COMMUNICATIONS TECHNOLOGIES, INC.
BROADCAST ENGINEERING CONSULTANTS
P.O. BOX 1130
MARLTON, NJ 08053
(609) 985-0077
FAX - (609-985-8124

DOCKET FILE COPY ORIGINAL

CONSULTANT
JAMES W. POLLOCK P.E.

CLARENCE M. BEVERAGE
LAURA M. MIZRAHI

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~ *Via Federal Express -AM* ~

April 24, 1998

Ms. Magalie Roman Salas
Secretary
FEDERAL COMMUNICATIONS COMMISSION
1919 M Street, NW - Room 222
Washington, DC 20554
PHONE: (202) 418-0300

RE: RM-9242

Dear Ms. Salas:

Please find attached the original and four (4) copies of Comments by **Communications Technologies, Inc.** in the above noted matter. A separate copy is enclosed to be date stamped and returned to the Commenter.

Sincerely,

Laura M. Mizrahi
LMM/es

Enclosure

fc: Salas.1lt

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

In the Matter of	)	RM-9242
	)	
A Petition for Rulemaking submitted by TRA Communications Consultants, Inc. regarding the implementation of a new LPFM Broadcast Service	)	

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To: The Commission

COMMENTS OF COMMUNICATIONS TECHNOLOGIES, INC.

The Radio Frequency and Broadcast Engineering consulting firm of *Communications Technologies, Inc.* (**"CTI"**) herein files [1]Comments concerning the above noted Petition for Rule Making, filed by J. Rodger Skinner, Jr. of TRA Communications Consultants, Inc. ("Skinner"). **CTI** is regularly engaged in the preparation of engineering statements and the engineering portions of FCC Applications for Construction Permit, and has a number of clients whose existing facilities could be impacted by the implementation of the proposals contained in the Petition. [1]Comments specific to particular proposals raised in the Petition follow.

1. In Paragraphs 23 through 26 of the PRM, Skinner discusses the various classes of proposed LPFM licenses, with suggested protection requirements to and from existing and proposed services. It is proposed that an LPFM-1 station should be considered a "primary service station" and receive the same protection, license terms and renewal expectation as

[1]Although the Commission has not issued its own rulemaking proposal in connection with the above noted PRM, it has requested that Comments be filed regarding the proposals contained in the Petition by April 27, 1998.

any other full service facility. However, the proposal also requests application and regulatory fees lower than that of secondary service LPTV facilities, as well as only being required to submit a ratio methodology for non-interference showing similar to that employed by FM translators, also a secondary service. The complete elimination of protection requirements to second and third adjacent stations is also proposed. Skinner cannot have it both ways. **CTI** suggests that it is only equitable and logical that any and all classes of LPFM facilities be considered as secondary, unprotected, facilities which are required to afford protection to not only existing or proposed full service facilities but also to existing or proposed secondary facilities such as FM translators. This is in keeping with past Commission precedent that existing service to the public not be deleted.

2. Paragraphs 28 through 32 of the PRM discusses the proposed LPFM interference criteria. As stated previously, **CTI** believes that any LPFM service should be implemented as a secondary broadcast service, and it should be required to comply with the non-interference criteria established for FM translator facilities to existing full service stations. Specifically, no such facility should be permitted to "interfere with the reception of a regularly received off-the-air existing service even if there is no prohibited overlap." (Paragraph 128 of the Report and Order in MM Docket 88-140.) This is essential to preserve the integrity of any existing full or secondary service and to allow for recourse by any adversely affected broadcaster concerning interference within their existing service areas.

3. Paragraphs 36 through 43 of the PRM support the elimination of second and third adjacent channel restrictions in their entirety as "unduly restrictive and unnecessary for the purpose of implementing this new LPFM service." Skinner cites the interference criteria adopted by the Commission in its recently released Report and Order in MM Docket No. 96-120 regarding grandfathered short spaced FM stations, wherein such facilities are not required to submit additional non-interference showings when proposing site changes or

facility modifications. However, this criteria was not intended to be applied to new proposed service. The R&O specifically refers to "improved service for existing grandfathered facilities. The likely reasoning behind the Commission's relaxation regarding the elimination of such showings involving existing grandfathered stations is simple - listeners have never had the opportunity to hear these stations without the impact of its grandfathered counterpart, therefore, there can be no perceived loss of service.

CTI submits that, at a minimum, any proposal for a new LPFM facility be required to submit a non-interference showing utilizing a ratio methodology similar to that required of FM translator proposals, and that such a showing is only adequate in the consideration of any class of LPFM as a secondary service. If, in the alternative, an LPFM-1 stations should be given primary facility status, then such facility should be required to meet the same level of non-interference showing as any other full service facility, i.e., complying with minimum spacing requirements or contour protection criteria such as found in Section 73.215 of the FCC Rules and Regulations.

4. Paragraph 63 of the PRM requests the assignment of a four-letter call sign to any licensed LPFM station, stating that a two-letter suffix such as "LP" (as in LPTV call signs) would adversely affect an LPFM's ratings from services such as Arbitron. Aside from Skinner's emphatically stated intention that the implementation of an LPFM class of station is to promote currently underserved local community needs (and the subsequent lack of actual financial gains to be had by LPFM operators), a need to be recognized by a national rating service seems disingenuous. In order for there to be a way to differentiate an LPFM facility from any other FM facility, **CTI** believes that a pre-fix or suffix to a call sign is needed just as many LPTV as well as FM boosters and translators have such a distinction today.

5. Paragraph 15 of the PRM discusses the ever increasing problem of "pirate" broadcasting. Skinner acknowledges the fact that such illegal broadcasting is on the rise, and suggests that implementation of the proposals contained in the PRM will greatly aid in the reduction of this type of broadcasting. However, by his own admission, the problem will not be totally eliminated due to the aggressive nature of many of these rogue broadcasters. Skinner can offer no assurance that those applicants who might be unsuccessful in obtaining a legal low power facility will accept this outcome, nor is there any guarantee that a licensed LPFM operator will agree to stop transmitting should its facility be shown to create interference to an existing broadcast facility. Examples of just such non-compliance abound in the Public Notices, such as that issued on April 6, 1998 in Report No. CI 98-4, wherein the Commission issued hearing notices to five unlicensed FM radio operators across the country (i.e., in Washington, Texas and Ohio) for refusing to shut down operation in the face of direct orders issued by the Commission. Given the uncertainty in this regard, the Commission must proceed with prudence and caution in the implementation of any new service that may possess the possibility of opening up a "Pandora's Box" which could seriously and adversely affect existing licensed service.

6. **CTI** is not against the concept of a local radio service and does believe that a radio service designed to meet the needs of local communities could be of significant public benefit. However, it may be that the current FM band is too congested to support such a service.

Many people anticipate the arrival of AM and FM DAB in the next few years. This will necessitate new receivers. Perhaps Commission resources would be utilized most effectively by setting aside a small block of new VHF and UHF spectrum for a local radio service. Implementation of the new service could parallel the implementation of DAB and aid in the rapid proliferation of receivers.

7. In conclusion, **CTI** respectfully requests that the Commission consider all Comments and reply Comments submitted in regard to this PRM, and that appropriate measures be taken to ensure the integrity of the existing FM band.

Respectfully Submitted,

Communications Technologies, Inc.

By: _____
Laura M. Mizrahi

By: _____
Clarence M. Beverage

Communications Technologies, Inc.
P.O. Box 1130
Marlton, NJ 08053
609-985-0077

April 24, 1998