that new non-local LPFM stations, with out-of-town programming brought in by satellite, will not be keeping any local voices off the airwaves. That's because the *ersatz* LPFM stations will only be filling frequencies that would otherwise be vacant.

As a philosopher, I offer this observation:

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The radio networks' argument holds *only* if we look at a single point in time. However, the situation changes if we take *the future* into account.

It is probably probable, over time, that a future broadcaster will come along, offering an alternative use for that frequency which offers more benefits to society than simple re-transmittal of a common variety of standardized programming.

The potential substitute station might well turn out to be another LPFM broadcaster -- but one which is actually local this time. Still, under the FCC's generally applicable "first come, first served" licensing policy, it would be legally difficult -- if not impossible -- for the true LPFM newcomer to displace the artificial LPFM station, once the artificial station has been given a license.

Of course, the FCC could always get around this problem by modifying its present "first come, first served" policy. Indeed, I gather that Don's Amherst group has proposed exactly that -- so far, without success.

Perhaps the Commission will become more receptive to the Amherst proposal.

Nevertheless, the FCC *doesn't* change its current "first come, first served" licensing policy, then the FCC must realize that a *currently* vacant frequency does not allow it to escape the burdens of choice. Unless the Commission is prepared to declare that the present counts for everything and future generations count for nothing, the Commission is morally bound to consider how choices in the present might broaden or limit choices in the future. The Commission must weigh the *present* benefits of a non-local LPFM station against the possible *future* benefits of an LPFM station which offers a substantial amount of locally originated programming.

Incidentally, I practice what I preach. For years, I have served on the Board of Directors of the Prospect Land Trust. The Land Trust accepts donated land, and occasionally purchases land on its own. The land is then kept perpetually in its natural state -- with the possible exception of an added walking path or bike path.

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I have donated 82 acres of my own family's inherited land to the Land Trust.

Proportional Representation in Programming

In comparing present benefits to listeners against future benefits that might be eclipsed, I ask the FCC to keep two points in mind:

(1.) As I have said, I have been a student of both secular American history and comparative rel. From this perspective, I can report that fundamentalist Christian radio networks do not speak to, or for, a majority of America's "people of faith" -- let alone a majority of Americans in general. The fundamentalist Christian networks undoubtedly serve tens of millions of Americans, but they do not come close to serving *most* religious Americans.

This point is relevant because fundamentalist Christian networks currently claim a "market share" among total religious programming which is greatly out of proportion to their numbers among religious Americans in general.

When the needs and desires of Americans who seek *local* and/or *more varied* programming (religious and/or secular) are weighed against the needs and desires of Americans who seek *standardized* religious programming with a strictly fundamentalist Christian perspective, it may be useful for the FCC to remember that the second group is already over-represented on a typical radio dial.

(2.) It makes sense to speculate that community radio stations, when they are "grown from the bottom up" instead of "planted" by national or international institutions, will offer added value to the communities they serve.

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By this I mean they will typically receive a more varied range of input *from* the community as a whole and provide a more varied range of output *to* the community as a whole.

Let me choose for an example the community which is closest to my heart: Prospect, Connecticut, a suburb of Waterbury where 9,400 people now reside (according to the 2010 Census) and many of my ancestors are buried.

Let's assume, for the sake of argument, that a frequency becomes available, during the new LPFM filing window, for a single LPFM station in Prospect.

Hypothetically, half a dozen people in or near Prospect could incorporate themselves as a non-profit called (shall we say) GOOD CHRISTIANS OF PROSPECT (GCOP). GCOP could then serve as a "front" for a fundamentalist Christian broadcasting chain: we'll call it BELIEVERS' VICTORY NETWORK (BVN).

[For The Record: A Google search confirms that GOOD CHRISTIANS OF PROSPECT and BELIEVERS' VICTORY NETWORK do not exist as organizations in the real world.]

On paper, under the FCC's current regulations, GCOP could file to be licensed as an independent, locally controlled LPFM station. Once licensed, however, GCOP could spend 24 hours a day, 7 days a week just relaying standardized programming from BVN. For all practical purposes, GCOP would *be* BVN, legal fictions notwithstanding.

On the GCOP channel, listeners would hear *one* institution with *one* form of programming and *one* point of view: a point of view which is commonly heard already.

Now consider the alternative of a *community* radio station which *grows* naturally -- you might say, organically -- from the grassroots.

Circumstances would create strong incentives for that station to be pluralistic.

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For one thing, the Commission has already created an artificial incentive for pluralism -- by awarding "bonus points" to joint applications, filed by multiple parties who propose to "time share" a frequency.

Even apart from that artificial incentive, however, there are *inherent* incentives for pluralism -- especially in a town where less than 10,000 people have to come up with the resources for a station. Some degree of sharing is almost a practical necessity.

Applying for an LPFM license will take time, energy and money. A broadcast engineer will have to be hired. A lawyer may have to be hired (although, in the case of Prospect, I know an attorney who might volunteer -- and he knows a legal researcher who might volunteer). Paperwork will have to be completed ,, and completed ... and completed.

Building the LPFM station, once the LPFM license has been approved, will also take time, energy and money. Equipment will have to be purchased, installed, "fine tuned" and perhaps "debugged". The first generation of volunteers at the station will have to be trained.

Then, *operating and maintaining the LPFM station* will take time, energy and money.

In a nutshell:

It is extremely difficult for any single institution, in a town like Prospect, to singlehandedly obtain a station license, build an LPFM station and operate an LPFM station. Whichever institution moves first will almost certainly *have* to look for local partners -- if it wants to *keep* the station local, at least much of the time.

Local partners will also be needed to produce local programming. The greater the amount of locally originated programming that is desired -- *or required* -- the broader and deeper the local partnerships must be.

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In my hypothetical case for Prospect, I can see Prospect Congregational Church, Saint Anthony's Roman Catholic Church and perhaps Bethel Baptist Church collectively developing a "core" of at least 15 hours a week of local religious programming (mostly, but not exclusively, air time for services). Further, between school sports, Town Council meetings, lectures at the library and other local government activities, I believe the town government of Prospect could generate at least 5 to 10 hours of local secular programming per week.

This "core" could more than meet the PROMETHEUS RADIO PROJECT's proposed requirement for at least 20 hours of locally originated programming per week.

As for the alternative recommended by Don Schellhardt's AMHERST ALLIANCE -- 8 hours of locally originated programming per day, which equals 56 hours of locally originated programming per week -- I believe this can be done *if* the hypothetical Prospect community radio station is given the 2-year transition period envisioned by Amherst. From local political groups to the local Boy Scout troops to the Prospect Land Trust to regular commentaries by a group of local individuals, more parties can be "brought into the act" for another 36 hours a week of locally originated programming. If the signal range is long enough, news in Waterbury and/or Cheshire can be covered.

As for any air time that needs to be filled with out-of-town programming, we can continue the commitment to pluralism by bringing in *a range* of national programming. For example, we can air shows produced by NPR, the Pacifica Network and EWTN (the Roman Catholic broadcasting network). Of course, this list only scratches the surface" -- but it conveys the point that even national programming can be more *varied* than the fare presented on most of America's commercial *and* non-commercial stations.

So ...

Now that the Commission has seen two "alternative futures" ...

The Commission must decide:

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Should the second alternative future be excluded for Prospect, *forever*, just because a standardized religious radio network obtained a vacant frequency before a truly local applicant filed for it?

Conclusion

To this Connecticut Yankee, it is clear what choice the Commission should make:

Establish a relatively demanding requirement for a minimum level of local programming by new LPFM applicants -- *and also* allow new LPFM applicants which offer local programming to displace currently licensed LPFM stations which do not.

Notifications

A copy of this document is being sent, electronically, to Cheryl Leanza, Esquire of A LEARNED HAND in Bethesda, Maryland, who advises the United Church of Christ Office of Communications in Washington. DC (cleanza@ALHmail.com) ... to Don Schellhardt , Esquire of Waterbury, Connecticut (djlaw@gmail.com) ... to Brandy Doyle of PROMETHEUS RADIO PROJECT in Philadelphia, Pennsylvania (brandy@prometheusradio.org) ... to Connie Yu of the Leadership Conference on Civil and Human Rights (Yu@civilrights.org) ,, and to Wesli AnneMarie Dymoke of Cheshire, Connecticut (wesdym@gmail.com).

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Respectfully submitted,

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