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

RECEIVED
JUL 24 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

DOCKET FILE COPY ORIGINAL

Microstation Radio Broadcast Service) RM-9208

TO THE COMMISSION

REPLY COMMENTS OF THE MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL, FAIRNESS AND ACCURACY IN REPORTING, LEAGUE OF UNITED LATIN AMERICAN CITIZENS, RAINBOW/PUSH COALITION, AND THE WOMEN'S INSTITUTE FOR FREEDOM OF THE PRESS

The Minority Media and Telecommunications Council ("MMTC"), Fairness and Accuracy in Reporting ("FAIR"), the League of United Latin American Citizens ("LULAC"), the Rainbow/PUSH Coalition, and the Women's Institute for Freedom of the Press generally support the proposal in RM-9208.

On August 6, 1997, MMTC wrote to the Mass Media Bureau recommending "the creation of a new class of FM stations, large enough to serve a small city or a neighborhood in a large city and to generate sufficient revenue to operate as niche facilities." MMTC advocated reservation of the service for new entrants, a five year holding period, a ban on local duopolies, a rule against LMAs, and a requirement that the stations primarily air original programming. MMTC's proposal was designed to respond to "the rapid deterioration in opportunities for small businesses, minorities, and new entrants."

Microradio stations would be licensed facilities, not "pirates." As niche operations, they would be analogous to self-publishers, cable public access channels, LPTVs, or weekly newspapers.

It is ironic that radio -- potentially the most democratic mass communications medium -- is burdened by technical rules structured artificially to exclude small, local voices. A microradio service will cure this deficiency.

No. of Copies rec'd 0+10
List ABCDE

Arguments that microradio will somehow harm full power broadcasters are amusing and reminiscent of the long discredited Carroll doctrine.[1/] Full power radio has never been economically stronger than it is now. Indeed, the Commission has repeatedly and emphatically rejected the contention that the radiofrequency spectrum should be artificially underutilized to protect incumbents.[2/]

On the other hand, some say micro-radio is merely "crumbs" off the spectrum table. Certainly microradio is no substitute for access to full power radio. While we will not stop fighting for the main course, crumbs are more nourishing than air. No proposal should be rejected merely because it does not solve every problem all at once.

As fewer and fewer owners dominate local markets, job opportunities involving the expression of talent have dried up. Local voices have been swallowed or silenced. That is why many large broadcasters' opposition to microradio is shortsighted. New talent is the lifeblood of the industry. Opportunities for young people to

---

1/ See Carroll Broadcasting Co. v. FCC, 258 F.2d 440 (D.C. Cir. 1958).

2/ See, e.g., Commercial FM Broadcast Assignments (BC Docket 80-90) (R&O), 94 FCC2d 152, 158 (1983) (noting that a "basic objective" of the Commission has been to provide "outlets for local expression addressing each community's needs and interests"); Television Channel Allotments (VHF Drop-ins) (NPRM), FCC 80-545, 45 FR 72902 (November 3, 1980) at ¶¶9, 12 ("any potential loss experienced [by incumbents] will be more than offset by the benefits of such a policy -- additional television service for the public...it is in the public interest to have a regulatory framework that permits the maximum number of signals that can be economically viable" (fn. omitted). Perhaps the most famous exposition of this pro-competition approach is found in the separate statement of Chairman Fowler and Commissioner Dawson in the Low Power Television (R&O), 51 RR2d 476, 525 (1982): "Low power television may not have the transmission capabilities of full broadcast television, but its capacity to provide televised programming that is directly responsive to the interests of smaller audience segments makes it truly unique in its ability to expand consumer choices in video programming. From this perspective, the power of these stations may be low, but their potential is enormous."

break into radio are essential to preserve a pool of gifted and experienced people who will operate full power stations tomorrow.[3/]

We predict that full power broadcasters will ultimately recognize microradio as a great savior and invigorator of radio. Someday, full power broadcasters will wonder why they ever doubted the value of this new service -- just as most full power television broadcasters now appreciate LPTV and wonder why they once opposed it.

Microradio will be especially useful in providing entry opportunities to minorities and women. Microradio is a race and gender neutral approach to remedying years of exclusion, the effects of which have been exacerbated by judicial restrictions on race-conscious remedies, the abandonment of the tax certificate policy, the mootness of the FCC's other minority incentive programs, and the threat to Black and Spanish radio posed by local market concentration spawned by the Telecommunications Act of 1996. As such, the microradio proposal ought to be afforded the greatest respect.

We generally support the Comments of the National Lawyers Guild ("Guild"). We agree that there should be only one station per owner;[4/] that ownership should be local; that stations should be locally programmed; that licensing should be simple and

---

3/ For example, microradio could jump-start scores of new broadcast training schools, such as Washington's African American Media Incubator and the Cleveland Talk Radio Consortium. These minority-controlled institutions are vital in providing gifted and experienced employees for full power facilities. Microradio stations could be a key asset in generating the student base for these institutions. Full power stations could form partnerships with these schools without actually owning the microstations.

4/ A limitation on multiple ownership is particularly important in avoiding the waste of much of the LPTV service to rebroadcast noncontroversial programming already available on full power television. This outcome was accurately predicted by Commissioners Washburn and Rivera in their respective separate statements in the Low Power Television R&O, 51 RR2d at 525, 527.

straightforward; and that the FCC should be the forum of last resort to handle technical or other issues involving the stations.

We would not restrict ownership to noncommercial service, although we believe that noncommercial proposals should receive priority over commercial ones[5/] and we certainly urge that microradio stations operating below 93.1 mHz should be reserved for noncommercial use. These stations will not make much money. However, they will train their owners in the operation of commercial radio facilities, just as microlending (pioneered by Grameen Bank of Bangladesh) has enabled many entrepreneurs to graduate to ownership of larger businesses. Microradio will teach young people -- the hard way -- how to run a radio station like a business.

For the same reason, for-profit corporations should be permitted to own microradio stations, provided these corporations are training schools or are owned by persons under age 22. A group of 19-year olds could learn a lot about radio by forming a corporation, applying for a license, and building and running the station like a business.[6/]

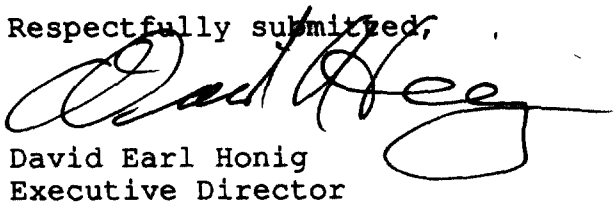
We agree with the Guild that maximum power should initially be 50 watts urban and 100 watts rural. However, the Commission should revisit this question in a year, keeping open the possibility that greater power levels (or higher HAAT's) could be authorized if the demand for very low power stations is unexpectedly low.

5/ See Statement of Commissioner Abbott Washburn in the Low Power Television R&O, Dissenting in Part, 51 RR2d at 525.

6/ It's possible that even greater use of the corporate form may be necessary to protect against the wave of litigation which may ensue if microradio stations are used -- as they should be -- to broadcast controversial viewpoints.

Finally, we advocate an antitrafficking rule (at least one and no more than five years, with waivers for hardship cases) and a ban on local duopolies and LMAs. Through these content-neutral, structural regulations, the Commission could greatly enhance the likelihood that the new stations will be used to enhance diversity of voices and viewpoints.7/

Respectfully submitted,



David Earl Honig
Executive Director
Minority Media and
Telecommunications Council
3636 16th Street N.W. #AG-58
Washington, D.C. 20010
(202) 332-7005

Counsel for the Minority Media and Telecommunications Council, Fairness and Accuracy in Reporting, the League of United Latin American Citizens, the Rainbow/PUSH Coalition, and the Women's Institute for Freedom of the Press

July 24, 1998

7/ See Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 390 (1969) ("[i]t is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of the market.")