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Historically, Americans have been relatively tolerant of "political crimes" -- although this tolerance has often displayed itself after the fact. Many American movements and institutions which went on to become established and respected -- labor unions, abolitionism, civil rights, Vietnam War protests -- began with the commission of "political crimes". Such "crimes", in the service of a good cause, or what the perpetrator(s) at least regarded as a good cause, have been excused or even admired in a way that non-political crimes (such as rape or murder) have not.

American history further shows that it is the interest of the government, and the rest of the established order, to regard as a serious warning sign the commission of political crimes by otherwise law-abiding citizens. When government was (ultimately) responsive and flexible in dealing with such citizens during the Vietnam War, the civil rights movement and the birth of American labor unions, the pressure and the protests faded -- and a semblance of "domestic tranquility" returned.

However, very important lessons can be learned from the two major occasions when the established government was not flexible -- at all.

When the British government shot otherwise law-abiding colonists for initiating peaceful but illegal protests of a

tax on tea, their otherwise law-abiding fellow colonists burst into rebellion and eventually into full-fledged revolution. In the end, the British brought upon themselves not merely an end to tea tax revenues -- but an end to the British presence throughout the entire United States.

And when the governments of most Southern states proved inflexible on the issue of slavery, and indeed started to "export" slavery into frontier territories, and then successfully pressured the Federal Government into arresting otherwise law-abiding Northerners for aiding fugitive slaves, the fuse was lit on a powder keg that eventually exploded into a civil war. In the end, the backlash swept away not merely the institution of Southern slavery but the entirety of the established political and economic order in the South.

Americans generally "cultivate their own gardens" and love "domestic tranquility". For these reasons, and others, the American sense of obedience to a "higher law" (and/or annoyance with mala prohibita) rarely breaks the surface of American life. But the sense of a higher law, by which lesser laws may be judged, is indeed present in the American soul -- and, when it does surface, it is powerful enough to ripple across the political and economic landscape, leaving even long-established institutions crumbling in its wake.

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This sense of a higher law is a sleeping giant.

Those who awaken it do so at their peril.

Will the American people rise up in arms to defend unlicensed microbroadcasting? Of course not. But they might, at some point in the foreseeable future, rise up in arms over the smoldering issue to which microbroadcasting is attached: the widespread perception -- in our view, the FACT -- that our representative democracy has become, in significant measure, an un-representative democracy.

Remember that the American Revolution was not fought over a tax on tea -- but it was a tax on tea that put a spark to the tinder.

#### CONCLUSION

For the reasons set forth herein, we strongly urge the Commission to initiate a suspension of microbroadcasting prosecutions, with the possibility of retroactive amnesty.

Respectfully submitted,



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Nick and Judith Leggett were on vacation, in northern New Mexico, at the time these Special Comments were finalized. Attorney Don Schellhardt was given express permission to sign these Special Comments on their behalf.

Dated:

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