

Office of the Secretary  
Federal Communications Commission  
Room 222  
1919 M Street NW  
Washington DC 20554

JUL 23 1998

Date: 7/22/98

Before the  
Federal Communications Commission  
Washington DC 20554

In the Matter of  
Proposal for Creation of the Low Power FM (LPFM) Broadcast Service

FCC RM-9242

To: Federal Communications Commission

Reply-Comments of: Tom Ness

In reply to the comments filed by Greater Media, Inc., which echo those made by many other parties with an interest in commercial broadcasting;

I begin with Greater Media's allegation they do not fear economic competition but interference. Given the *fiercely* competitive nature of the broadcast industry, this is extraordinarily hard to believe and casts doubt on the sincerity of their other claims. The steadily decreasing amount of time Americans spend listening to radio must certainly be of great concern to commercial broadcasters; no doubt they must wonder why people are not even bothering to spin the dial but instead are reaching for the off button. It is entirely reasonable to conclude a unique new service might appeal to large numbers of the public. It has been clearly and repeatedly demonstrated that the proposed new service would not create any more interference than already exists with certain currently licensed stations. Common sense dictates that economic competition is precisely what commercial broadcasters fear.

Greater Media alleges that LPFM will degrade the quality of service. One might begin by suggesting an industry best known for Howard Stern should avoid bringing up the subject of quality! This is the world of shock-jocks after all -- a phenomenon unparalleled in either print, cable or television: toilet humor, on-air phone pranks (something else the FCC might take an interest in), humor at the expense of gays and minorities, etc. If we are concerned with degrading the quality of service, one might ask if it is possible to "degrade" our airwaves any further!

Greater Media does not choose to define what they mean by "quality of service." Do they refer to technical professionalism? Here in Detroit, Greater Media's station WRIF is plagued with technical snafus, dead air time, etc. Do they mean velvet-throated disc jockeys? If so, they should know that we listeners are concerned with what is being said, not timbre, tonality, or turns of the tongue. Do they mean diversity of content? In reality, our nation's NAB-dominated airwaves provide us with pretty much the same 30 songs regardless of city or station. This is certainly not the "best" music by anyone's standards -- it is music that reflects the lowest common denominator. It is also almost always music marketed by one of the six major music conglomerates, almost never music originating from local communities. Thus, independent musicians are

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shut out of our nation's marketplace for music; as well, our nation's rich cultural heritage is increasingly homogenized. Where is the quality?!

Greater Media alleges the proposed service would present no realistic economic opportunities. It certainly will not for them, as the proposed ownership requirements would prohibit them from snatching up the new licenses. But thousands of parties believe Skinner's proposal will make broadcasting economically viable for them, and are willing to bet their own money on an LPFM station. Radio is, after all, a booming industry, and there is an enormous market of local retailers who cannot afford to advertise on the mega-stations. Without some form of LPFM license, the economic opportunities of broadcasting are only available to the largest corporations and wealthiest individuals. Minorities, community groups, small businesses are shut out.

Greater Media alleges that the Internet is a better choice for expression of additional viewpoints. But if the Internet is so great, why don't they give *us* their broadcast license and limit themselves to the Web? What they mean is that the Internet is good enough for us, not them.

As so many have pointed out, access to the Internet belongs only to those who can afford a computer, modem, Internet provider, a house, electricity, phone service, software, technical advice, etc., whereas enjoyment of radio is available to just about every American. In fact, in terms of an active role, it is probably less expensive for a party to launch an FM station than establish and maintain Internet access!

The critical point regarding the Internet however, is that it is indeed a wonderful tool for democracy. For this reason, the Internet should be a *model* for democratizing other forms of communication, not to *excuse* corporate domination of our nation's broadcast spectrum! One would not say that if racism has disappeared from the North it would be okay for it to continue in the South -- if racism is bad, then it should be eliminated everywhere. Likewise, if democracy is good, it should be enhanced in all forms of communication. Thus, in emulation of the democratic opportunities provided by the Internet, we need to open up our broadcast spectrum to the greatest possible number of voices.

Greater Media states correctly that high-power stations are more "spectrum-efficient." But they also suffer from an inverse "public-interest efficiency"; that is to say, the larger the station or network of stations, the less likely they are to satisfactorily serve their local community. On the other hand, when it comes to serving the public, small community stations can't be beat! The FCC's mandate is based on a public interest standard, not a "spectrum-efficiency" standard.

Greater Media states that further examination of LPFM proposals would give encouragement to "pirate" broadcasters. This is reminiscent of those who once said we can't even *talk* about ending slavery for fear of encouraging abolitionists!

Our country was founded in the spirit and act of civil disobedience, and with every passing generation civil disobedience has played an important role towards perfecting our nation's system of justice. Certainly the great mass of unlawful acts are not committed with such a higher civic purpose, but our nation's unlicensed community broadcasters are not motivated by either malice or financial gain. Their actions are clearly intended to be in defense of free speech.

I am not in favor of an unregulated broadcast spectrum, and believe those who broadcast without a license should be punished. But this opinion rests on the premise that licenses be available in the first place! Regulations that require six-figure investments in order to procure a license, and thus effectively bar the public from using the public airwaves, cannot be squared with the public interest mandate and are therefore illegitimate. RM-9242 sets the FCC back on track with the mission intended by the courts and Congress.

The First Amendment activists who have risked so much to return our nation's airwaves to their rightful owners should be honored, not incarcerated!

And who are the real pirates, anyway -- those who exploit our communities to the tune of \$10 billion dollars every year, or those civic-minded individuals who risk prison and penalties without any thought of personal enrichment -- simply to serve our communities?

Finally, the fact that certain individuals have disobeyed an illegitimate regulation in no way renders that regulation more legitimate!

It is interesting to note that our people in Detroit have unsuccessfully attempted to bring up the subject of LPFM on WRIF's weekly talk show -- but never get past the person screening the calls. The DJ of the show, a personal friend, has told me he believes he would be fired if such a discussion was allowed. In fact, he has been warned specifically against allowing a discussion of programming on the show. This is a show which features debate about sex, drugs, and politics -- yet censors discussion about trusteeship of the public airwaves. The irony is great -- we are not allowed to use our public airwaves to discuss and debate who should be allowed to use our public airwaves! Little wonder people feel they have no choice but build their own transmitters!

If commercial stations really believed that given a fair hearing their listeners would oppose RM-9242, they would welcome a debate about the subject. But instead they choose to hush it up. Perhaps they find it difficult to explain why it is in our interest for them to maintain their monopoly of our airwaves! This sad situation clearly proves that commercial broadcasters do not serve the public interest but their own.

A related irony emerges when one reads comments by FCC commissioners opposed to free air time for political candidates. We are told that broadcasters' public obligations cannot be based on the "scarcity doctrine" because with increasing technical capabilities the broadcast spectrum is essentially limitless. However, when we ask for even the thinnest slice of the dial for community radio, we are told there is no room!

There is one more point the FCC should consider. Over the last 70 years, the agency has correctly and continuously maintained that broadcasters should *serve* as trustees of this enormously valuable public resource; as such, their responsibilities outweigh their rights privileges. However, the agency has always relied on rigid, one-dimensional definitions of "public" and "broadcaster." According to this model, the "public" is reduced to that of a mindless, passive consumer of information (with broadcasters usually the mindless producer!)

It is time to redefine "public" to allow for *active participation*. The reality is that a substantial portion of the public wants to broadcast! If we're concerned about "public interest," our path is clear. The FCC should help people build stations, not throw them in prison. We should encourage participation in the public debate, not punish it. It is self-evident that a participatory democracy is in every way preferable and more meaningful than the alternative. It is time for the FCC to revise its definition of "public" in participatory terms.

One should also consider the cultural and economic ramifications of these rigid roles. For creative musicians, air play is simply essential to economic survival. One cannot sell CDs or attract an audience to a club without air play. However, six music conglomerates (five not even based in the U.S.), have a virtual monopoly over our nation's airwaves, due to their incestuous relationship with the commercial broadcasters. Simply put, if you're not signed to Sony, you have almost no chance of getting air play even in your own home town!

Here in Detroit, the elimination of local music from the airwaves has driven most of our original music clubs

out of business. The local instrument retailers are also in decline, since their musician customers are making less and less per year. Local music retailers who would stock independent music are also disappearing, or discontinuing their local sections. Local independent labels find it impossible to get off the ground. Over the last 20 years, as local content has disappeared from the commercial stations, our entire local music economy has degenerated into a state of virtual nonexistence!

One should also consider the cultural costs. We believe that Detroit radio should reflect the unique character of our city. But more and more – there is no such thing! Wherever you go in this country, one hears the same music! At this rate soon we will be able to use a simple numbering system to identify our cities, because there won't be any meaningful cultural differences between Los Angeles, Philadelphia or Chicago!

It is true that Greater Media's local station, WRIF, currently broadcasts a local music show – late Sunday night, and every other week (but often pre-empted). However, this show was launched only after 200-300 local music fans descended on the station on December 28, 1996, and demanded local air play. Detroit's commercial stations devote far less than one percent of their air time to local music. Furthermore, they are openly hostile to any attempts by the community to influence how our airwaves are used. This is not trusteeship, this is exploitation of a public resource. In fact, Ronnie Dugger, the national founder of the Alliance For Democracy, says the current allocation of the public airwaves is "very close to criminal," and proposes a lawsuit against the Congress and the FCC for dissipation of public resources.

I will sum up by paraphrasing Sojourner Truth;

\* We are local musicians who suffer economically by lack of access to the public airwaves. Ain't we the public?!

\* We are activists and community leaders who want to participate in the political process. Ain't we the public?!

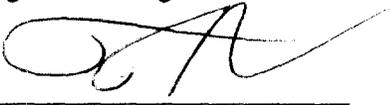
\* We are radio enthusiasts who enjoy broadcasting. Ain't we the public?!

\* We are ordinary listeners who want to hear both a diversity of sounds and opinions. Ain't we the public?!

Let the public decide what's in the public interest! Why can't the public use the public airwaves?! Adopt RM-9242 in its entirety.

Thank you,

Tom Ness  
Jam Rag Magazine/Michigan Music is World Class Campaign

Signed:  \_\_\_\_\_

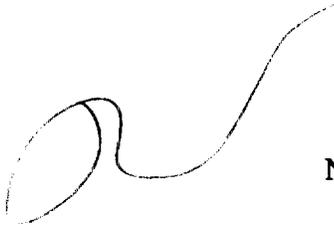
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# CERTIFICATE OF SERVICE

I, Tom Ness, do hereby certify that a true and correct copy of the foregoing "Reply-Comments on RM-9242 was sent via first-class mail, this 22nd day of July, 1998 to the following parties.



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