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Media Preservation Foundation

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Federal Communication Commission
Office of the Secretary
Room 222
1919 M Street
Washington, D.C. 20554
April 23, 1998

Comments in the matter of RM-9242, RM-9208
Amendment of Section 73, subpart B, Section 74 et. el.
Petition for rule making concerning Low Power FM (LPFM)

The Federal Communications Commission has before it two petitions seeking to establish a radio broadcast service which would expand the scope of licensed and regulated FM broadcast stations. The petitions seek to establish a new type of radio service described as "Low Power FM".

The Foundation's Background

The Media Preservation Foundation, a not-for-profit foundation, is an archive for the preservation of historic items, photos, sound recordings and business records associated with the broadcasting industry. The Foundation embarked on its work in 1994 and has enlarged the scope of its preservation activities concurrent with implementation of the 1996 Telecommunications Act.

Reed E. Hundt, former Chairman of the FCC, speaking before the Subcommittee on Telecommunications and Finance in July 1996, said of the historic 1996 legislation:

> "The message of the Telecommunications Act is that we are now committed to competition in all communications markets. Significantly, the Telecommunications Act also affirms the core principle of the Communications Act of 1934 -- that the FCC has an obligation to exercise its authority in furtherance of 'the public interest, convenience and necessity.'
>
> Implementation of the Act in a procompetitive and timely fashion is the FCC's principal task. While the Telecommunications Act charts a path to competition in all communications markets, the FCC and the states together have to write the procompetitive rules that will make the new law's promise of new investment, job growth, lower prices, and better service for consumers come true. "

New patterns of ownership and marketing have replace the old order of many established broadcasters. The sweeping changes in ownership, marketing and programming which occurred as a result of the 1996 Telecommunications Act presented the Foundation with an opportunity to save many historic radio items for future media historians.

While change is inevitable, the Foundation has worked from the position that "one man's old furniture is an others antiques" and that the broadcasting history of the United States is worth preserving while ownership and markets undergo major "recycling" under the 1996 Telecommunications Act.

LPFM Goals

The purpose of the two petitions which the Commission has accepted concerning LPFM are clearly consistent with the goals of the 1996 Telecommunications Act. Both address service, as meant by former Chairman Hundt and present Chairman William E. Kennard, over issues of ownership and competition. Both must respect the long held rule prohibiting the Commission from having supervision over formats, program content and audience.

While the 1996 Telecommunications Act has met its goals of growth, etc. it has resulted in a major shifts concerning in the forms of "local" programming and ownership. The Foundation wishes not to expand on how this has come to pass for it believes that the issue of LPFM offers a unique opportunity to complete the work started with the 1996 Telecommunications Act.

All radio is local, no matter where the owners live or where the programs originate. Clearly the goal for LPFM is to provide those means of generating "local" radio voices which serve not to duplicate those already being provided but to comply with the 1996 Telecommunications Act goal of " better service for consumers come true."

Comments

Comments filed and statements contained in RM-9208 and RM-9242 have spoken to the issues of service and purpose. The Foundation has concerns in a number of areas which are not addressed in the two LPFM Petitions.

1. Non-Commercial-vs-Commercial

Except where noted, all stations operated under LPFM should be non-commercial. The "business" of radio is the exclusive domain of stations licensed under existing rules as Class A, B, B1, C, C1, C2 and C3. Owners of these stations have a large financial investment. LPFM service should respect this investment.

2. Ownership

LPFM should be limited to one per owner. The accumulation of many LPFM stations under a single ownership/corporation/partnership should be considered inconsistent with the purpose of the service.

3. Sale

Stations should not be transferable by sale.

4. License

Each station should be treated as a licensed service.

5. Licensing Procedure

Licenses should be issued on a first come-first serve basis to qualified applicants. Term of the license should be 8 years as stated in Docket 96-90.

6. Termination of Operation

Any holder of an LPFM License who is unable to continue operation shall return the license to the FCC.

7. Qualification of Applicants

Previous ownership of an LPFM station which has voluntarily terminated operation shall not prohibit future ownership. An applicant's qualifications should be measured against the scope of their application.

8. Allocation of Frequencies

LPFM may be authorized on any frequency within the FM broadcast band: 88.1 MHZ-107.9 MHZ. LPFM may be assigned on any frequency on the same basis as Translators. The protected contours of stations licensed as Class A, B, B1, C, C1, C2 and C3 shall be those specified in Section 73.207. LPFM could be assigned within the theoretical 60dbu contours of Class A ,C, C1, C2, C3, Class B 54 dbu and Class B1 57bdu contours when actual signal levels are less than those predicted using Section 73.333 (F 50,50)

Since coverage will be limited to protecting contours permitted in Section 73.211, an existing model provides for predicting which FM channels may be usable for LPFM. Second adjacent channels, limited under 73.215, should be made available for LPFM given the improved performance of modern FM radios and the low power under which LPFM would operate, thus mitigating impacts to second adjacent stations.

9. LPFM in relation to translators

LPFM shall be considered primary to Translators.

10. Classes of LPFM Service

RM-9242 discusses three types of LPFM service. "LPFM-1" would create a service with coverage similar to those of the Class A FM service with powers up to 3 Kilowatts ERP at HAAT of 100 meters. This service clearly represents the "high" side of low power and as such, if permitted by the FCC, should be considered exempt from rules which might establish LPFM as a non-commercial service.

RM-9242 also discusses "LPFM-3" as a Special Event Station with power of 20 watts ERP at 100 feet HAAT. RM-9246 calls for establishing "Event Broadcast Stations" with temporary authority to operate at low power and limited coverage to operate concurrent with some commercial events. Commercial operation described in RM-9246 should be permitted.

Commercial operation under "LPFM-3" as proposed by RM-9242 should be prohibited.

RM-9246 stands on its own merit. The petitioner seeks a method by which "Commercial" operation my be established. Since it seeks only operation for a limited time and under very limited coverage, the FCC should give weight to the unique circumstances provided under RM-9246.

11. Coverage

At the heart of the LPFM petitions is how to provide a local service which will prevent interference to existing commercial and non-commercial stations. Where as there is a call for a single frequency limited to one watt for AM and FM, a more realistic approach would call for slightly higher levels of power with restrained antenna heights. Here I believe the standards for translators can provide some guidance. Howard L. Enstrom, head of FM technology Associates and considered by many the "father" of the translator service, has called "Low powered translators amazingly cost-effective and make efficient use of the spectrum."

What is a suitable coverage area for LPFM? "Local" may prove very difficult to define. A small community with no local radio service would most likely require lower power levels than a neighborhood or section of a larger metropolitan area with restrictive geographic elements.

Power limits of 100 watts and antenna heights of 33 meters would produce an F (50-50) 60 dbu contour to 3 miles (4.6 km) and a 40 dbu contour at 9 miles (15 km). A power of 10 watts and an antenna height of 33 meters would reduce the 60 dbu contour to 2 miles, the 40 dbu contour to approx. 7 miles. (Sect 73.333)

These coverage's, while small compared with full power stations would provide the "local" service envisioned by LPFM.

12. Program Content and Hours of Service

The FCC has received comments which would stipulate a minimum number of hours of Public Service programming and the origin of programs (i.e. local origination).

This type of content supervision would create a new area of responsibility for the FCC. Though the comments concerning local programming and public service are well intended, I believe that monitoring the performance of such requirements would consume Commission and broadcaster resources better utilized in other ways.

Instead, LPFM should be measured better not by number of hours on the air or source of the programs which are aired but instead let the "market place" and resources available to the LPFM licensee determine the extent and source of programming.

13. Shared frequency usage

In connection with Program Content and Hours of Service, LPFM rules might better reflect the capabilities of some licensees and communities by encouraging "Shared Hours" which could permit multiple users with-in a geographic area with limited frequency availability or limited program resources to jointly operate separate facilities in a co-ordinated manner on a single channel. Such conditions could be made a condition of license either as an amendment or at the time a co-channel shared frequency application for a new station(s) is received.

14. Equipment Type Acceptance

Modern integrated circuit technology has resulted in the ability to create an entire FM transmitter on a single chip. While there are several widely available low power (micropower) transmitter kits which are sold to operate unlicensed under Part 15, many of these are unable to meet the high standards for spurious radiation imposed on commercial grade transmission equipment.

Further, since there is a very real likelihood that individual stations will seek operating powers well below 100 watts using transmitters constructed from kits, no low power equipment (except costly commercially manufactured "Exciters") exists which is type approved. The answer to this is to require all LPFM transmitters operate through a low pass filter of FCC type acceptance.

15. Emergency Action Notification System (EAS)

EAS is a requirement of every station, except some non-commercial FM stations. It is proposed that EAS not be required of LPFM if notice is aired at least once each day or during the hours of operation that the LPFM station is not an EAS participant. Since the cost of this technology is subject to future cost reductions, such non-EAS announcements would not be required if a non-participating station should acquire the necessary EAS monitoring and program interrupt equipment.

16. Part 15 Power Limit

At present, Part 15, governing low power unlicensed radio transmissions, places a cap on the signal strengths which fall under unlicensed operation. It is suggested that many of the issues of LPFM might be addressed by modifying the language and technical constraints of Part 15.

It is suggested that a maximum of 1 watt at 10 metes HAAT be permitted under Part 15 when such equipment is operated with a low pass filter of FCC type acceptance and under the control of an individual capable of exercising sound judgment with respect to issues of interference and operator liability.

Such 1 watt operation would be under FCC supervision through certification that the transmitter is under the control of a responsible party 18 years of age or older who is registered as "Chief Operator" and that the transmitter of this power is equipped with and operated through a type accepted low pass filter. Absent such a certificate, power would be limited to no more than 100 milliwatts (.1 watts) with a total antenna/coax length limited to present Part 15 rules. Any station operating under Part 15 at a power level of 100 milliwatts to one watt should be obligated to announce a phone number and address to which interference complaints could be directed.

The Certification for operation under Part 15 may be accomplished through the use of the internet or other electronic means.

17. Operator Responsibility

The greatest concern expressed regarding LPFM is how to supervise the potentially large number of new stations. It is suggested that the FCC require LPFM stations announce a phone number and address to which interference complaints could be directed. Each LPFM operator would be obligated to resolve such interference complaints as would any broadcaster under FCC rules and regulations.

Transmitter operation should be under the supervision of responsible party 21 years of age or older who is registered as "Chief Operator". Failure to comply with these requirements could result in fine or loss of license.

18. Call Letters/Station Identification

Except for operation under Part 15, any station authorized under LPFM rules should operate with an assigned call letter. Licenses would also specify city of license and area of service. Additionally, it is suggested that some form of slogan or other identifier be included as a part of the licensed call letters so that a station operating under LPFM rules can be distinguished from other FM stations.

19. Local Ownership

The issue which has prompted much discussion about LPFM has been that of "localization" of LPFM ownership during a period when commercial radio ownership has become concentrated into the hands of several large station groups. While there have been comments published which suggest that an owner maintain a primary residence within 80 kilometers of a station, a more realistic rule should be that the primary studio for a LPFM station be located within the F (50-50) 60 dbu service contour either as calculated or as measured ***WITH NO EXCEPTIONS***. It should also be required that the licensee be directly involved with the day to day operation of the station.

Low powered community stations, operated on a non-commercial basis, would have little operating income. The model for such a station is one similar to a college campus radio station or one of the many non-commercial stations owned and operated by public high schools where unpaid volunteers are responsible for most of the stations operations.

20. Rules and Regulations

All LPFM stations should be subject to the same rules concerning operation, identification, station logs and public files as required for all other non-commercial stations.

Conclusions

The impacts on local radio from the 1996 Telecommunications Act are finally being felt. Let there be no mistaking the fact that increase of unlicensed radio, i.e. pirates and "micro-power broadcasters" is a reflection of this.

The FCC is at a cross roads. The issues of public safety has been raised as stations in Miami, Sacramento, and Puerto Rico have been closed after incidents of interference.

It is important that the FCC enact rules concerning LPFM which will give voice to community radio and simultaneously take the steps to supervise an unlicensed and unregulated segment of radio while fulfilling the final that part of the 1996 Telecommunications Act:

> "Telecommunications Act also affirms the core principle of the Communications Act of 1934 -- that the FCC has an obligation to exercise its authority in furtherance of 'the public interest, convenience and necessity.'...new law's promise... better service for consumers.... "

I swear under penalty of perjury that all statements made by me in this proceeding are true or true to the best of my belief.

I certify that I have served J. Rodger Skinner Jr. 6431 NW 65th. Terrace, Pompano Beach, Fla. a copy of these comments by first-class mail.

Don Worsham, Director, Media Preservation Foundation
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April 23, 1998
enclosed: WP5.1 file: lpfm1.txt

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Commission # 1166165
Notary Public - California
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My Comm. Expires Dec 21, 2001

cc:
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