RM-9208 /
RM-9242

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From: John Robert Benjamin <garfield@penn.com>
To: A7.A7(NETMSGS)
Date: 4/20/98 2:39am
Subject: Comments to Commissioner Ness

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

John Robert Benjamin (garfield@penn.com) writes:

by John R. Benjamin
Vowinkel, Pennsulvania
U.S.A.
garfield@penn.com
814-744-8854

Susan Ness

(1)
Federal Communications Commission
1919 M Street N.W.
Washington DC 20554
(2)

Re:Docket reference
Fcc RM-9208

Dear Susan Ness:

The Federal Communications Commission is currently considering the licensing of microbroadcasting radio stations. I am writing to urge you to contact the FCC and express STRONG support for the licensing of these microstations.
A call from you to the FCC would be good. A letter from you to the FCC would be better. Best of all would be formal Written Comments from you to the FCC. Even if they're very brief, they would have a powerful impact! Such formal Written Comments would have to be made part of the permanent legal record in these proceedings. The FCC would be obligated, under law, to preserve them AND to take them fully and formally into account.
Whether you make a call, send a letter or -- ideally! -- file formal Written Comments, your communication to the FCC must be RECEIVED by MONDAY APRIL 27. April 27 is the comment deadline for the current proceedings.
If you do file Written Comments (as I earnestly hope you will!), they should be double spaced on normal-sized paper.
Also: The FCC asks commenters to indicate the applicable Docket Number at the top of the first page.
In these proceedings, however, the choice of Docket Number is complicated because there are three different Petitions for Rulemaking: RM-9208 (filed by Nick Leggett, Judith Leggett and Don Schellhardt in July of 1997), RM-9242 (filed by Rodger Skinner in late February of 1998) and a currently un-Docketed Petition by the Community Radio Coalition (filed after the others in March of 1998). Your comments could reference either RM-9208 or RM-9242, but I recommend RM-9208 as the Docket reference. RM-9208 is the Petition that triggered the current Petitions and is also my personal favorite.
RM-9208 was amended by its sponsors -- to allow for higher power transmission levels -- in a filing with the FCC on April 8, 1998. Therefore, it should probably be referenced as "RM-9208, as amended".
(3)
It is important to remember that microstations are not something new. They have, however, gained a new level of importance as the only major counterweight to a handful of large corporations which, along with National Public Radio, now dominate the nation's airwaves. Microstations -- owned by individuals, groups of individuals, very small businesses and very small non-profits -- were both lawful and common until 1978. In that year, the FCC banned radio stations with power levels below 100 watts, acting at the request of large corporations AND government-funded broadcasters (especially National Public Radio). These large

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institutions then inherited most of the nation's airwaves. Diversity on the airwaves was greatly reduced and a possible doorway to individual upward mobility was slammed shut. Hurt the most were those from the lower and middle classes, who could have afforded their own microstations but not the newly crowned megastations. Also hurt were listeners and/or potential broadcasters with tastes and/or interests outside the mainstream (for example, evangelical Christians, left wing political activists, right wing political activists and people with a fondness for smooth jazz).

The door to diversity and the door to upward mobility were shut even more tightly in 1996, when Congress enacted so-called communications "reform" legislation. This legislation legalized an open season for corporate acquisitions of -- and/or advertisement price cutting against -- smaller radio stations. A feeding frenzy was unleashed. Small fish were eaten by bigger fish, who were eaten by bigger fish, who were eaten by bigger fish. This process was called radio "deregulation" -- but in truth it was not. It was a SHIFT in regulation -- from regulation of the marketplace by government to regulation of the marketplace by megacorporations. The consumer was promised MORE choice and was instead given LESS choice -- and the last faint strands of regulatory attention to the public interest were stripped away, leaving a semi-monopolized marketplace without a sense of loyalty to either country or community.

This wave of so-called "deregulation" turned hundreds of formerly independent radio stations into satellites of global corporations -- and drove many unacquired independent radio stations off the air completely. As a result, numerous towns and small cities across America are now totally without a local station -- or else they are beamed canned commentary, over a supposedly "local" station, from a centralized corporate facility that might be hundreds of miles away. In the larger (and more profitable) metropolitan areas, many stations remain on the air -- but those stations are now controlled by a literal handful of global corporations. At present, single corporations own hundreds of radio stations -- and, in some major metropolitan areas, control 40% or more of all the stations on the air. The government, via National Public Radio, controls much of what is left.

Is our First Amendment really secure when a few large corporations, joined by a single government-funded entity, control between them virtually every legal radio station on the air? For the most part, THE ONLY COMMUNITY STATIONS LEFT ON THE AIR ARE ILLEGAL. What does this say about the state of our theoretically "representative" democracy?

"We, the people" are slowly becoming aware of the new status quo. We want microstations back -- as small, legal entities based in, and responsive to, individual communities. We want diversity back: diversity in ownership and diversity in programming. We want the AIRWAVES back.

It is finally dawning on everyday Americans that Congress made a terrible, terrible mistake in 1996 -- compounding a terrible mistake made by the FCC in 1978. Both Democrats and Republicans were responsible for these mistakes -- and we expect to see Democrats and Republicans working together to fix them.

Legalization of microbroadcasting -- or, should I say, RE-legalization of microbroadcasting -- is a good place to start.

PLEASE TELL THE FCC that you support legalization of microbroadcasting.

Also, heeding the old Washington saying that "The devil is in the details", PLEASE URGE THE FCC TO STRUCTURE LEGALIZATION IN A WAY THAT:

(1) PROVIDES A MEANINGFUL ROLE FOR MICROSTATIONS BY ALLOWING THEM BROADCASTING AREAS LARGE ENOUGH TO COVER ALL OF THE COMMUNITIES THEY SERVE. For example, RM-9208, as amended, establishes two Tiers. Tier One stations, which are basically "neighborhood-sized", have a maximum transmission radius set at the HIGHER of: (a) 1 mile (that is, a 2-mile circle); or (b) the number of miles to the farthest boundary of the nearest community of 500 people or more (for desert and country areas, or other areas with low human population density). Tier Two stations, designed to serve entire communities and/or large portions of large cities (such as West L.A. or the North Side of Chicago), would have a maximum transmission radius of 5 miles (that is, a 10-mile circle).

(2) DOES NOT PERMIT MICROSTATIONS TO GROW BEYOND "COMMUNITY-SIZED" DIMENSIONS. RM-9242, for example, advocates licensing of "microstations" as large as 3,000 watts with a 328-foot antenna. This would allow a transmission radius of 15 miles (that is, a 30-mile circle). Stations in this size range may have a

place in the scheme of things, but they should not be licensed as COMMUNITY stations -- because their loyalties will gravitate toward entire metropolitan areas, rather than individual communities, and the economics that motivate them will tend to be mass market economics rather than "niche market" economics.

(3) PROTECTS MICROSTATIONS FROM BECOMING SATELLITES OF LARGE CORPORATIONS OR LARGE NON-PROFITS. For example, RM-9208, as amended, does the following:

(a) PROVIDES THAT MICROSTATION LICENSES MAY ONLY BE AWARDED TO -- AND THAT LICENSED MICROSTATIONS MAY ONLY BE ACQUIRED BY -- individuals, groups of individuals, very small businesses and very small non-profits. Eligible institutions, INCLUDING non-profits, would have to have a GROSS income and/or operating budget of $200,000 or less PLUS net assets of $100,000 or less. Further, otherwise eligible institutions would be made ineligible -- even after getting a license! -- if an ineligible institution provides more than 20% of its financing, owns more than 10% of its stock and/or "accounts in any manner whatsoever" for more than 10% of its gross income and/or operating budget.

For purposes of this policy, government funding counts as income from an ineligible institution. That is, government agencies could not provide more than 20% of the financing and so on.

AND

(b) PROVIDES THAT NO MICROSTATION CAN BE "BUMPED" FROM ITS ASSIGNED FREQUENCY BY A LARGER STATION -- NOT EVEN BY A LARGER MICROSTATION.

AND

(4) ALLOWS MICROSTATIONS, EVEN IF THEY ARE NON-PROFITS, TO ESTABLISH FINANCIAL INDEPENDENCE BY SELLING AIRTIME FOR COMMERCIALS. Reasonable amounts of advertising will keep more microstations on the air and provide non-profits with an alternative to endless fund-raising appeals. Microstation commercials also offer small, local merchants affordable advertising opportunities for competing with giant corporate chains that can purchase high-priced airtime on giant corporate stations.

I hope that you are willing to help with this issue, which really connects -- at heart -- with the question of what we want America to be all about. This is a matter of high personal priority and I ask you to apprise me of whatever action(s) you choose to take -- hopefully including formal Written Comments to the FCC before April 27. If you need further information, please feel free to call me at 814 744-8854.

Sincerely,

A. Concerned Patriot

John R. Benjamin

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