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

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In the Matter of	)	
	)	
Proposal for Creation of the Low Power FM	)	**FCC RM-9242**
LPFM) Broadcast Service	)	
	)	

To: The Commission

REPLY COMMENTS of CURT R. DUNNAM

Introduction

Reply Comments herein are directed to issues raised in initial comments on the above rulemaking filed as Comments of the National Association of Broadcasters, Joint Statement of the Named State Broadcasters Associations and Consolidated Comments of USA Digital Radio, L.P.

Response

In its Comments, the National Association of Broadcasters [NAB] evaluates RM-9242 for compatibility with, *inter alia*, Commission policy on minimum power levels and incipient "In-Band, On-Channel" [IBOC] digital transmission technology. The need for an additional radio service is also examined in light of existing ownership diversity. Following a presentation of fact and argument on each of these topics, the NAB concludes that implementation of the RM-9242 LPFM proposal is incompatible with existing high-power FM broadcast service and therefore the request for a rulemaking "must be denied".

Notwithstanding the NAB's transparently anticompetitive motivation for filing Comments on this rulemaking, the arguments it has advanced are in part plausible and demand reply.

In its Comments, the NAB cites and argues current FCC policy regarding minimum power levels as being consistent with "more efficient operations which could serve larger areas".

Contrary to the NAB's premise, this observation has only limited relevance today. Its historical basis lies in the Commission's desire to establish FM broadcasting on a nationwide scale as quickly as feasible. The fact is that minimum, as well as maximum broadcast facility

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power levels are to an extent arbitrary and must necessarily be reevaluated from time to time with regard to programming diversity, medium scarcity and contemporary social needs.

Curiously, the NAB's minimum power citations relate only to the noncommercial educational FM broadcast service, where minimum separations are usually not predicated on full-facility contours. One should note that retention or assignment of a large number of low-power (10 watt) stations operating on a primary basis in the non-commercial band would have potentially limited the remaining assignments to low power status. In the case of commercial FM broadcast services, however, maximum-facility separations apply to the majority of assignments irrespective of actual service contours, and existing conservative separations for second- and third-adjacent channel adjacent assignments would permit a significant number of non-interfering[1] LPFM-1 drop-ins at power levels ranging from 50 watts to 3 kilowatts.

Technical arguments advanced by the NAB and U.S. Digital Radio, L.P. [USADR] suggest that consideration of a LPFM rulemaking would prove inimical to introduction of IBOC. The essence of the technical argument is that deletion of second-adjacent separation limits would necessarily result in disruptive impairment of the IBOC sidebands or "wings". Therefore, the argument continues, it is prudent to freeze consideration of a LPFM rulemaking until one of the IBOC systems currently in development is finally in place.

Neglecting for the moment the inherently anticompetitive nature of the IBOC concept[2] and also its evident technical limitations[3], the argument that LPFM drop-ins would cripple IBOC is simply incorrect. According to a recent article[4] authored by engineers working on the USADR IBOC system at Westinghouse Wireless Solutions, "The IBOC DAB system will transmit all the digital audio information on each DAB sideband (upper or lower) of the FM carrier...Each

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[1] Second-adjacent interference levels of 40 dB or less within the 60 dBuV contours of existing primary facilities.

[2] IBOC retains channel assignment exclusivity, while implementations such as Eureka 147 would allow time-multiplexed, cooperative access by existing and potentially new voices to multiple channels (15 or more) per transmitter/repeater chain.

[3] Eureka 147 employs MUSICAM/MPEG level II encoding at a significantly higher per-channel data rate than the proposed Lucent PAC encoding scheme for FM band IBOC.

[4] B. Kroeger, D. Cammarata, "Robust Modem and Coding Techniques for FM Hybrid IBOC DAB Solution", Radio World, Dec. 24, 1997, pp. 26-29.

sideband can be detected and decoded independently...This redundancy permits operation on one sideband while the other is corrupted." As indicated earlier in the article, second-adjacent assignments at 400 KHz separation are not a problem since "The DAB to DAB interference at 300 KHz spacing can impair performance on one sideband, but the CPC [Complementary Pair Convolution] code is designed to tolerate this condition." At 400 KHz, no such interference potential exists, so NAB and USADR concerns regarding potential LPFM interference may be dismissed as wholly unsubstantiated.

Diversity of programming is the crux of arguments in favor of and current agitation for new FM station assignments. In support of the status quo, both the NAB and Joint State Broadcasters' Associations [JSBA] insist on depicting existing high-power broadcast entities' local public service performance in exuberant terms. To the NAB, "Each full-power station provides a unique service to its community." and, according to the JSBA statement "...it is the paramount right of listeners to be informed through a high quality full service broadcast system". Admitting that "...the radio industry has undergone consolidation due to changes made by the Telecommunications Act of 1996," the NAB avers "this consolidation has not decreased the diversity of formats in the industry." Perhaps so, but as Commissioner Ness recently pointed out, the Commission has found that "Control by the top four radio group owners over total radio advertising dollars in markets across the country has gone from 80 percent in 1996 to a whopping 90 percent in 1997." [5] An example of local concern over broadcast shortcomings has cropped up in Ithaca, New York, where listeners fed up with the local commercial radio monopoly recently filed a petition[6] to block renewal of two station licenses.

Conclusion

Examination of arguments advanced by the NAB *et al* reveal no substantive defects in the RM-9242 proposal for rulemaking. Selective deregulation of the past two decades, including liberalization of ownership caps, deletion of antitrafficking rules and local ownership preferences have made the creation of new broadcast opportunities a high priority. It is especially unfortunate

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[5] Quote as reported in Radio World, April 15, 1998, p. 3.

[6] "Petition to Deny License Renewals" [BR-980202L3, BRH-980202S6], filed April 30, 1998 by J. Wetmore, B. Nichols, J. Efroymson, W. Burbank and D. Lifton.

that loss of access to the airwaves formally guaranteed by the fairness doctrine has left the citizens of this country largely stripped of first amendment rights to broadcast facilities. Full implementation of the RM-9242 proposal will provide relief in the form of a significant number of new FM stations of reasonable coverage and local ownership.

Respectfully submitted,

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Dated: May 25, 1998