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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of a Microstation	)	
Radio Broadcasting Service	)	RM-9208

To: Chief, Mass Media Bureau

COMMENTS OF LAW OFFICES OF JAMES L. OYSTER

Introduction

1. These comments are submitted by the Law Offices of James L. Oyster on behalf of various of his clients who own and operate non-commercial educational broadcast stations. The purpose of these comments is to present alternative provisions to the proposal presently before the Federal Communications Commission to institute a "microstation radio broadcasting service" intended to satisfy the basic need for public access to radio as a means of expression in our communities. This service would be provided by means of a very low powered amplitude modulation (AM) or frequency modulation (FM) radio station serving an area of one to several square miles.

2. In opening up a new service it is necessary to consider how this proposed service will affect existing radio outlets in the community. Providing an additional service is not practical if it correspondingly detracts from an existing service covering the same community.

3. These comments in particular will cover the needs of certain existing educational FM stations and how this proposed "microstation radio broadcasting service" could be implemented without serious adverse economic impact on existing stations

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in the educational FM band.

Purpose of the Service

4. The stated purpose of this proposed service is to "provide the opportunity for individual citizens and small groups to operate radio broadcast services" and thereby provide direct opportunity for citizen involvement in broadcasting, among other related goals. The stated goal of the "microstation radio broadcasting service" is to provide a means of free expression and not financial gain.

Educational FM Service

5. The existing non-commercial educational FM service provides a means of expression and is carried out with limitations as to how the station may acquire funds for the operation of the station. Commercial firms may "underwrite" or sponsor a program but may not announce specific products, special sales or discounts of items or services, or anything which would constitute a commercial announcement. Educational stations may solicit donations. They may receive National Public Radio Grants. They may receive tax and license fee relief as a non profit organization.

6. Many educational stations do not receive National Public Radio funding and in this way are not a burden on the federal budget. Many of these do not solicit donations from the general public but rely almost entirely on underwriting by private firms interested in supporting such educational stations.

Proposal for New Classes of Stations

7. Petitioner herewith respectfully proposes that the FCC create several classes of "educational" facilities utilizing the channels presently occupied by non-commercial educational stations. The first class would benefit from public funding; the second class

would not. The third class of educational stations would be the microstation radio broadcasting service.

8. It is proposed that the first class utilizing the educational frequencies would include present educational stations which are benefiting from government funding. No change is proposed for those stations under this arrangement. They would continue to benefit from National Public Radio provisions. Also, they would continue to have the right to request tax exemption and exemption from FCC license fees.

Educational Class 2

9. Educational Class 2 would include the remaining presently designated educational stations choosing to elect to operate as a Class 2 educational station. In lieu of benefiting from government funding, these stations would be subject to the following benefits and limitations: contrary to Class 1, this group would not be eligible for government funding programs such as National Public Radio. They also would not have tax exemption privileges which are presently afforded educational licensees. FCC license fees also would be applied to this new class designation.

10. In exchange for this arrangement which would relieve the federal government from underwriting much of their operation by means of National Public Radio, tax exemption and exemption from license fees, this new group designation (called here Class 2) would be permitted to cover their operating expenses by airing a limited amount of commercial announcements. To the extent this proposal would require Congressional approval, it is respectfully requested that the Commission submit the proposal to Congress for enactment of appropriate enabling legislation. This newly designated group (Class 2) would be permitted to fund their educational service in a practical way without being a

burden to the federal government. Class 2 educational stations would be limited in the amount of time available per hour for commercial announcements, and this amount would be specified by the FCC. A commercial limit of ten minutes per hour is proposed herein.

Educational Class 3

11. Educational Class 3 would cover the "microstation radio broadcasting service." These stations would be in the extremely low power range, that of a very few watts. They would not have the high overhead of full-power commercial and educational stations. Further, their proposed use is not "commercial" or "educational" but to provide the public with greater access to the air waves to permit the exercise of first amendment rights of freedom of speech and expression. It would be proper that these much more economical outlets fund themselves by voluntary donations from the operators of such stations and their listeners. It is therefore proposed that should it be decided to open such a new service, that such service not be permitted to carry commercial announcements but rather that they limit themselves to programming which would advance first amendment rights of freedom of expression and speech – with operators and listeners contributing to fund their operation.

Conclusion

12. In conclusion, petitioner supports the establishment of a microstation broadcasting service, provided that existing noncommercial educational stations are protected from the harmful impact which such a new service could engender. In order to protect existing stations, it is respectfully submitted that the new microstation broadcasting service be precluded from carrying commercial announcements. Further, it is respectfully submitted that existing educational stations should be permitted to elect to

operate as a new Class 2 type of educational station which would be permitted to carry a limited amount of commercial advertising but which would not otherwise be a burden on the federal government. This provision would help offset the new competition for "donations" which the microbroadcasting service would create and is thus necessary to assure the continued viability of existing educational stations should the microbroadcasting service be initiated by the Commission.

WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the Commission adopt the proposed new microbroadcasting service subject to the modifications set forth hereinabove which would protect existing educational services.

Respectfully submitted,

LAW OFFICES

By James L. Oyster

Law Offices
JAMES L. OYSTER
108 Oyster Lane
Castleton, Virginia 22716-9720

(540) 937-4800

April 24, 1998